

**THE CANONICAL AUTHORITY OF THE DIOCESAN BISHOPS OVER
THE CONGREGATION OF THE DOMINICAN SISTERS OF SAINT ROSE OF LIMA
(CIC, CC. 586, 594, 595)**

LUA TRAN

Dissertation submitted to the Faculty of Canon Law
Saint Paul University, Ottawa, Canada, in partial
fulfillment of the requirements for the degree of
Doctor of Canon Law

Faculty of Canon Law
Saint Paul University

© LUA TRAN, Ottawa, Canada, 2021

ABSTRACT

The dissertation analyzes the *ius vigens* on the authority of the diocesan bishops over lay religious institutes of diocesan right, whether expressly or tacitly stated, primarily in Book II, Part III, Section I of the Code of Canon Law 1983 and elsewhere in the Code. The thesis distinguishes between the subject matters under special care of the diocesan bishop of the principal seat of the institute, as per canon 595, and matters under special care of the diocesan bishop of the house to which the individual religious is assigned, as per canon 594. In order to clearly determine the application of the norms of the *ius vigens*, the study examines them in relation to the canonical tradition, especially the relevant canons of the 1917 Code and conciliar and post-conciliar documents. Then the results of the reflection are applied specifically to the Congregation of Dominican Sisters of Saint Rose of Lima in Vietnam.

The norms on the authority of the diocesan bishops over either the institutes or an individual religious express the spirit of *communio* in the Church. Religious exist for the Church and for the world, so they are called to actively build up the Church. Bishops, on the other hand, must respect the proper internal authority of the institutes, protect and appreciate religious life, always being mindful of unique charisms exemplified in the nature, purpose, spirit, and character of each religious institute. The *ius vigens* defines authority of the bishops as neither domination nor intervention in internal life and governance of institutes, but rather in terms of protecting the rights of religious institutes and of individual religious as well as promoting and fostering the responsibilities of both the diocesan bishop and the institute.

The study specifically focusses on the provisions of the proper law of the Congregation of Dominican Sisters of Saint Rose of Lima (*Constitutions, Directory, and Guidelines*) to determine the authority of the diocesan bishop with regard to the Congregation. The question regarding the mutual relationship of the internal and external authority is specifically considered, and the existing *lacunae* in the proper law are identified. Likewise, in view of current historical, sociological, ecclesial and cultural milieu of Vietnam, the author proposes several practical approaches and concrete canonical solutions for better administration and collaboration between local diocesan bishops and superiors of the Congregation. Those suggestions serve the goal of promoting common good, preserving and safeguarding the autonomy of life of religious institutes, fostering their relationship with the local Church, and cooperating in the work of evangelization, charity, justice and peace in the spirit of respect, dialogue, and mutual acceptance. In sum, the study aims at examining and specifying the authority of diocesan bishops and religious superiors within their own respective realms so that they may acknowledge and exercise it in accordance with the universal, particular, and proper laws.

TABLE OF CONTENTS

ABSTRACT.....	ii
TABLE OF CONTENTS	iii
ACKNOWLEDGEMENTS.....	viii
ABBREVIATIONS	x
GENERAL INTRODUCTION.....	xv

CHAPTER ONE THE JUST AUTONOMY OF RELIGIOUS INSTITUTES

INTRODUCTION	1
1.1. Religious Institutes of Diocesan Right.....	4
1.1.1. The Charism of an Institute.....	5
1.1.2. The Way of Life of the Institute	11
1.2. The Internal Authority of the Institute	19
1.2.1. General Chapter and Other Chapters	20
1.2.2. Superiors and Their Councils.....	31
1.3. Just Autonomy of Life of Religious Institutes	48
1.3.1. Internal Autonomy of Religious Institutes: Canon 586, §1	48
1.3.2. Local Ordinaries and Just Autonomy of Religious Institutes: Canon 586, §2. 50	
1.3.2.1. Prerogatives and Responsibilities regarding Preservation of Just Autonomy (<i>autonomiam servare</i>).....	51
1.3.2.2. Prerogatives and Responsibilities regarding Safeguarding Just Autonomy (<i>autonomiam tueri</i>)	57
CONCLUSION	61

CHAPTER TWO THE AUTHORITY OF THE DIOCESAN BISHOP OF THE PRINCIPAL SEAT OVER AN INSTITUTE OF DIOCESAN RIGHT: CANON 595

INTRODUCTION	65
2.1. The Authority of the Diocesan Bishop regarding the Constitutions of an Institute... 66	
2.1.1. Approval of the Constitutions – Canon 595, §1	70
2.1.2. Confirmation of Changes in the Constitutions – Canon 595, §1.....	74
2.1.3. Dispensations from the Norms of the Constitutions – Canon 595, §2	76
2.2. The Prerogatives of a Diocesan Bishop with regard to Governance of the Institute. 77	
2.2.1. Transfer of the Principal House of an Institute to Another Diocese	78
2.2.2. Merger or Union with Another Institute or Institutes – Canon 582	80
2.2.3. Presiding at the Election of the Supreme Moderator – Canon 625, §2	86
CONCLUSION	89

CHAPTER THREE

THE AUTHORITY THE DIOCESAN BISHOP REGARDING THE SUBJECTION OF THE RELIGIOUS INSTITUTE OF DIOCESAN RIGHT TO HIS SPECIAL CARE: CANON 594

INTRODUCTION	91
3.1. Authority of the Diocesan Bishop over the Institute	92
3.1.1. Organizational Structures of the Institute	93
3.1.1.1. Erection of a Religious Institute of Diocesan Right – Canon 579, Rescript <i>Ex audientia</i> of 11 May 2016 and <i>Authenticum charismatis</i> of 4 November 2020.....	94
3.1.1.2. Erection of the House(s) of a Religious Institute – Canon 609, §1..	103
3.1.1.3. Suppression of the House of a Religious Institute – Canon 616, §1 ..	112
3.1.2. Internal Affairs of the Institute	116
3.1.2.1. Interpreting the Evangelical Counsels – Canon 576	117
3.1.2.2. Establishment, Dedication and Blessing of an Oratory or Converting It to Profane Use – Canons 1223; 1206 -1207; 1224, §2.....	119
3.1.2.3. Appointment of Confessors and Chaplains – Canons 630, §3; 567, §1....	121
3.1.2.3.1. Appointment of Confessors – Canons 630, §3.....	129
3.1.2.3.2. Appointment of Chaplain – Canon 567, §1.....	133
3.1.2.4. Visitation of Individual Religious Houses – Canon 628, §2, 2 ^o	129
3.1.3. Apostolate of the Religious Institute.....	133
3.1.3.1. Entrusting Works of Religion or Charity to a Religious Institute – Canons 675 – 677; 681 – 682	135
3.1.3.2. Subjection of Members of Religious Institutes to the Power of Diocesan Bishop in Exercising External Apostolate – Canons 678, 680-682..	137
3.1.3.3. Establishment of Schools by Religious Institutes – Canon 801.....	141
3.1.3.4. Visitation of Works of Apostolate or Charity – Canon 683, §1.....	144
3.1.3.5. Cooperation and Coordination of the Works and Apostolic Activities of Individual Institutes – Canon 680	146
3.1.4. Administration of Temporal Goods of a Religious Institute	149
3.1.4.1. Financial Reports – Canon 637.....	149
3.1.4.2. Alienation of Temporal Goods – Canon 638, §4	151
3.1.4.3. Pious Foundations Entrusted to a Religious Institute – Canon 1304....	153
3.2. Authority of the Diocesan Bishop over Individual Religious.....	158
3.2.1. Religious Life of a Particular Member	158
3.2.1.1. Dispensations from the Norms of the Constitutions – Canons 87; 595, §2..	159
3.2.1.2. Permission for Management of Lay Person's Goods by a Member of the Institute – Canons 672; 285, §4.....	161
3.2.1.3. Prohibition from Residing in the Diocese – Canon 679.....	162
3.2.1.4. Separation of a Member from the Institute	165
3.2.1.4.1. Extension of Exclaustration – Canon 686, §1.....	166
3.2.1.4.2. Imposed Exclaustration – Canon 686, §3	172

3.2.1.4.3. Care for and Vigilance over an Exclaustrated Member – Canon 687.....	173
3.2.1.4.4. Departure of a Temporarily Professed Member – Canon 688, §2..	175
3.2.1.4.5. Departure of a Perpetually Professed Member – Canon 691, §2.	177
3.2.1.4.6. Confirmation of a Decree of Dismissal – Canon 700	179
3.2.2. Works of Apostolate and Charity of an Individual Member	183
3.2.2.1. Conferring an Ecclesiastical Office on a Religious – Canons 681 and 682...	184
3.2.2.2. Granting the Mandate to Teach Theological Subjects in Institutes of Higher Studies – Canon 812	187
3.2.2.3. Permission for Publishing on Matters of Faith and Morals – Canons 823-824; 826-827; 831, §1.....	190
3.2.2.4. Begging for Pious Purposes – Canon 1265, §1	194
3.2.2.5. Pious Trusts – Canon 1302.....	196
CONCLUSION	199

CHAPTER FOUR

THE PROVISIONS OF THE PROPER LAW OF THE CONGREGATION OF THE DOMINICAN SISTERS OF SAINT ROSE OF LIMA REGARDING THE INTERNAL AUTHORITY OF THE INSTITUTE AND THE AUTHORITY OF THE DIOCESAN BISHOP

INTRODUCTION	201
4.1. Norms on the Internal Authority of the Congregation.....	204
4.1.1. General Chapter (<i>Constitutions</i> , arts. 113-116; <i>Directory</i> , arts. 137-156).....	205
4.1.2. General Commission (Collegial Authority other than the General Chapter) (<i>Directory</i> , arts. 158-161).....	208
4.1.3. Superiors (<i>Constitutions</i> , arts. 111-123; <i>Directory</i> , arts. 162-168).....	211
4.1.3.1. Independent Acts	212
4.1.3.2. Decisions Requiring the Consent of the Council	213
4.1.3.3. Decisions Requiring the Counsel of the Council.....	216
4.2. Norms Concerning the Authority of the Diocesan Bishop	216
4.2.1. The Authority of the Diocesan Bishop of the Principal Seat	217
4.2.1.1. Approval of the Constitutions and Confirmation of Changes in the Constitutions (<i>Constitutions</i> , art. 106)	218
4.2.1.2. Approval of the Directory and the Guidelines of the General Chapter and Confirmation of Changes in the Directory (<i>Constitutions</i> , art. 106; <i>Directory</i> , art. 128)	219
4.2.1.3. Dispensations from the Proper Law Affecting the Entire Congregation (<i>Constitutions</i> , art. 108; <i>Directory</i> , art. 129).....	222
4.2.1.4. Transfer of the Principal House of the Congregation to Another Diocese (<i>Constitutions</i> , art. 104)	224
4.2.1.5. Presiding at Election of the Superior General and Approval of the Election's Result (<i>Constitutions</i> , art. 118; <i>Directory</i> , art. 149.1.12b)...	226
4.2.1.6. Resignation, Removal, or Privation of Superior General's Office (<i>Constitutions</i> , art. 123.1; <i>Directory</i> , art. 135.1)	227

4.2.1.7. Confirmation of the Resignation, Removal, and Privation of the Office of the Members of the General Commission and General Council (<i>Constitutions</i> , art. 112; <i>Directory</i> , arts. 133-135).....	229
4.2.2. The Authority of the Local Diocesan Bishop.....	231
4.2.2.1. Erection of a Religious House (<i>Constitutions</i> , art. 139.1; <i>Directory</i> , art. 127.1).....	232
4.2.2.2. Suppression of the Erected House (<i>Constitutions</i> , art. 139.2)	234
4.2.2.3. Appointing of Confessor (<i>Constitutions</i> , art. 50.3).....	235
4.2.2.4. Entrusting Works of Apostolate to a Religious (<i>Directory</i> , arts. 73-74) ...	236
4.2.2.5. Cooperation and Coordination of the Works and Apostolic Activities under the Direction of the Diocesan Bishop (<i>Constitutions</i> , art. 74; <i>Directory</i> , arts. 75-76).....	239
4.2.2.6. Extension of the Exclaustration (<i>Constitutions</i> , art. 61, 1).....	239
4.2.2.7. Imposition of the Exclaustration (<i>Directory</i> , art. 55.2)	241
4.2.2.8. Confirmation of the Indult of Departure of a Temporarily Professed Sister (<i>Constitutions</i> , art. 172.1).....	242
4.2.2.9. Granting the Indult of Departure to a Perpetually Professed Sister (<i>Constitutions</i> , art. 172.2)	244
4.3. <i>Lacunae</i> in the CDSSRL Provisions regarding the Authority of the Diocesan Bishop in Internal and External Matters of the Congregation	245
4.3.1. <i>Lacunae</i> in the Provisions regarding the Exercise of the Authority over the Congregation by the Diocesan Bishop	245
4.3.1.1. Visitation of Individual Houses and Works of Apostolate or Charity of the CDSSRL	246
4.3.1.2. Establishment of Schools by the Congregation	247
4.3.1.3. Financial Reports	247
4.3.1.4. Alienation of Temporal Goods	248
4.3.1.5. Pious Foundations Entrusted to the Congregation.....	249
4.3.2. <i>Lacunae</i> in the Provisions regarding the Exercise of Authority over Individual Members of the Congregation	250
4.3.2.1. Permission for Management of Lay Person's Goods by a Member of the Congregation	250
4.3.2.2. Prohibiting a Religious from Residing in the Diocese.....	252
4.3.2.3. Confirmation of the Decree of Dismissal	253
4.3.2.4. Mandate for Teaching Theological Subjects in Institutes of Higher Studies..	254
4.3.2.5. Permissions for Publishing Writings and the Use of Instruments of Social Communication Dealing with Questions of Religion and Morals.....	254
CONCLUSION	255

CHAPTER FIVE
PROPOSALS OF PRACTICAL APPROACHES AND CANONICAL SOLUTIONS FOR BETTER
COLLABORATION BETWEEN DIOCESAN BISHOP AND SUPERIORS OF THE
CONGREGATION OF THE DOMINICAN SISTERS OF ST. ROSE OF LIMA

INTRODUCTION	258
5.1. Practical Means for Collaboration between Diocesan Bishops and Religious Superiors in the Vietnamese Context	259
5.1.1. Annual Meetings between Religious Superiors and the Diocesan Bishops/ Local Ordinaries	259
5.1.2. Mutual Dialogue in All Matters in the Spirit of Respect, and Collaboration for the Common Good.....	262
5.1.2.1. Respecting the Dignity and Competence of All Participants of Dialogue ...	264
5.1.2.2. Propounding the Reality of Ecclesial Communion through the Work of Evangelization and Service to Human	266
5.1.2.3. Fostering the Positive Attitude towards Each Partner of the Dialogue ...	267
5.1.2.4. Appreciation of Each Partner of the Dialogue.....	269
5.1.2.5. Introducing and Implementing Practical Proposals and Solutions ...	270
5.1.3. Fostering the Cooperation and Collaboration in the Works of Evangelization, Charity, and Justice and Peace	272
5.1.3.1. Works of Evangelization: Cooperation in the Ministry within the Particular Church	272
5.1.3.1.1. Cooperation in the Exercise of Ecclesiastical Power in the Particular Church.....	272
5.1.3.1.2. Cooperation in the Exercise of the Teaching and Sanctifying Functions in the Particular Church	274
5.1.3.1.2.1. Preaching the Word of God.....	275
5.1.3.1.2.2. Catechetical-Liturgical Formation	279
5.1.3.1.2.3. Catholic Schools and Religious-Moral Education.	284
5.1.3.1.2.4. Media Apostolate (cc. 822-832).....	286
5.1.3.2. Works of Charity	290
5.1.3.3. Justice and Peace	292
5.1.3.4. Religious Freedom	294
5.1.4. Use of Mediation between Diocesan Bishops and Religious Superiors	296
5.2. Proposals of Concrete Canonical Solutions	297
5.2.1. Particular Law Defining the Authority and Obligations of the Diocesan Bishops towards Religious Institutes of Diocesan Right	297
5.2.1.1. Norms on Dispensations from the Constitutions (cf. c. 595, §2).....	298
5.2.1.2. Norms on Granting Written Consent for Erection of a Religious House (cf. c. 609, §1).	303
5.2.1.3. Norms on Visitation of Individual Religious Houses (cf. c. 628, §2, 2 ^o) and Works of Apostolate or Charity (cf. c. 683, §1).....	307
5.2.1.4. Norms on Entrusting Works of Religion or Charity to a Religious Institute (cf. cc. 675-677; 681-682) and on Conferring an Ecclesiastical Office on a Religious (cf. cc. 681 – 682).	312

5.2.1.5. Other Areas of Potential Regulations on the Authority and Obligations of the Diocesan Bishops towards Religious Institutes of Diocesan Right	316
5.2.2. Revisions of the Proper Law of the Congregation of Saint Rose of Lima to Respond to the Current Demands.....	318
5.2.2.1. Norms on Approval of the Directory, Guidelines of the General Chapter and Confirmation of Changes in the Directory	319
5.2.2.2. Norms on Approval of the Resignation, Removal, and Privation of the Office of the Members of the General Commission and General Council	321
5.2.2.3. Norms on Confirmation of the Decree of Dismissal (<i>Constitutions</i> , art. 175; cf. cc. 694, §3; 700).	325
CONCLUSION	328
GENERAL CONCLUSIONS AND RECOMMENDATIONS.....	331
BIBLIOGRAPHY	342
CURRICULUM VITAE	393

ACKNOWLEDGEMENTS

I give thanks to God for His love, grace, and providence upon my life, my vocation, and my studies. Bless Him forever! I also would like to express my sincere gratitude to Superiors and all Dominican Sisters of Saint Rose of Lima Congregation, my parents, brothers and sisters, colleagues, friends in Ottawa and Montreal, especially Chinh – Huyen, Khanh – Trang, Tinh – Luot, Son – Huong, Tuan - Thuy for their assistance and support during the time I studied at Saint Paul University for their prayers, support, encouragement, and the opportunity for my studies. I also would like to extend my sincerely and specially thank Mr. and Mrs. Binh Nga (USA), Sr. Bernadette Kiley, Superior General and Coordinator of Asia-Pacific Region, and all the Sisters of the Dominican Sisters of the Holy Cross Congregation (Australia) for their encouragement and financial assistance.

I also would like to thank and dedicate this work to the late Reverend Father Robert J. Kaslyn, S.J., former Dean of the School of Canon Law of the Catholic University of America (U.S.), the Reverend Father Tam Nguyen, and Sister Rose M. McDermott, S.S.J. who were instrumental in the initiation and inspiration of my studies.

I sincerely and specially thank Mr. Thinh Dinh (USA) for editing this thesis, Mr. Khanh Nguyen (Canada) as well as the librarians for their help in scanning the required documents to assist in my distance studies.

I especially thank the Reverend Msgr. John A. Renken, Dean of the Faculty of Canon Law and Dr. Chad Glendinning, Director of Graduate Studies for giving me the opportunity to pursue the doctorate of philosophy in canon law and ecclesiastical doctorate in canon law in good part online. I am also thankful to all the professors, all members of the staff of the Faculty of Canon Law for their generosity in offering instruction, assistance, and guidance.

I owe deepest gratitude to the Reverend Father Wojciech Kowal, OMI for his wise counsel, guidance, patience, and dedication in directing this thesis.

I also extend my gratitude to the examiners: Reverend Father Yvan Mathieu (president), Dr. Michael-Andreas Nobel, the Reverend Father Valere Nkouaya Mbandji, Sister Nancy Bauer, OSB, Bonnie MacLellan, CSJ, for their encouragement.

May God bless all of you abundantly!

ABBREVIATIONS

1Cor	1 Corinthians
1Thess	1 Thessalonians
AA	SECOND VATICAN COUNCIL, decree <i>Apostolicam actuositatem</i>
AAS	<i>Acta Apostolicae Sedis, Commentarium officiale</i>
AC	FRANCIS, Apostolic Letter motu proprio Amending Canon 579 of the Code of Canon Law <i>Authenticum charismatis</i>
Acts	The Acts of the Apostles
AG	SECOND VATICAN COUNCIL, Decree on the Church's Missionary Activity <i>Ad gentes</i>
AL	FRANCIS, Post-Synodal Apostolic Exhortation to the Bishops, Clergy, Consecrated Persons and the Lay Faithful on Love in the Family <i>Amoris laetitia</i>
art./ arts.	article/ articles
AS	CONGREGATION FOR BISHOPS, Directory for the Pastoral Ministry of Bishops <i>Apostolorum successores</i>
ASS	<i>Acta Sanctæ Sedis</i>
c.	canon
cc.	canons
CC	LEO XIII, Apostolic Constitution on Religious Orders <i>Conditæ a Christo</i>
CCEO	<i>Codex Canonum Ecclesiarum Orientalium auctoritate Ioannis Pauli PP. II promulgates.</i>
CCLA	E. CAPARROS et al. (eds.), <i>Code of Canon Law Annotated</i>
CCLS	Canadian Canon Law Society

CD	SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops in the Church <i>Christus Dominus</i>
CDSSRL	The Congregation of the Dominican Sisters of Saint Rose of Lima
CIC	<i>Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus</i>
CIC/17	<i>Codex iuris canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus</i>
CICLSAL	CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE
CL	JOHN PAUL II, Apostolic Exhortation on the Vocation and Mission of the Lay Faithful in the Church and in the World <i>Christifideles laici</i>
CLD	<i>Canon Law Digest</i>
CLSA Comm1	J.A. CORIDEN, T.J. GREEN and D.E. HEINTSCHEL (eds.), <i>The Code of Canon Law: A Text and Commentary</i>
CLSA Comm2	J.P. BEAL, J.A. CORIDEN and T.J. GREEN (eds.), <i>New Commentary on the Code of Canon Law</i>
CLSA	Canon Law Society of America
CLSGBI Comm	G. SHEEHY et al. (eds.), <i>The Canon Law: Letter & Spirit</i>
CLSGBI	Canon Law Society of Great Britain and Ireland
CN	CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Instruction on Fraternal Life in Community <i>Congregavit nos</i>
Col	Colossians
col./cols.	column/columns
CT	JOHN PAUL II, Post-Synodal Apostolic Exhortation on Catechesis in Our Time <i>Catechesi tradendae</i>
CV	FRANCIS, motu proprio <i>Communis vita</i>

<i>DCL</i>	SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTE, Decree <i>Dum canonicarum legume</i>
<i>EG</i>	FRANCIS, Apostolic Exhortation on the Proclamation of the Gospel in Today's World <i>Evangelii Gaudium</i>
<i>EN</i>	PAUL VI, Apostolic Exhortation <i>Evangelii Nuntiandi</i>
<i>Eph</i>	Ephesians
<i>ES I</i>	PAUL VI, Apostolic Letter on the Implementation of the Decrees Christus Dominus, Presbyterorum ordinis and Perfectae caritatis <i>Ecclesiae Sanctae I</i>
<i>ES II</i>	PAUL VI, Motu proprio Norms for Implementing the Decree on the Up-to-Date Renewal of Religious Life <i>Ecclesiae Sanctae II</i>
<i>ES III</i>	PAUL VI, Norms for Implementing the Decree on the Church's Missionary Activity <i>Ecclesiae Sanctae III</i>
<i>ET</i>	PAUL VI, Apostolic Exhortation on the Renewal of Religious Life according to the Teaching of the Second Vatican Council <i>Evangelica testificatio</i>
<i>EU</i>	FRANCIS, Rescript <i>Ex audientia</i> (2016)
<i>Exegetical Comm</i>	A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), <i>Exegetical Commentary on the Code of Canon Law</i>
<i>FLANNERY1</i>	A. FLANNERY (gen.ed.), <i>Vatican Council II</i> , vol. 1
<i>FLANNERY2</i>	A. FLANNERY (gen.ed.), <i>Vatican Council II</i> , vol. 2
<i>FT</i>	CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Instruction on the Service of Authority and Obedience <i>Faciem tuam</i>
<i>Gal</i>	Galatians
<i>GDC (1971)</i>	CONGREGATION FOR THE CLERGY, General Directory for Catechesis <i>Ad normam decreti (1971)</i>

<i>GDC</i> (2020)	CONGREGATION FOR THE CLERGY, General Directory for Catechesis (2020)
<i>GE</i>	FRANCIS, Apostolic Exhortation on the Call to Holiness in Today's World <i>Gaudete et exultate</i>
<i>GS</i>	SECOND VATICAN COUNCIL, Pastoral Constitution on the Church in the Modern World <i>Gaudium et spes</i> .
Heb	Hebrews
Jn	John
<i>LG</i>	SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church <i>Lumen gentium</i>
Lk	Luke
Mk	Mark
<i>MR</i>	CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES AND THE CONGREGATION FOR BISHOPS, Directives for Mutual Relations between Religious and Bishops in the Church <i>Mutuae relationes</i>
Mt	Matthew
<i>NMI</i>	JOHN PAUL II, Apostolic Letter <i>Novo Millennio ineunte</i>
no./nos.	number/ numbers
<i>PB</i>	JOHN PAUL II, Apostolic Constitution on the Roman Curia <i>Pastor bonus</i>
<i>PC</i>	SECOND VATICAN COUNCIL, Decree on the Up-to-date Renewal of Religious Life <i>Perfectæ caritatis</i>
<i>PG</i>	JOHN PAUL II, Post-Synodal Apostolic Exhortation on the Bishop, Servant of the Gospel of Jesus Christ for the hope of the world <i>Pastores gregis</i>
<i>PM</i>	PAUL VI, motu proprio <i>Pastorale munus</i>

<i>PME</i>	PIUS XII, Apostolic Constitution Concerning Secular Institute <i>Provida Mater Ecclesia</i>
<i>RC</i>	SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, Instruction on the Renewal and Adaptation of Formation for Living the Religious Life <i>Renovationis causam</i>
<i>RD</i>	JOHN PAUL II, Apostolic Exhortation on Their Consecration in the Light of the Mystery of the Redemption <i>Redemptionis donum</i>
Rom	Romans
<i>SA</i>	CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Instruction on Consecrated Life in the Third Millennium <i>Starting Afresh from Christ</i>
<i>SCh</i>	JOHN PAUL II, Apostolic Constitution on Ecclesiastical Universities and Faculties <i>Sapientia Christiana</i>
USCCB	THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS
<i>VC</i>	JOHN PAUL II, Post-synodal Apostolic Exhortation on the Consecrated Life and Its Mission in the Church and the World <i>Vita consecrata</i>
vol./vols.	volume/volumes

GENERAL INTRODUCTION

In 1533, the seed of the Gospel was sowed into Vietnam by European missionaries from the Society of Jesus (S.J.), Order of Preachers (O.P.), Order of Friars Minor (O.F.M.) and the Society of Foreign Missions of Paris (M.E.P.). On 19 February 1670, at Tonkin (*Đàng Ngoài – The North*), the Lovers of the Holy Cross Congregation (*Dòng Mến Thánh Giá*) was erected in Vietnam by French Bishop Pierre Lambert de la Motte,¹ with two Sisters² taking their vows on Ash Wednesday at Phố Hiến in Đàng Ngoài (*Tonkin*).³

The religious life in Vietnam was further developed after France occupied Sài Gòn (1860). Many foreign religious institutes and societies of apostolic life (both men and women)⁴ came to Vietnam to establish community/communities or province(s) to spread their missions, including foreign Dominican Sisters who had entered northern Vietnam in 1676. These Dominican Sisters established various communities in Đông Đàng Ngoài (*East Tonkin* - dioceses of Bắc Ninh, Bùi Chu, Hải Phòng, Lạng Sơn, and Thái Bình).⁵ Responding to the inspiration from the Regional Councils of Kẻ Sặt and Kẻ Sở, and the 1934 French Indochina Council in Hà Nội, on 30 April 1951, the first Vietnamese

¹ Pierre Lambert de la Motte (1624-1679), born at Lisieux, French; a priest of La Société des Missions Etrangères. On 16 January 1624, he was appointed as Vicar Apostolic of Đàng Ngoài (*Cochin*), Vietnam. See Q.C. Đỗ, *Dòng Mến Thánh Giá Những Năm Đầu (Lovers of the Holy Cross in the First Years)*, Hồ Chí Minh City, Tôn Giáo Publication, 2008, 60-61.

² Sisters Anê Trần and Phaola Nguyễn. See *ibid.*

³ See *ibid.*; see also V.B.C. NGUYỄN, *Sổ Tay Công Giáo Việt Nam 2011 (Directory of the Catholic Church in Vietnam)*, Hồ Chí Minh City, Tôn Giáo Publication, 2011, 453-454.

⁴ All these religious institutes are of pontifical right.

⁵ See NGUYỄN CLUB, *Sổ Tay Công Giáo Việt Nam 2011*, 454-455.

Dominican Sisters Congregation was erected by Peter Mary Phạm Ngọc Chi, Bishop of Bùi Chu Diocese, and was named “Dominican Sisters of Bùi Chu.”⁶

Through many historical events, such as religious persecutions (1740-1884),⁷ the French-Vietnamese War (1858-1945), the division of Vietnam into North and South Vietnam and subsequent civil war (1945-1975), the religious brothers and sisters suffered the same dreadful fate of religious persecution as other Christians. Many religious were arrested, imprisoned, tortured and killed, many houses were burnt down, many communities of religious institutes were dissolved. Facing severe persecutions, the faith of these religious brothers and sisters had grown and inspired many Christians to embrace sacrificial living and to become witnesses for the faith in Christ. Consequently, new religious institutes of diocesan right were born and the number of men and women religious in Vietnam had increased rapidly. From just two sisters in the beginning (1670),⁸ that

⁶ See N.C. PHẠM, Decree of Erection of the Dominican Sisters of Bùi Chu Congregation, 30 April 1951.

⁷ Over one century of religious persecution by six dynasties, e.g., lord Trịnh Doanh (1740-1767); lord Trịnh Sâm (1767-1782); King Cảnh Thịnh (1782-1802); King Minh Mạng (1802-1841); King Thiệu Trị (1841-1847); and King Tự Đức (1847-1883), hundreds of thousands of Vietnamese Catholics had shed their blood through tortures and sufferings. Among hundreds of thousands of Vietnamese Catholics martyred, there are 117 martyrs canonized by Pope John Paul II on 19 June 1988 and another martyr, Andrew Dũng Lạc, beatified by Pope John Paul II on 5 March 2000. See GIÁO HỘI CÔNG GIÁO VIỆT NAM, *Niên Giám 2004 (Catholic Church in Việt Nam – Year Book 2004)*, Hà Nội, Tôn Giáo Publication, 2004, 228-234; see also D.V.C. Nguyễn, *Hạnh Tích Các Thánh Tử Đạo Việt Nam (Martyr Saints of Vietnam)*, New Orleans, 2005. By nationality, 117 Martyrs of Vietnam include: 11 Spaniards (6 bishops and 5 Dominican priests); 10 Frenchmen (6 bishops and 8 priests of The Society of Foreign Missions of Paris (M.E.P); 96 Vietnamese (37 priests, 14 catechists, 1 seminarian, 41 laymen, and 1 laywoman). See CATHOLIC BISHOPS’ CONFERENCE OF VIETNAM, *A Directory of the Catholic Church in Vietnam*, Tôn Giáo Publication, 2012, 32.

⁸ See Đỗ, *Dòng Mến Thánh Giá Những Năm Đầu*, 79-94.

number was up to 23,196 men and women religious in 145 religious institutes of consecrated life and societies of apostolic life (2016).⁹

It is estimated that over 90% of the religious institutes and societies of apostolic life in Vietnam are of diocesan right. However, due to the fact that the Post-synodal Apostolic Exhortation on the Consecrated Life and Its Mission in the Church and the World *Vita consecrata* was issued over two decades ago, it is not fully utilised or even considered in Vietnam, especially in the author's religious institute, the Dominican Sisters of Saint Rose of Lima. Consequently, many contentious matters and difficulties had occurred and persisted in lay religious institutes in general, and in the author's Congregation, the Dominican Sisters of Saint Rose of Lima (DSSRL) in particular. These difficulties and tensions are related to the question of the relationship between the diocesan bishop(s) and the institutes of consecrated life. More particularly, the problems concern the ways of exercising the authority of both diocesan bishop(s) and the institutes' superior(s) in relation to just autonomy of life of the institutes, especially in governance and works of apostolate. It is, therefore, necessary to address this and related issues from the properly canonical point of view.

In this perspective, it is crucial that the authority exercised by the diocesan bishop over lay religious institutes of diocesan right be properly delineated so as to minimize tensions and difficulties among the concerned parties. Therefore, this dissertation will

⁹ See CATHOLIC BISHOPS' CONFERENCE OF VIETNAM, *Niên Giám Giáo Hội Công Giáo Việt Nam 2016 (The Almanac of the Catholic Church of Vietnam)*, Hà Nội, Tôn Giáo Publication, 2016, 480-481.

study the canonical authority of the diocesan bishop over lay religious institutes of diocesan right and the individual religious subject to his special care. The study will analyze the *ius vigens* expressly or tacitly stated, primarily in Book II, Part III, Section I of the Code of Canon Law 1983 or elsewhere in the Code. In order to clearly determine the application of the norms of the *ius vigens*, the thesis will examine them in relation to the canonical tradition, especially the relevant canons of the 1917 Code and conciliar and post-conciliar documents. The results of the reflection will then be applied specifically to the religious institute of the Dominican Sisters of Saint Rose of Lima in Vietnam.

In order to accomplish the stated purpose, the dissertation will be divided into five chapters. Accordingly, Chapter One will focus on canon 586 of the 1983 Code of Canon Law to present the notion of just autonomy of life of the lay religious institutes of diocesan right, with concentration on the charism, way of life and governance of institutes. The chapter will aim at answering the question of who enjoys the power of governance in the institute according to the norms of universal and proper laws. Moreover, the discussion will also focus on the responsibilities of local ordinaries in preserving and safeguarding the autonomy of the institute.

Chapter Two will focus on the authority of the diocesan bishop of the principal seat in affairs beyond the competence of the superiors of the religious institute of diocesan right as per canon 595.

Chapter Three will examine the authority the local diocesan bishop regarding the subjection of the religious institute of diocesan right to his special care as per canon 594 in

affairs which exceed the competence of the internal authority of the institute. Special attention will be paid to the question of protecting the rights of religious institutes and of individual religious, as well as promoting and fostering the responsibilities of both the diocesan bishop and the institute, regarding its organizational structures, internal affairs, and apostolate.

In Chapter Four, we will examine the current proper law of the Congregation of the Dominican Sisters of Saint Rose of Lima (CDSSRL), specifically in the perspective of the exercise of external ecclesiastical authority over the Congregation. Through this examination, we will assess the norms on the internal authority of the CDSSRL as to their role of safeguarding the specific way of life and structures of governance of the Congregation and their conformity to the stipulations of universal law. Additionally, the existing *lacunae* in the proper law of the Congregation will be identified.

Finally, Chapter Five will propose practical means for fostering a healthy and harmonious relationship and a mutual collaboration between diocesan bishop(s) and DSSRL's superior(s). Also, some concrete canonical solutions in general application of proper laws and particular laws as well as suggestions for reconsideration of the extent of the authority of diocesan bishops over lay religious institutes of diocesan right and individual religious will be recommended for the eventual revision of Code of Canon Law.

Several major works regarding the authority of diocesan bishops over religious institutes of diocesan right contributed to this study. They come from: S. QUINN, *Relation of the Local Ordinary to Religious of Diocesan Approval: A Historical Synopsis and*

a Commentary (1949); J. AYMANATHIL, *Personal Authority of the Religious Superior in the Legislation of the Church: An Extract from the Doctoral Dissertation* (1989); S.E. KAIN, *Written Agreements between Bishops and Religious for Entrusted Diocesan Works* (1996); J. DORAN, *Just Autonomy of Religious Institutes and Episcopal Authority from the Second Vatican Council to the Ninth Ordinary Synod of Bishops on Consecrated Life* (1998); K.A. KASIRYE, *Authority and the Power of Governance in Institutes of Consecrated Life and Societies of Apostolic Life: A Juridical-theological Study of c. 596* (2002); G. ACOTCHOU, *Les relations canoniques des évêques diocésains et des instituts religieux de droit diocésain: la juste autonomie (cc. 578 et 586) avec une application particulière à l'Église du Bénin* (2013); S.E. GIEGBEFUMWEN, *The Role of the Constitutions of a Religious Institute of Diocesan Right to Define Its Relationship with the Bishop: A Particular Reference to the Institute of the Sisters of the Sacred Heart of Jesus (Nigeria)* (2014).

The main theological sources of the present study will consist of the conciliar and papal teaching. As for the canonical sources, apart from the Codes of Canon Law, I will include the relevant documents of the Roman Curia and its jurisprudence, documents issued by episcopal conferences and religious institutes, and especially those of the Congregation of the Dominican Sisters of Saint Rose of Lima to which the study specifically refers. Due to the specific ecclesial and also geographical-cultural milieu of Vietnam, the scope of my research will be limited to the canonical discipline of the Latin Church. References to the Code of Canons of Eastern Churches will, however, be made when necessary or relevant from the point of view of comprehensiveness of my research.

CHAPTER ONE

THE JUST AUTONOMY OF RELIGIOUS INSTITUTES

INTRODUCTION

This first chapter examines canon 586 of the 1983 Code of Canon Law to present the notion of just autonomy¹ of life and governance of religious institutes of diocesan right.² This chapter has three parts. The first part concentrates on the charism and way of life of the institutes. In this regard some other related canons, 573, 599–602, 675, and 662 will be examined. Concurrently, the chapter will consider the magisterial sources, primarily the documents of the Second Vatican Council, especially *Lumen gentium*, nos. 4, 7, 12,³ *Perfectae caritatis*, no. 1,⁴ and also some post-conciliar documents, like *Evangelica*

¹ Throughout the *ius vigens*, the term “autonomy” is used eight times (see cc. 323, §1; 323, §2; 580; 586, §1; 586, §2; 708; 806, §1; 809). The “autonomy” does not mean independence from ecclesiastical competent authority, but rather freedom from unwarranted interference (see J. DORAN, *Just Autonomy of Religious Institutes and Episcopal Authority from the Second Vatican Council to the Ninth Ordinary Synod of Bishops on Consecrated Life*, JCD thesis, Ottawa, Saint Paul University, 1998, 105).

² An institute of consecrated life is said to be of diocesan right if it has been erected by a diocesan bishop through a formal decree but has not obtained a decree of approval by the Apostolic See. See *Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, Libreria editrice Vaticana, 1989, English translation *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, DC, Canon Law Society of America, 1999, canons 579; 589. All references to the canons of the 1983 Code will be styled “c.” for canon and “cc.” for canons, followed by the canon number(s).

³ SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964 (=LG), nos. 4, 7, 12, in AAS, 57 (1965), 6-7, 9-11, 16-17, English translation in *FLANNERY1*, 351-352, 354-356, 363-364.

⁴ SECOND VATICAN COUNCIL, Decree on the Up-to-date Renewal of Religious Life *Perfectae caritatis*, 28 October 1965 (=PC), no. 1, in AAS, 58 (1966), 702, English translation in *FLANNERY1*, 611-612.

testificatio, nos. 11-12,⁵ *Mutuae relationes*, nos. 9c, 11,⁶ *Vita consecrata*, nos. 5-12,⁷ *Gaudete et exsultate*, nos. 10, 14, 20, 21, 46, 63, 95, 96, 100, 101, 122,⁸ and *Novo millennio ineunte*, no. 49.⁹

The second part of the first chapter will examine the internal authority of the institutes. This study will specify the nature, functions, composition, authority of a general chapter as stated in canons 631-632 and define the office of religious superiors who exercise personal power in the internal governance of the institute over its members in accordance with the universal law and the proper law of each institute as stated in canons 596, 617-618. In addition, the study will identify numerous major pastoral obligations attached to the office of the religious superiors stated in canon 619. Besides the above, the norms on councils who assist superiors in governing institutes will be studied. Among the conciliar and post-conciliar sources, *Lumen gentium*, nos. 43, 45,¹⁰ *Perfectae caritatis*, nos.

⁵ PAUL VI, Apostolic Exhortation on the Renewal of Religious Life according to the Teaching of the Second Vatican Council *Evangelica testificatio*, 29 June 1971 (=ET), nos. 11-12, in AAS, 63 (1971), 503-504, English translation in *FLANNERY1*, 685-686.

⁶ CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES AND THE CONGREGATION FOR BISHOPS, Directives for Mutual Relations between Religious and Bishops in the Church *Mutuae relationes*, 14 May 1978 (=MR), nos. 9c, 11, in AAS, 70 (1978), 479, 480, English translation in *CLD*, vol. 9, 305, 307.

⁷ JOHN PAUL II, Post-synodal Apostolic Exhortation on the Consecrated Life and Its Mission in the Church and the World *Vita consecrata*, 25 March 1996 (=VC), nos. 5-12, in AAS, 88 (1996), 380-385, English translation in *Origins*, 25 (1996), 684-685.

⁸ FRANCIS, Apostolic Exhortation on the Call to Holiness in Today's World *Gaudete et exsultate*, 19 March 2018 (=GE), English translation *Rejoice and Be Glad: On the Call to Holiness in Today's World; Apostolic Exhortation Gaudete et Exsultate*, New York/ Mahwah, NJ, Paulist Press, 2018, 6-7; 8-9; 12; 12-13; 24-25; 35; 49; 51; 51-52; 62-63.

⁹ JOHN PAUL II, apostolic letter *Novo millennio ineunte*, 6 January 2001 (=NMI), no. 49, in AAS, 93 (2001), 302, English translation *Novo Millenio Ineunte*, Boston, St. Paul Books & Media, 2003, 29.

¹⁰ LG, nos. 43, 45, in AAS, 57 (1965), 50-51, *FLANNERY1*, 402-403, 405-406.

2, 4, 14,¹¹ *Ecclesiae Sanctae II*, nos. 1, 25,¹² *Mutuae relationes*, no. 13,¹³ *Vita consecrata*, nos. 37, 43, 92,¹⁴ *Congregavit nos*, no. 50,¹⁵ *Starting Afresh from Christ*, no. 14,¹⁶ *Evangelica testificatio*, no. 25,¹⁷ and *Faciem tuam*, nos. 13a, 14a & c, 17, 20b¹⁸ will be taken into account.

The third part will focus on the just autonomy of life of religious institutes. This section will examine the internal autonomy of lay religious institutes as stated in canon 586, §1. Each institute enjoys autonomy of life due to its charismatic origin and the power of internal governance granted by the law at the time of its canonical erection. Furthermore, the study will identify the responsibilities of local ordinaries in preserving and safeguarding the just autonomy of religious institutes as stated in canon 586, §2. In this part, we will

¹¹ PC, 2, 4, 14, in AAS, 58 (1966), 714-717, 722, *FLANNERY1*, 612-614, 619-620.

¹² PAUL VI, Norms for Implementing the Decree on the Up-to-Date Renewal of Religious Life *Ecclesiae Sanctae II*, 6 August 1966 (=ES II), nos. 1, 25 in AAS, 58 (1966), 759, 770, English translation in *FLANNERY1*, 624-625, 629.

¹³ MR, no. 13, in AAS, 70 (1978), 481-482, in *CLD*, vol. 9, 308-309.

¹⁴ VC, nos. 37, 43, 92, in AAS, 88 (1996), 411, 417, 467, in *Origins*, 25 (1996), 693, 695, 711.

¹⁵ CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Instruction on Fraternal Life in Community *Congregavit nos*, 2 February 1994 (=CN), no. 50, in *Enchiridion Vaticanum*, vol. 14, 220-283, English translation in *Origins*, 23 (1994), 706.

¹⁶ CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Instruction on Consecrated Life in the Third Millennium *Starting Afresh from Christ*, 19 May 2002 (=SA), no. 14, Vatican City, Libreria editrice Vaticana, 2002, English translation in *Origins*, 32 (2002-2003), 135-136.

¹⁷ ET, no. 25, in AAS, 63 (1971), 510-511, *FLANNERY1*, 692.

¹⁸ CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Instruction on the Service of Authority and Obedience *Faciem tuam*, 11 May 2008 (=FT), nos. 13a, 14a & c, 17, 20b, in *Iustitia*, 108 (2011), 204, 209-210, 212, 216, English translation in *Origins*, 38 (2008-2009), 72-73, 74-75.

examine the teachings of *Lumen gentium*, no. 43,¹⁹ *Christus Dominus*, nos. 34; 35:2,²⁰ and *Mutuae relationes*, nos. 9c-d, 28, 52.²¹

1.1. Religious Institutes of Diocesan Right

The consecrated life is a gift of the Holy Spirit given to the Church as an enabling gift for a special ministry within the Church.²² This gift expresses, in a particular way and at a particular time through individual charism of each institute, what Apostle Paul addresses in his First Letter to the Corinthians: “there are different kinds of spiritual gifts but the same Spirit; there are different forms of service but the same Lord; there are different workings but the same God who produces all of them in everyone” (1 Cor 12:4-6). This charism is transmitted to the members of institutes of consecrated life to be lived, deepened, safeguarded, and constantly developed through the way of life of each institute in harmony with the Body of Christ.²³

¹⁹ *LG*, no. 43, in *AAS*, 57 (1965), 50, *FLANNERY1*, 403.

²⁰ SECOND VATICAN COUNCIL, Decree on the Pastoral Office of Bishops in the Church *Christus Dominus*, 28 October 1965 (=CD), nos. 34, 35: 2, in *AAS*, 58 (1966), 690 - 691, English translation in *FLANNERY1*, 584.

²¹ *MR*, nos. 9c-d, 28, 52, in *AAS*, 70 (1978), 479, 490, 500-501, in *CLD*, vol. 9, 305-306, 320, 333.

²² Canon 575; cf. *LG*, no. 43, in *AAS*, 57 (1965), 50, *FLANNERY1*, 403.

²³ See cc. 573, 578, 587; cf. *VC*, nos. 5-12, in *AAS*, 88 (1996), 380-385, in *Origins*, 25 (1996), 684-685; *PC*, no. 8, in *AAS*, 58 (1966), 706, *FLANNERY1*, 615-616; *MR*, no. 11, in *AAS*, 70 (1978), 480, in *CLD*, vol. 9, 307.

1.1.1. The Charism of an Institute

The necessity of charisms or divinely granted gifts to bear witness to the nature of the Church was recognized by the Church's tradition and teachings.²⁴ Yves Congar declares that charisms "are not some secondary phenomenon in the life of the Church"²⁵ but they are rather "[...] 'special graces' (*gratiae speciales*) the Spirit distributes 'as he wills' (1 Cor 12:11) among the faithful of every rank."²⁶ Joseph Galante offers a similar definition of charism "[...] a particular way of hearing the Gospel and of so being formed by that Gospel hearing that one begins to relate to all of reality through the prism of that formative experience of the Gospel. Having heard and having been touched by the Gospel in a particular way, those persons relate to all of reality, to God, to self, to other person, to creation, to activity, through that formative experience of the Gospel message."²⁷ Through their charism, in particular way of hearing and living the Gospel, members of religious institutes bear witness to Christ in the Church and in the world. Thanks to various charisms of religious institutes, the missionary activity of the Church is advanced and the common

²⁴ See 1 Cor 12:4, 7, 11; Eph 1:11-12; Gal 5:22. All quotations from the Bible are from *The Jerusalem Bible*, J. ALEXANDER (ed.), London, Doubleday and Company, 1966. See also *LG*, nos. 4, 7, 12, in *AAS*, 57 (1965), 6-7, 9-11, 16-17, *FLANNERY1*, 351-352, 354-356, 363-364; *PC*, no. 1, in *AAS*, 58 (1966), 702, *FLANNERY1*, 611-612; *ET*, nos. 11-12, in *AAS*, 63 (1971), 503-504, *FLANNERY1*, 685-686; *MR*, nos. 9c, 11, in *AAS*, 70 (1978), 479, 480, in *CLD*, vol. 9, 305, 307; *VC*, nos. 5-12, in *AAS*, 88 (1996), 380-385, in *Origins*, 25 (1996), 684-685.

²⁵ Y. CONGAR, *Power and Poverty in the Church Administration*, J. NICHOLSON (trans.), Baltimore, MA, Helicon, 1964, 46.

²⁶ *Ibid.*

²⁷ J. GALANTE, "The Relationship of the Diocesan Bishop and Institutes of Pontifical Right," in *CLSA Proceedings*, 56 (1994), 90.

good of the human beings is served unselfishly and unconditionally by religious men and women.²⁸

Interestingly, *Lumen gentium* distinguishes the hierarchical gifts from the charismatic gifts and describes charism as follows:

Guiding the Church in the way of all truth (cf. Jn. 16:13) and unifying her in communion and in the works of ministry, he bestows upon her varied hierarchic and charismatic gifts, and in this way directs her; and he adorns her with his fruits (cf. Eph 4:11-12; 1 Cor 12:4; Gal 5:22).²⁹

[...] in the building up of Christ's body there is engaged a diversity of members and functions. There is only one Spirit who, according to his own richness and the needs of the ministries, gives his different gifts for the welfare of the Church (cf. 1 Cor. 12: 1-11).³⁰

[...] It is not only through the sacraments and the ministrations of the Church that the Holy Spirit makes holy the People, leads them and enriches them with his virtues. Allotting his gifts according as he wills, (cf. Cor. 12:11), he also distributes special graces among the faithful of every rank. By these gifts he makes them fit and ready to undertake the various tasks and offices for the renewal and building up of the Church, as it is written, "The manifestation of the Spirit is given to everyone for profit" (1 Cor. 12:7). Whether these charisms be very remarkable or more simple and widely diffused, they are to be received with thanksgiving and consolation since they are fitting and useful for the needs of the Church.³¹

²⁸ See J.A. MERKE, *A Different Touch: A Study of Vows in Religious Life*, Collegeville, MN, Liturgical Press, 1998, vii.

²⁹ *LG*, no. 4: "[...] Ecclesiam, quam in omnem veritatem inducit (cfr. Jn 16, 13) et in communione et ministracione unificat, diversis donis hierarchicis et charismaticis instruit acdirigit, et fructibus suis adornat (cfr. Eph 4:11-12; 1 Cor 12:4; Gal 5:22)" (in AAS, 57 [1965], 6-7, *FLANNERY1*, 352).

³⁰ *LG*, no. 7: "[...] in aedificatione corporis Christi diversitas viget membrorum et officiorum. Unus est Spiritus, qui varia sua dona, secundum divitias suas atque ministeriorum necessitates, ad Ecclesiae utilitatem dispergit (cfr. 1 Cor 12:1-11)" (in AAS, 57 [1965], 10, *FLANNERY1*, 355).

³¹ *LG*, no. 12: "Idem praeterea Spiritus Sanctus non tantum per sacramenta et ministeria Populum Dei sanctificat et ducit eumque virtutibus ornat, sed dona sua 'dividens singulis prout vult' (1 Cor 12:11), inter omnis ordinis fideles distribuit gratias quoque speciales, quibus illos aptos et promptos reddit ad suscipienda varia opera vel officia, pro renovatione et ampliore aedificatione Ecclesiae proficua, secundum illud. Unicuique datur manifestatio Spiritus ad utilitatem" (1 Cor 12:7). Quae charismata, sive clarissima, sive etiam simpliciora et latius diffusa, cum sint necessitatibus Ecclesiae apprime accommodata et utilia, cum gratiarum actione ac consolatione accipienda sunt [...]" (in AAS, 57 [1965], 16-17, *FLANNERY1*, 363).

Michael Buckley summarizes the notion of the charism as stated in *Lumen gentium*, no. 12 in the five following points:

- (1) The origin of every charism is the Holy Spirit – not the hierarchy nor human structures.
- (2) Its impetus is distinguished from the action of the Spirit in the sacraments and in the habitual ministrations of the Church's ministers.
- (3) Charism is by its nature a special grace, given to anyone of the faithful as an enabling gift for a specific ministry within the Body of Christ.
- (4) Its purpose is the renewal and the development of the Church.
- (5) The authenticity of a charism is to be tested and judged by the hierarchy – and the allusions of St. Paul's negative prohibition not to extinguish the Spirit indicates the danger that a charism can be destroyed by the bad judgment of the very ones who are to judge and support it.³²

Neither the Dogmatic Constitution *Lumen gentium*'s in its Chapter VI on religious, nor *Perfectae caritatis* explicitly use the expression “charism of religious life.” However, the concept of “charism” illustrates doctrinally the primacy of the special gift given by the Holy Spirit through the evangelical counsels of poverty, chastity and obedience.³³ The appearance of charisms in constantly new forms to meet new situations is an essential feature of the Church's holiness, which entails the renunciation of something that although undoubtedly deserved, may be detracting from a genuine development of the human person. Such a renunciation contributes greatly to the purification of heart and spiritual liberty.³⁴

³² M.J. BUCKLEY, “The Charism and Identity of Religious Life,” in *Review for Religious*, 44 (1985), 656-657.

³³ There had been a common belief for many centuries that the founders and foundresses of religious institutes were receiving special gifts from the Holy Spirit; for instance, it was understood in the twelfth century that when God wanted to help His Church to face the Albigensian heresy at Languedoc, France, He gave Saint Dominic a special grace and impulse to found a new order that would serve God in a particular manner – preaching the Gospel ideal to combat this heresy. In the same way, God gave Saint Francis Assisi a particular grace for his personal growth as well as for his companions.

³⁴ See *LG*, no. 46, in *AAS*, 57 (1965), 52, *FLANNERY*1, 406.

Similarly, *Perfectae caritatis* contains many of the same elements mentioned previously in the Dogmatic Constitution *Lumen gentium*. It uses the phrases *Spiritu Sancto afflante* (“under the inspiration of the Holy Spirit”)³⁵ and *instituti patrimonium* (“patrimony of an institute”)³⁶ in referring to consecrated life. As stated in no. 2b: “It is for the good of the Church that institutes have their own proper characters and functions. Therefore, the spirit and aims of each founder should be faithfully retained as indeed should each institute’s sound traditions, for all of these constitute the patrimony of an institute.”³⁷

The term “charism” referred to religious institutes employed in Pope Paul VI’s apostolic exhortation *Evangelica testificatio* points to *fructus [...] Spiritus Sancti* (“the fruits of the Holy Spirit”)³⁸ always at work within the Church. Charism refers to the distinct spirit that animates a religious institute and gives it a particular character. Part of the permanent heritage of a religious institute, its charism, includes the spirit, mission, history, and traditions treasured by the religious institute:

It is precisely here that the dynamism proper to each religious institute finds its origin. For while the call of God renews itself and expresses itself in different ways according to changing circumstances of place and time, it nevertheless requires a certain constancy of orientation. The interior impulse which is the response to God’s call stirs up in the depth of one’s being certain fundamental options. Fidelity to the exigencies of these fundamental options is the touchstone of authenticity in religious life [...].

Through the variety of forms which give each institute its own individual character and which have their root in the fullness of the grace of Christ, the supreme rule

³⁵ *PC*, no. 1, in AAS, 58 (1966), 702, *FLANNERY1*, 611-612.

³⁶ *PC*, no. 2b, in AAS, 58 (1966), 703, *FLANNERY1*, 612.

³⁷ *PC*, no. 2b: “In ipsum Ecclesiae bonum cedit ut instituta peculiarem suam indolem ac munus habeant. Ideo fideliter agnoscantur et servantur Fundatorum spiritus propriaque proposita, necnon sanae traditiones, quae omnia cuiusque instituti patrimonium constituunt” (in AAS, 58 [1966], 703, *FLANNERY1*, 612).

³⁸ *ET*, no. 11, in AAS, 63 (1971), 504, *FLANNERY1*, 685-686.

of the religious life and its ultimate norm is that of following Christ according to the teaching of the Gospel [...].³⁹

The notion of charism is further developed in *Mutuae relationes*, no. 9c, to call the bishops to fulfill their pastoral duty by caring for religious charisms, fostering religious life and protecting it in “conformity with its own definite characteristics” because “the very indivisibility of their pastoral ministry makes them responsible for perfecting the entire flock.”⁴⁰

It is noteworthy that the charism of the founder(s) or foundress(es) is presented in *Mutuae relationes*, no. 11 as an “experience of the Spirit,”⁴¹ transmitted to their disciples to be lived, safeguarded, deepened and constantly developed in harmony with the Body of Christ in the process of growth.⁴²

In *Redemptionis donum*,⁴³ Pope John Paul II mentions “charism” in the context of the apostolate: “the many different ways in which consecrated persons fulfill their love for

³⁹ *ET*, no. 12: “Hinc profecto unaquaeque Familia religiosa propriam dynamicam vim hauriet, siquidem vocatio divina, licet secundum mutabilia locorum ac temporum adiuncta renovetur et distinguatur, semper tamen constantem quendam cursum exposcit. Ardor animi, ei congruens, in ipsa hominis vita quasdam primarias praecipuasque aperit vias, quae elegantur. Fidelitas autem iis rebus servita, quae per hasce vias postulantur, tamquam obrussa est authenticae naturae, qua vita religiosa commendetur [...]. In hac varietate formarum, quae unicuique Instituto indolem propriam tribuunt et in plenitudine gratiae Christi nituntur, pro summa vitae religiosae regula et norma certissima habenda est sequela Christi secundum Evangelii doctrinam” (in AAS, 63 [1971], 504, *FLANNERY*1, 686).

⁴⁰ *MR*, no. 9c, in AAS, 70 (1978), 479, in *CLD*, vol. 9, 305-306.

⁴¹ *MR*, no. 11: “Ipsium Fundatorum charisma (*Evangelica testificatio*, no. 11) videtur esse quaedam [...] *Spiritus experientia*, propriis discipulis tradita, qui secundum eam viverent, eam custodirent altioremq̃ redderent et constanter augerent simul cum Christi Corpore iugiter crescente. Propterea Ecclesia propriam indolem variorum Institutorum religiosorum tuetur et fovet (*LG*, 44; cfr. *CD*, 33; 35, 1; 35, 2; etc.)” (in AAS, 70 [1978], 480, in *CLD*, vol. 9, 307).

⁴² See *ibid.*

⁴³ JOHN PAUL II, Apostolic Exhortation to Men and Women Religious on Their Consecration in the Light of the Mystery of the Redemption *Redemptionis donum*, 25 March 1984 (=RD), in AAS, 76 (1984),

the Church through the apostolate.”⁴⁴ While referring to Pope John Paul II’s teaching, Buckley states: “the charism of every religious institute becomes a charism for the different needs of the Church.”⁴⁵

The current law recognizes the various charisms of the institutes of consecrated life that are inspired by the Holy Spirit throughout the history of the Church as stated in c. 577:

In the Church there are a great many institutes of consecrated life which have different gifts according to the grace which has been given them: they more closely follow Christ who prays, or announces the kingdom of God, or does good to people, or lives with people in the world, yet who always does the will of the Father.⁴⁶

The charism of religious life is a special fruit of the Holy Spirit given to the Church. Each charism expresses a particular way of following Christ’s life in obedience to the Father’s will.⁴⁷ Rose McDermott explains that all charisms manifest “the commandment of love and are as branches of the one vine integrated into the life of the Church.”⁴⁸ Each

513-546, English translation *Apostolic Exhortation Redemptionis donum of His Holiness John Paul II: To Men and Women Religious on Their Consecration in the Light of the Mystery of the Redemption*, Ottawa, CCCB, 1984.

⁴⁴ RD, no. 15: “[...] quot variis modis personae Deo consecratae *per apostolatum* impleant suum erga Ecclesiam amorem [...]” (in AAS, 76 [1984], 541-542, in *Apostolic Exhortation Redemptionis donum of His Holiness John Paul II*, 749).

⁴⁵ BUCKLEY, “The Charism and Identity of Religious Life,” 662.

⁴⁶ Canon 577: “Permulta in Ecclesia sunt instituta vitae consecratae, quae donationes habent differentes secundum gratiam quae data est eis: Christum, enim, pressius sequuntur sive orantem, sive Regnum Dei annuntiantem, sive hominibus beneficientem, sive cum eis in saeculo conversantem, semper autem voluntatem Patris facientem.” The canon is based on the *Lumen gentium*, no. 46 which states that the Church portrays Christ in contemplation, in His proclamation of the kingdom of God, in His healing of the sick, in His work of converting sinners, in His solicitude for youth and His goodness to all men, always obedient to the will of the Father who sent Him (see LG, no. 46, in AAS, 57 [1965], 52, *FLANNERY1*, 406-407).

⁴⁷ See MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” in J. BEAL, J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000 (=CLSA Comm2), 746.

⁴⁸ *Ibid.*, 746.

charism demonstrates the particular apostolate of the institute. Some institutes offer a total sacrifice of praise to God in a contemplative life as the members live lives of prayer, penance and sacrifice.⁴⁹ Still other institutes offer missionary and apostolic service to the people, bringing Christ to his people in apostolic works and people to God in their prayer.⁵⁰ McDermott concludes that “each institute presents Christ in a particular way and at a particular time of salvation history. All share Christ’s mission of carrying out the Father’s will for the salvation of the world.”⁵¹ Therefore, the members continue to live and grow spiritually through fidelity to their proper charism.⁵²

1.1.2. The Way of Life of the Institute

The introductory canon of the section on institutes of consecrated life (c. 573) provides a general description of life consecrated through the profession of evangelical counsels and institutes of consecrated life:

§1. The life consecrated through the profession of the evangelical counsels is a stable form of living by which the faithful, following Christ more closely under the action of the Holy Spirit, are totally dedicated to God who is loved most of all, so that, having been dedicated by a new and special title to His honor, to the building up of the Church, and to the salvation of the world, they strive for the perfection of charity in the service of the kingdom of God and, having been made an outstanding sign in the Church, foretell the heavenly glory.

§2. The Christian faithful freely assume this form of living in institutes of consecrated life canonically erected by competent authority of the Church. Through vows or other sacred bonds according to the proper laws of the institutes, they profess the evangelical counsels

⁴⁹ See c. 674.

⁵⁰ See c. 675.

⁵¹ MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 746.

⁵² See *ibid.* Cf. also cc. 578, 587; VC, nos. 5-12, in AAS, 88 (1996), 380-385, in *Origins*, 25 (1996), 684-685; PC, no. 8, in AAS, 58 (1966), 706, *FLANNERY*1, 615-616.

of chastity, poverty, and obedience and, through the charity to which the counsels lead, are joined in a special way to the Church and its mystery.⁵³

The canon describes that the vocation to consecrated life⁵⁴ entails life inspired by the Holy Spirit, following Christ more closely, and deepening one's baptismal consecration⁵⁵ through a free and total self-giving as a sacrifice offered to God, loved above all through a new and special title or commitment.⁵⁶ *Lumen gentium*, in no. 42 states:

[...] the Church's holiness is fostered in a special way by the manifold counsels which the Lord proposes to his disciples in the Gospel for them to observe. Towering among these counsels is that precious gift of divine grace given to some by the Father (cf. Mt 19:11; 1

⁵³ Canon 573: "§1. Vita consecrata per consiliorum evangelicorum professionem est stabilis vivendi forma qua fideles, Christum sub actione Spiritus Sancti pressius sequentes, Deo summe dilecto totaliter dedicantur, ut, in Eius honorem atque Ecclesiae aedificationem mundique salutem novo et peculiari titulo dediti, caritatis perfectionem in servitio Regni Dei consequantur et, praeclarum in Ecclesia signum effecti, caelestem gloriam praenuntient. §2. Quam vivendi formam in institutis vitae consecratae, a competenti Ecclesiae auctoritate canonice erectis, libere assumunt christifideles, qui per vota aut alia sacra ligamina iuxta proprias institutorum leges, consilia evangelica castitatis, paupertatis et oboedientiae profitentur et per caritatem, ad quam ducunt, Ecclesiae eiusque mysterio speciali modo coniunguntur."

⁵⁴ The term "consecrated life" in canon 573 applies to religious institutes, secular institutes, hermits, and virgins (see cc. 573, 603, 604, 710).

⁵⁵ *Lumen gentium*, no. 44 pronounces specifically on the nature and import of consecrated life: "The Christian who pledges himself to this kind of life binds himself to the practice of the three evangelical counsels by vows or by other sacred ties of a similar nature. He consecrates himself wholly to God, his supreme love. In a new and special way he makes himself over to God, to serve and honor him. True, as a baptized Christian he is dead to sin and dedicated to God; but he desires to derive still more abundant fruit from the grace of his baptism. For this purpose he makes profession in the Church of the evangelical counsels. He does so for two reasons: first, in order to be set free from hindrances that could hold him back from fervent charity and perfect worship of God, and secondly, in order to consecrate himself in a more thoroughgoing way to the service of God [...]" (in AAS, 57 [1965], 50, *FLANNERY1*, 403-404). McDonough explains further: "This same section asserts that consecration by profession of the evangelical counsels relates the individual to the honor and service of God in a new and special way. In this passage the verb in the official Latin text (*consecratur*) is passive – not active, as it sometimes appears in translation – to emphasize the primacy of divine activity fostering the emergence of more abundant fruit from the grace of baptism by encouraging the removal of hindrances to unselfish love and by facilitating a constant service of God. More pointedly, the council affirms that the obligation to observe the counsels which consecrated persons undertake by their public profession of vows or other sacred bonds differentiates them from other members of God's people who may commit themselves to observe these counsels without any publicly recognized, perpetual obligation. In turn the document states that this public and perpetual obligation should bestow greater freedom on the individual while revealing heavenly goods and manifesting the transcendence of God's reign to others" (E. MCDONOUGH, "*Lumen gentium*'s Chapter 6: Religious," in *Review for Religious*, 52 [1993], 930. Cf. *PC*, no. 5, in AAS, 58 [1966], 704-705, *FLANNERY1*, 614).

⁵⁶ See MCDERMOTT, "Norms Common to All Institutes of Consecrated Life (cc. 573-606), 743.

Cor 7:7) to devote themselves to God alone more easily with an undivided heart (cf. 1 Cor 7: 32-34) in virginity of heaven has always been held in high esteem by the Church as a sign and stimulus of love, and as a singular source of spiritual fertility in the world.⁵⁷

Pope Francis in his apostolic exhortation *Gaudete et exsultate* asserts primarily “the call to holiness that the Lord addresses to each of us, the call that he also addresses, personally, to you: ‘Be holy, for I am holy’ (*Lev. 11: 44*; cf. *1Pet. 1:16*).”⁵⁸ He further stresses the universal call to holiness in the Church by stating: “we are called to be holy by living our lives with love and by bearing witness in everything we do, wherever we find ourselves.”⁵⁹

Elio Gambari points to a close relationship between consecration and holiness: “*on the part of God* it entails a setting apart of the consecrated person from others so that he may be reserved to God and that God may give himself to him as he did with the chosen people. *On the part of the Church*, it is an offering expressing her bridal union with Christ. *On the part of the religious* it is a response to the call of God to enter into special relationship with him, to *honor* him and share in his holiness by a life a charity.”⁶⁰ Pope Francis indicated the core of the holiness that is “experiencing, in union with Christ, the mysteries of his life.”⁶¹ That holiness “consists in uniting ourselves to the Lord’s death and resurrection in a unique and personal way, constantly dying and rising anew with him. But

⁵⁷ *LG*, no. 42, in *AAS*, 57 (1965), 47-49, *FLANNERY1*, 401.

⁵⁸ *GE*, no. 10, *Rejoice and Be Glad*, 6-7.

⁵⁹ *Ibid.*, no. 14, *Rejoice and Be Glad*, 8-9.

⁶⁰ E. GAMBARI, *Religious Life according to Vatican II and the New Code of Canon Law*, THE DAUGHTERS OF ST. PAUL (transl.), Boston, St. Paul Editions, 1986, 96.

⁶¹ *GE*, no. 20, *Rejoice and Be Glad*, 12.

it can also entail reproducing in our own lives various aspects of Jesus' earthly life: his hidden life, his life in community, his closeness to the outcast, his poverty and other ways in which he showed his self-sacrificing love."⁶² The Pope affirms that "holiness is nothing other than charity lived to the full."⁶³

The rescript of the Sacred Congregation for Religious and for Secular Institutes to the Bishops of the United States on the norms for religious life identified certain elements as essential to religious life, i.e., "the call of God and consecration to Him through profession of the evangelical counsels by public vows; a stable form of community life; for institutes dedicated to apostolic works, a sharing in Christ's mission by a corporate apostolate faithful to a specific founding gift and sound tradition; personal and community prayer; asceticism; public witness; a specific relation to the Church; a lifelong formation; and a form of government calling for religious authority based on faith."⁶⁴

When professing the evangelical counsels of chastity, poverty, and obedience through public vows in a religious institute, the religious are consecrated to God in their own special way.⁶⁵ Through the act of consecration, the religious is called to live in the world in a different way to build up the Church by carrying out her mission of salvation of

⁶² Ibid.

⁶³ Ibid., no. 21, *Rejoice and Be Glad*, 12-13.

⁶⁴ SACRED CONGREGATION FOR RELIGIOUS AND FOR SECULAR INSTITUTES, rescript (private), 31 May 1983, English translation in *CLD*, vol. 10, 45.

⁶⁵ Canon 573, §2. The sources of this section of the canon include *Lumen gentium*, no. 44 which states that the consecrated persons dedicated to the good of the whole Church, so they have the duty of working to implant and strengthen the Kingdom of Christ in souls and to extend that Kingdom to all over the world (see AAS, 57 [1965], 50, *FLANNERY1*, 404; see also *PC*, no. 5, in AAS, 58 [1966], 716-717, *FLANNERY1*, 613-614).

the world, and foretell the heavenly glory.⁶⁶ Commenting on this special way of life, Elizabeth McDonough states:

The code's understanding of this way of life is not a compartmentalized one: this is for God, that is for the community, something else is for the apostolate and something else again is for me or my interests. The following of Christ envisioned here is precisely that – the following of Christ, not following any group or any apostolate or the letter of any law or even following our own understanding of what might be the spirit of the law.⁶⁷

For the religious, the following of Christ proposed in the Gospels and expressed in the proper law of the institute is to be the supreme rule of life,⁶⁸ in which God should be sought and loved above all else.⁶⁹ A life consecrated by the profession of the evangelical counsels of chastity, poverty, and obedience⁷⁰ should be motivated by the underlying desire for an undivided heart which is a sign of the world to come,⁷¹ for imitation of the self-emptying of Christ who although he was rich, was made poor for us,⁷² and for transformation into the likeness of Christ in doing the Father's will by submission to legitimate superiors commanding according to the constitutions.⁷³ Thus only those who

⁶⁶ See c. 573, §1. *Lumen gentium*, no. 44 indicates that through the profession of the evangelical counsels, the consecrated persons are called to live in the world in a different way from other Christian faithful by following Christ who virginal, poor, and obedience unto death (cf. Mt 8:20; Lk 9:58; Phil 2:8) (see AAS, 57 [1965], 50, *FLANNERY1*, 404; see also *PC*, no. 1, in AAS, 58 [1966], 702, *FLANNERY1*, 611).

⁶⁷ E. McDONOUGH, *Religious in the 1983 Code: New Approaches to the New Law*, Chicago, IL, Franciscan Herald Press, 1985, 35.

⁶⁸ See c. 662.

⁶⁹ See c. 619.

⁷⁰ See c. 573, §2.

⁷¹ See c. 599. Cf. *LG*, no. 42, in AAS, 57 (1965), 47-49, *FLANNERY1*, 401; *PC*, no. 12, in AAS, 58 (1966), 707-708, *FLANNERY1*, 617-618; *ET*, no. 15, in AAS, 63 (1971), 505-506, *FLANNERY1*, 687-688.

⁷² See c. 600. Cf. *LG*, no. 42, in AAS, 57 (1965), 47-49, *FLANNERY1*, 401; *ES II*: 23-24, in AAS, 58 (1966), 769-770, *FLANNERY1*, 629.

⁷³ See c. 601. Cf. *LG*, no. 42, in AAS, 57 (1965), 47-49, *FLANNERY1*, 401; *PC*, no. 14, in AAS, 58 (1966), 708-709, *FLANNERY1*, 619-620; *ET*, nos. 23-28, in AAS, 63 (1971), 509-513, *FLANNERY1*, 691-694.

fully follow Christ in chastity, poverty and obedience can achieve “freedom from even legitimate ties with creatures” that “facilitates familiar intimacy with the three divine Persons and creates a special immediate relationship with God.”⁷⁴

The *ius vigens* recognizes the perfection of charity that consecrated persons must strive to reach in service to the Kingdom of God.⁷⁵ This dedication prompts and fosters the love expressed in prayer and service of others which is rooted in the “fundamental law of the gospel which requires of every Christian a constant growth in the twofold love of God and others.”⁷⁶ As emphasized by Pope Francis, the following of Christ – the path to holiness – is “a way of life,” not an intellectual exercise.⁷⁷ To reach this perfection of charity, one has to live the Gospel by putting into practice in daily life the Beatitudes, taught in the Sermon on the Mount⁷⁸ which the Pope calls “the Christian’s identity card.”⁷⁹ He also invites the consecrated persons to put into practice in their daily life the words of Jesus in Chapter 25 of Matthew’s Gospel,⁸⁰ i.e., feeding the hungry, giving drink to the thirsty,⁸¹ welcoming the stranger, clothing the naked, caring for the ill, visiting the imprisoned (Mt

⁷⁴ GAMBARI, *Religious Life according to Vatican II and the New Code of Canon Law*, 97.

⁷⁵ See c. 573, §1.

⁷⁶ S. HOLLAND, “Norms Common to All Institutes of Consecrated Life (cc. 573-606), in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985 (=CLSA Comm1), 454.

⁷⁷ See GE, no. 46, *Rejoice and Be Glad*, 24-25.

⁷⁸ See Mt 5: 1-12a; see also GE, nos. 63, 67-94, *Rejoice and Be Glad*, 35-48.

⁷⁹ GE, no. 63, *Rejoice and Be Glad*, 35.

⁸⁰ See GE, no. 95, *Rejoice and Be Glad*, 49.

⁸¹ Pope Francis stresses that “the hunger and thirst are intense experiences, since they involve basic needs and our instinct for survival. There are those who desire justice and yearn for righteousness with similar intensity” (GE, no. 77, *Rejoice and Be Glad*, 41).

25:35-36). These merciful acts express the personal relationship with the Lord and with others.⁸² “whatever you did for one of these least brothers of mine, you did for me” (Mt 25: 40) and “what you did not do for one of these least ones, you did not do for me” (Mt 25:45). As Saint John Paul II said: “If we truly start out anew from the contemplation of Christ, we must learn to see him especially in the faces of those with whom he himself wished to be identified.”⁸³

Besides the evangelical counsels, in canon 602 the Code addresses fraternal or sisterly life:

The life of brothers or sisters proper to each institute, by which all the members are united together as a special family in Christ, is to be defined in such a way that it becomes a mutual support for all in fulfilling the vocation of each. Moreover, by their communion as brothers or sisters rooted and founded in charity, members are to be an example of universal reconciliation in Christ.⁸⁴

The canon reflects the teaching of *Perfectae caritatis*, no. 15⁸⁵ which asserts expressly the spiritual dimension of the bond of fraternity of religious who live together as brothers and sisters (cf. Rom 12:10), share the same spirit (cf. Acts 2:42), bear each other’s burdens (cf. Gal 6:2), and unite in charity (cf. Col 3:14).⁸⁶ The Congregation for Institutes

⁸² The Pope highlights further that “we cannot uphold an ideal of holiness that would ignore injustice in a world where some revel, spend with abandon and live only for the latest consumer goods, even as others look on from afar, living their entire lives in abject poverty” (*GE*, no. 101, *Rejoice and Be Glad*, 51).

⁸³ *NMI*, no. 49, in *AAS*, 93 (2001), 302, *Novo Millennio ineunte*, 29.

⁸⁴ Canon 602: “Vita fraterna, unicuique instituto propria, qua sodales omnes in peculiarem veluti familiam in Christo coadunantur, ita definiatur ut cunctis mutuo adiutorio evadat ad suam cuiusque vocationem adimplendam. Fraterna autem communione, in caritate radicata et fundata, sodales exemplo sint universalis in Christo reconciliationis.”

⁸⁵ *PC*, no. 15, in *AAS*, 58 (1966), 709, *FLANNERY1*, 620.

⁸⁶ The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life in its Instruction on Fraternal Life in Community *Congregavit nos*, no. 3, distinguishes between *fraternity* and *life*

of Consecrated Life and Societies of Apostolic Life in the Instruction on Fraternal Life in Community *Congregavit nos*, no. 3 highlights that the fraternal or sisterly life “[...] arises from hearts animated by charity. It underlines ‘communion of life’ and interpersonal relationships.”⁸⁷ However, the fraternal or sisterly life “[...] will not automatically be achieved by observance of the norms which regulate common life; but it is evident that common life is designed to favor fraternal life greatly.”⁸⁸ It is not achieved in a short time, but it requires a true journey in a long time of each member’s endeavors and self-denial, self-offering in patience, accepting and welcoming the other with his or her limitations, weaknesses, problems, difficulties, etc.⁸⁹

Each religious institute is blessed by a unique gift granted by the Holy Spirit, a charism, which is an expression of the way the institute is called to follow Christ who prays, or announces the kingdom of God, or does good to people, or lives with people in the world. This divine gift is given to the Church through founder(s) or foundress(es) as an enabling gift for her special ministry and holiness. While every religious institute’s charism is unique, they together form a rich source of inspiration for the entire Church. The charism is transmitted to the members to be lived, deepened, safeguarded, and constantly developed

in common. The *fraternity* “[...] underlines ‘communion of life’ and interpersonal relationships” while *life in common* “consists of ‘living in one’s own lawfully constituted religious house’ and in ‘leading a common life’ through fidelity to the same norms, taking part in common acts and collaboration in common services” (in *Enchiridion Vaticanum*, vol. 14, 224-225, in *Origins*, 23 [1994], 696).

⁸⁷ *CN*, no. 3: “[...] che parte dai cuori animati dalla carità. Esso sottolinea la ‘comunità di vita’ e il rapporto interpersonale” (in *Enchiridion Vaticanum*, vol. 14, 225, in *Origins*, 23 [1994], 696).

⁸⁸ *Ibid.*

⁸⁹ See *CN*, nos. 21-23, in *Enchiridion Vaticanum*, vol. 14, 239-241, in *Origins*, 23 (1994), 700.

through the way of life of the institute based on the original vision of their founders or foundresses, in harmony with the Body of Christ to meet the needs of the Church today.

1.2. The Internal Authority of the Institute

Both the norms of universal and proper law acknowledge the just autonomy of life of each institute, especially of governance. The provision for chapters and superiors, whether of institutes of pontifical or diocesan right, calls for the exercise of governance according to the norms of universal and proper law.⁹⁰ Collegial and personal authority are both needed to direct the institute and preserve the patrimony.⁹¹ It is interesting to note that fourteen canons in the current law (cc. 617-630) address superiors and councils, but only one canon (c. 631) addresses the general chapter considered as the supreme authority in the institute. The *potestas* of the general chapters (collegial) and superiors (personal) are referred to in canon 596.⁹² This *potestas* is defined by the universal law and the constitutions of the institutes.⁹³ It is important to keep in mind that this power does not derive from the universal law as such; it does not originate in the institute, nor is it derived from the will of the members, but from God “[...] you shall receive power when the Holy

⁹⁰ See cc. 596; 617; 618.

⁹¹ See J.F. HITE, “The Governance of Institutes (cc. 607-640),” in *CLSA Comm1*, 476.

⁹² Canon 596 reads as follows: “§1. Superiors and chapters of institutes possess that power over members which is defined in universal law and the constitutions. §2. In clerical religious institutes of pontifical right, however, they also possess ecclesiastical power of governance for both the external and internal forum. §3. The prescripts of cc. 131, 133, and 137–144 apply to the power mentioned in §1.”

⁹³ See c. 596, §1.

Spirit has come upon you,”⁹⁴ through the ministry of the Church.⁹⁵ Commenting on this *potestas*, Rogath Kimaryo assures that “there is only *one* power in the Church, that of Christ, exercised through various persons and various organisms. The ramifications of it into either personal and collegial, or ordinary and extraordinary, or immediate and intermediate are defined by the Church.”⁹⁶

The governance structures for religious institutes which include general chapters, superiors, and councils have its own primary juridic function, exercised in an interrelated manner within an institute. Although each role/function entails specific powers and responsibilities, all must conform to specific procedures determined by universal law and proper law of the institute.

1.2.1. General Chapter and Other Chapters

Canon 631 specifies the nature, functions, composition, authority of the general chapter, and the right of all religious to communicate their wishes and suggestions:

§1. The general chapter, which holds supreme authority in the institute according to the norm of the constitutions, is to be composed in such a way that, representing the entire institute, it becomes a true sign of its unity in charity. It is for the general chapter principally: to protect the patrimony of the institute mentioned in can. 578, promote suitable renewal according to that patrimony, elect the supreme moderator, treat affairs of greater importance, and issue norms which all are bound to obey.

⁹⁴ Acts 1:8; see also c. 618, §1; *MR*, no. 13, in *AAS*, 70 (1978), 481-482, in *CLD*, vol. 9, 308-309; *VC*, no. 92, in *AAS*, 88 (1996), 467, in *Origins*, 25 (1996), 711.

⁹⁵ See c. 618, §1; *MR*, no. 13, in *AAS*, 70 (1978), 481-482, in *CLD*, vol. 9, 308-309; *VC*, no. 92, in *AAS*, 88 (1996), 467, in *Origins*, 25 (1996), 711.

⁹⁶ R. KIMARYO, *Religious General Chapters as Agents of Renewal (Theologico-Canonical Study)*, Tesi Gregoriana, Serie diritto canonico, Rome, Pontificia Università Gregoriana, 1997, 20.

§2. The constitutions are to define the composition and extent of the power of a chapter; proper law is to determine further the order to be observed in the celebration of the chapter, especially in what pertains to elections and the manner of handling affairs.

§3. According to the norms determined in proper law, not only provinces and local communities, but also any member can freely send wishes and suggestions to a general chapter.⁹⁷

Canon 631 has no equivalent in the 1917 Code,⁹⁸ and the previous Code did not deal with other chapters either. Canon 631 on the general chapter has principal source in

⁹⁷ Canon 631: “§1. Capitulum generale, quod supremam auctoritatem ad normam constitutionum in instituto obtinet, ita efformetur ut totum institutum repraesentans, verum signum eiusdem unitatis in caritate evadat. Eius praecipue est: patrimonium instituti de quo in can. 578, tueri et accommodatam renovationem iuxta ipsum promovere, Moderatorem supremum eligere, maiora negotia tractare, necnon normas edicere, quibus omnes parere tenentur. §2. Compositio et ambitus potestatis capituli definiantur in constitutionibus; ius proprium ulterius determinet ordinem servandum in celebratione capituli, praesertim quod ad electiones et rerum agendarum rationes attinet. §3. Iuxta normas in iure proprio determinatas, non modo provinciae et communitates locales, sed etiam quilibet sodalis optata sua et suggestiones capitulo generali libere mittere potest.”

⁹⁸ McDonough offered significant clarifications to indicate the historical background of the norm on general chapter. She clarified that the term “chapter” takes its origin from the time of early monasticism, when the monks gathered together to read and perhaps have the abbot comment upon the Rule. It became an occasion for the abbot to seek advice from the monks on serious matters that concerned the entire monastery. Up through the monastic reforms of the early Middle Ages (the 12th century) this kind of meeting was still maintained and held more regularly in the Cistercian monasteries. It then became naturally a “vehicle for maintaining regular observance and sound administration in the independent monasteries, as well as for dealing constructively with specific problems in a particular monastery or for governing monasteries during the interim when there was no abbot until the next abbatial election. [...] the Lateran Council IV in 1215 mandated that general chapters be part of the governmental structure of all then existing and subsequent religious group” (E. McDONOUGH, “General Chapters: Historical Background,” in *Review for Religious*, 55 [1996], 321-322).

Perfectae caritatis, nos. 2⁹⁹ and 14¹⁰⁰. It explicitly provides for the authority and obligations of the general chapter. The chapter is a collegial body,¹⁰¹ the highest internal authority of an institute, without prejudice to the supreme authority of the pope as mentioned in canon 590, §2,¹⁰² representing the whole institute and providing for consultative and deliberative participation, possessing decision-making authority.¹⁰³ Canonically, it has a primary juridic function as a legislative body for the entire institute. The general chapter can determine obligations for superiors and require accountability

⁹⁹ *PC*, no. 2 reads as follows: “The up-to-date renewal of the religious life comprises both a constant return to the sources of the whole of the Christian life and to the primitive inspiration of the institutes, and their adaptation to the changed conditions of our time. This renewal, under the impulse of the Holy Spirit and with the guidance of the Church, must be promoted in accordance with the following principles: (a) Since the final norm of the religious life is the following of Christ as it is put before us in the Gospel, this must be taken by all institutes as the supreme rule; (b) It is for the good of the Church that institutes have their own proper characters and functions. Therefore the spirit and aims of each founder should be faithfully accepted and retained, as indeed should each institute’s sound traditions, for all of these constitute the patrimony of an institute; (c) All institutes should share in the life of the Church, adapting as their own and implementing in accordance with their own characteristics the Church’s undertakings and aims in matters biblical, liturgical, dogmatic, pastoral, ecumenical, missionary and social; (d) Institutes should promote among their members an adequate knowledge of the social conditions of the times they live in and of the needs of the Church. In such a way, judging current events wisely in the light of faith and burning with apostolic zeal, they may be able to assist men more effectively; (e) Before all else, religious life is ordered to the following of Christ by its members and to their becoming united with God by the profession of the evangelical counsels. For this reason, it must be seriously and carefully considered that even the best-contrived adaptations to the needs of our time will be of no avail unless they are animated by a spiritual renewal, which must always be assigned primary importance even in the active ministry” (in AAS, 58 [1966], 703, *FLANNERY1*, 612-613).

¹⁰⁰ *PC*, no. 14 reads: “[...] Chapters and councils should faithfully discharge the role committed to them in government and, each of them in its own way, should give expression to the involvement and the concern of all the members of the community for the good of the whole” (in AAS, 58 [1966], 722, *FLANNERY1*, 620).

¹⁰¹ Collegial body is a group in which all members participate in making decisions by equal right or not (see c. 115, §2).

¹⁰² Canon 590, §2: “Individual members are also bound to obey the Supreme Pontiff as their highest superior by reason of the sacred bond of obedience.”

¹⁰³ See E. MCDONOUGH, “Basic Governance Structures in Religious Institutes,” in *Review for Religious*, 49 (1990), 929; ID., “General Chapters: Historical Background,” 324; ID., “General Chapters: Current Legislation,” in *Review for Religious*, 55 (1996), 433. See also F. MORRISEY, Commentary on Canon 631, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, 2004 (= *Exegetical Comm*), vol. 2/2, 1663.

from them for their exercise of governance during the time between chapters.¹⁰⁴ McDonough points out that a general chapter, technically speaking, “does not *govern*, although while in session it does constitute the highest internal authority of the institute. Nevertheless, this authority is not possessed or exercised in competition with or contradiction to that of superiors and does not ordinarily replace it.”¹⁰⁵

Canon 631, §2 explicitly leaves for the proper law of each institute to define “the composition and extent of the power of a chapter” and “to determine further the order to be observed in the celebration of the chapter, especially in what pertains to elections and the manner of handling affairs.” It should be noted that the universal law does not determine specific types of general chapter. In this regard, Francis Morrissey distinguishes two types of general chapter, namely, *ordinary* and *extraordinary* general chapter. The ordinary general chapter is held at fixed intervals of four, six, or nine years as determined by the constitutions of each religious institute, while the extraordinary general chapter takes place when convoked by the superior general to consider particular and important matters, e.g., the union or merge with another institute, the suppression of a province, etc.¹⁰⁶ Morrissey also adds that a general chapter convoked for the reason of electing the superior general in the case of vacancy of the superior general’s office in any way (death, resignation, or removal) would automatically become an ordinary chapter.¹⁰⁷

¹⁰⁴ See MCDONOUGH, “Basic Governance Structures in Religious Institutes,” 929.

¹⁰⁵ Ibid.

¹⁰⁶ See MORRISSEY, Commentary on Canon 631, 1664.

¹⁰⁷ Ibid.

In accordance with canon 631, §1 the general chapter “is to be composed in such a way that, representing the entire institute, it becomes a true sign of its unity in charity.”¹⁰⁸ The general chapter is the vehicle by which each member of a religious institute can freely send his or her wishes and suggestions to the general chapter asking for considerations. Commenting on this prerogative of each religious, Morrissey suggests that “the institute could provide that those who wish to make suggestions must present them to the pre-capitular commission before a given date. In the light of the theme chosen for the chapter, the commission would then retain those suggestions which are pertinent.”¹⁰⁹ He also adds that to avoid any arbitrary selection or exclusion, the pre-capitular commission should provide “all the capitulars with a copy of the suggestions received, including those which were not retained for study during the chapter.”¹¹⁰ By doing so, the members of the institute will feel that their voice is heard and considered, and the general chapter will be “a true sign of community’s unity in love.”¹¹¹ In particular, McDonough indicates that a general chapter while providing for a platform for exchange of ideas, legally protects the right of members to voice contrary opinions:¹¹²

At a general chapter, “minority suggestions – however odd or unwelcome – cannot be summarily “edited out” of consideration except according to its already established functional norms, and those who propose such suggestions cannot be juridically penalized or summarily dismissed for doing so. Perhaps it should be noted that no other juridic entity

¹⁰⁸ “[...] ita efformetur ut totum institutum repraesentans, verum signum eiusdem unitatis in caritate evadat [...]”

¹⁰⁹ MORRISEY, Commentary on Canon 631, 1667.

¹¹⁰ Ibid.

¹¹¹ Canon 625, §1.

¹¹² See McDONOUGH, “Basic Governance Structures in Religious Institutes,” 929.

anywhere in the Church today provides for and protects the expression of what might be called “dissenting opinions.”¹¹³

The *ius vigens* identifies five principal functions of the general chapter: (1) to protect the patrimony¹¹⁴ or spiritual heritage of the institute, (2) to promote suitable renewal according to that patrimony, (3) to elect the supreme moderator,¹¹⁵ (4) to treat affairs of greater importance affecting the entire institute,¹¹⁶ and (5) to enact norms, e.g., changes of constitutions that bind all members, statutes, directories, etc.¹¹⁷ Kimaryo maintains that these principal functions of the general chapter must be determined clearly in the constitutions of each religious institute¹¹⁸ since they pertain to every general chapter and may neither be ignored nor neglected.¹¹⁹ However, besides those functions mentioned above, every religious institute has the freedom of formulating other possible tasks for its general chapters.¹²⁰

¹¹³ Ibid., 930.

¹¹⁴ The patrimony of a religious institute is defined as “the mind and designs of the founders regarding the nature, purpose, spirit, and character of an institute, which have been sanctioned by competent ecclesiastical authority, and its sound traditions” (c. 578).

¹¹⁵ Supreme moderator is a person who holds power over all the provinces, houses, and members of an institute (c. 622). Some religious institutes may use a different term, like “superior general” or “master of order.”

¹¹⁶ E.g., transfer of the principal house of the institute, merge or union with another religious institute(s), erection or suppression of province(s), etc.

¹¹⁷ Canon 631, §1.

¹¹⁸ See KIMARYO, *Religious General Chapters as Agents of Renewal (Theologico-Canonical Study)*, 35.

¹¹⁹ See R. SMITH, “Chapters (cc. 631-633),” in *CLSA Comm2*, 794.

¹²⁰ See KIMARYO, *Religious General Chapters as Agents of Renewal (Theologico-Canonical Study)*, 35.

McDermott describes some of the affairs of greater importance which belong to the general chapter:

- a. The revision of sections of the constitutions to be presented for approval to appropriate ecclesiastical authority (cc. 587 §2, 595 §1);
- b. The promulgation of directives or statutory norms (cc. 597 §4, 631 §1);
- c. The aggregation of another institute (c. 580);
- d. The division, suppression, or union of provinces (cc. 581, 584);
- e. Provisions for the more fervent living of the counsels (c. 598 §1);
- f. The composition and extent of the authority of the next general chapter (c. 631 §§ 1-2);
- g. The quotas for the ordinary and extraordinary administration of temporal goods for particular structures of governance (canon 638 §1).¹²¹

In addition, in order to promote the renewal and adaptation, the general chapter has the authority to issue decrees, statutes or directories¹²² which bind all members of the institute.¹²³

In regard to the principal functions of the general chapter, Eduardo Pironio, Prefect of the Sacred Congregation for Religious and Secular Institutes, specified that the general chapter of each institute “cannot be confined to reviewing specific problems” of its own institute only, but it must also reflect “the needs and aspirations of the Church at that particular time”¹²⁴ and should “leave behind a sense of freshness in the Church, a good measure of Easter optimism.”¹²⁵ Along the same point of view, McDermott notes that the principal functions of the general chapter should include *ressourcement* or return to the

¹²¹ R. MCDERMOTT, “Governance in Religious Institutes: Structures of Participation and Representation Canons 631-633,” in *The Jurist*, 69 (2009), 459-460.

¹²² See *ibid.*, 461.

¹²³ See c. 631, §1.

¹²⁴ E. PIRONIO, *Joyful in Hope*, Middlegreen, Clough, St. Paul Publications, 1980, 125.

¹²⁵ *Ibid.*, 120.

original inspiration of the founder, *aggiornamento* or an adaptation to contemporary times, and development in view of wise planning for the future:

This first and foremost responsibility of the general chapter prescribed in universal law is most important, since the patrimony inspired its founder or foundress and merited the approval and erection of the institute of consecrated life by ecclesiastical authority. Likewise, the patrimony has attracted members over the years with a willingness to join together in a supportive common life for service to the Church. Renewing this spirit in the face of present challenges is a critical responsibility of the supreme collegial authority of the institute. If the patrimony is not known, revered, integrated, and lived by each member, the institute will fail to survive, bereft of the gift of the Holy Spirit that inspired its founder or foundress, attracted vocations, and addressed the needs of God's people at various times and in various cultures. While the Spirit does not withdraw gifts and graces once given, human beings can lose them through neglect, negligence, or indifference.¹²⁶

McDermott underlines that the general chapter as the supreme collegial authority in the institute “has the responsibility for this renewal, not only of the life and activity of the members, but also of the structures and processes of the institute by which the members are governed.”¹²⁷ Kimaryo, commenting on the promotion of renewal and adaptation of the patrimony of a religious institute by the general chapter, invites the institutes to “go back to their sources, namely, to the initial *charisma* of the founders/foundresses and interpret them in the light of the conciliar teachings and the present exigencies of the world.”¹²⁸ In this regard it is necessary to remember that *Perfectae caritatis*, no. 4 expressly stressed the personal duty of each and every member of religious institutes in renewal of religious life.¹²⁹ Further, *Vita consecrata*, no. 37 emphasizes the renewal of individual religious and

¹²⁶ MCDERMOTT, “Governance in Religious Institutes,” 455.

¹²⁷ Ibid., 456.

¹²⁸ KIMARYO, *Religious General Chapters as Agents of Renewal (Theologico-Canonical Study)*, 18.

¹²⁹ PC, no. 4 reads: “Effective renewal and authentic adaptation cannot be achieved save with the cooperation of all the members of an institute. However, it is for the competent authorities, alone, and especially for general chapters, to establish the norms for appropriate renewal and to legislate for it, as also

their institutes by inviting all “to propose anew the enterprising initiative, creativity and holiness of their founders and foundresses in response to the signs of the times emerging in today’s world,” namely, “a call to perseverance on the path of holiness in the midst of the material and spiritual difficulties of daily life”; “a call to pursue competence in personal work and to develop a dynamic fidelity to their mission, adapting forms if need be, to new situations and different needs, in complete openness to God’s inspiration and to the Church’s discernment.”¹³⁰

Continuing with the obligations of each and every member of religious institutes in renewal of religious life, Kimaryo suggests that general chapters of religious institutes should come together from time to time to review and evaluate their charisms, their loyalty to the charisms of their founder(s) or foundress(es), and the established ways of life.¹³¹ It could become a unique opportunity for all members to collaborate in the renewal and adaptation¹³² for the good of the institutes and their members, and for the good of the entire Church.¹³³

Moreover, canon 631, §1 states that the general chapter elects the supreme moderator of the institute. The person elected is responsible, with the assistance of the

to provide for sufficient prudent experimentation. The approval of the Holy See and of the local ordinaries must be sought when the law requires this. Superior, however, in matter which concern the destiny of the entire institute, should find appropriate means of consulting their subjects and should listen to them” (in AAS, 58 [1966], 716, *FLANNERY1*, 613).

¹³⁰ VC, no. 37, in AAS, 88 (1996), 411, in *Origins*, 25 (1996), 693.

¹³¹ KIMARYO, *Religious General Chapters as Agents of Renewal (Theologico-Canonical Study)*, 19.

¹³² See *ES II*, no. 1, in AAS, 58 (1966), 759, *FLANNERY1*, 624-625.

¹³³ See S. HOLLAND, “Internal Governance in Consecrated Life,” in *CLSA Proceedings*, 45 (1983), 38.

council, to carry out the chapter decisions and directives in the ordinary governance of the institute.

Besides the general chapter, the *ius vigens* also mentions the other governance structures of religious institutes (c. 632): “Proper law is to determine accurately what is to pertain to other chapters of the institute and to other similar assemblies, namely, what pertains to their nature, authority, composition, way of proceeding and time of celebration.”¹³⁴ The chapters mentioned in canon 632 may include provincial chapters and local assemblies. Canon 632 wisely leaves to the institute’s proper law to determine accurately the nature, authority, composition, way of proceeding, and time of celebration of these collegial bodies. The term “proper law” here is not necessarily limited to the constitutions;¹³⁵ it can signify the rules¹³⁶ or directories.¹³⁷

It is necessary to distinguish between “provincial chapter” and “local assemblies.” The provincial chapter is a collegial body in which the members have the same rights and obligations in taking part in the decision-making¹³⁸ while the local assemblies “have

¹³⁴ Canon 632: “Ius proprium accurate determinet quae pertineant ad alia instituti capitula et ad alias similes coadunationes, nempe ad eorum naturam, auctoritatem, compositionem, modum procedendi et tempus celebrationis.”

¹³⁵ Cf. CONGREGATION OF RELIGIOUS AND SECULAR INSTITUTES, rescript (Provincial Chapter: Temporarily Professed as Delegates), July 1973, in *CLD*, vol. 8, 341.

¹³⁶ Which in a particular institute may be called “Book II,” “Directory,” “Statutes,” “Modalities,” “Applications,” etc.

¹³⁷ They may include Formation Directory (c. 659, § 2), Finance Directory (c. 635, § 2), Administrative Directory. In a particular institute they may be called “Book III,” “Specialized Directory,” “Handbook,” etc.

¹³⁸ See c. 115, §2.

greater freedom in procedures relating to discussions and decision-making.”¹³⁹ It should also be noted that the local assemblies can be collegial or non-collegial depending on precise determination by the proper law of each institute. In common practice of many religious institutes, the local assemblies are non-collegial since the activities are not determined by the members of the community in general, but by the superior who retains the competence to make the final decision.¹⁴⁰

In the case of provincial chapters, the law does not say that the provincial chapter holds the supreme authority in the province as it is seen in canon 631 for the general chapter. Commenting on this point, Morrisey asserts that in the provincial chapter, the provincial superior exercises the highest authority, and not the provincial chapter as such.¹⁴¹ He explains further that this is “to favor the principle of personal authority held by superiors.”¹⁴² He suggests that the following points in proper law of each religious institute be specified clearly: the relationships between the provincial chapter and the provincial superior and between the local assemblies and the local superiors; the principal functions of the provincial chapters and local assemblies, e.g., the elections of the provincial superior¹⁴³ and members of the provincial council; handling affairs affecting the entire province, e.g., the merging of two provinces or suppression of a canonically erected

¹³⁹ See MORRISEY, Commentary on Canon 632, 1668.

¹⁴⁰ Cf. c. 115, §2.

¹⁴¹ See MORRISEY, Commentary on Canon 632, 1668.

¹⁴² Ibid.

¹⁴³ It must be kept in mind that the election of provincial superior must have the confirmation of the superior general (see c. 625, §3).

house; things which pertain to the direction and ways of proceeding; number of capitulars ex officio and elected ones; the celebration of chapters/assemblies, etc.¹⁴⁴

With regard to the principal functions of provincial chapters and local assemblies, Morrissey proposes a list consisting of the following points: (1) the nature of the assembly,¹⁴⁵ (2) its authority,¹⁴⁶ (3) its composition,¹⁴⁷ (4) its procedures,¹⁴⁸ and (5) the time of celebration.¹⁴⁹

1.2.2. Superiors and Their Councils

Canons 596¹⁵⁰ and 617¹⁵¹ define the office of religious superiors who exercise personal power in the internal governance of the institute over its members in accordance

¹⁴⁴ See MORRISSEY, Commentary on Canon 632, 1668.

¹⁴⁵ As to the question of the nature of the assembly, Morrissey suggests that the proper law should carefully determine if it is “a collegial body, or a deliberative one which cannot bind the superior, or [...] merely a consultative body [...]” (ibid., 1669).

¹⁴⁶ Morrissey suggests that the proper law determine “what type of confirmation is required before decisions and recommendations become effective” (ibid.).

¹⁴⁷ Morrissey remarks that “it is easiest to allow more members to participate at the provincial level, where they are relatively few in numbers, and eligibility to participate in such assemblies should be clearly determined beforehand” (ibid.).

¹⁴⁸ Morrissey suggests that the procedures of the provincial chapter or local assemblies should decide “whether the assembly proceeds by majority vote or by consensus;” in the first case, the required majority is to be stipulated (ibid.).

¹⁴⁹ These assemblies can be held “immediately before or after the general chapter,” or “each year, or every two or three years, depending on circumstances” (ibid.).

¹⁵⁰ Canon 596 reads as follows: “§1. Superiors and chapters of institutes possess that power over members which is defined in universal law and the constitutions. §2. In clerical religious institutes of pontifical right, however, they also possess ecclesiastical power of governance for both the external and internal forum. §3. The prescripts of cc. 131, 133, and 137– 144 apply to the power mentioned in §1.”

¹⁵¹ Canon 617: “Superiors are to fulfill their function and exercise their power according to the norm of universal and proper law.”

with the universal law and the proper law of each institute.¹⁵² The personal character of the power of the superiors is emphasized in canon 618:

Superiors are to exercise their power, received from God through the ministry of the Church, in a spirit of service. Therefore, docile to the will of God in fulfilling their function, they are to govern their subjects as sons or daughters of God and, promoting the voluntary obedience of their subjects with reverence for the human person, they are to listen to them willingly and foster their common endeavor for the good of the institute and the Church, but without prejudice to the authority of superiors to decide and prescribe what must be done.¹⁵³

That personal power is exercised in various matters, including: the appointment of superiors (c. 625, §3), the admission of candidates to the novitiate (cc. 642; 643, §1, 4°; 644; 645, §4, 647, §3) and religious profession (cc. 656, 3°, 5°; 657, §2), the erection, transfer, and suppression of a novitiate house with the consent of the council (c. 647, §1), the permission accorded to a religious to accept functions and offices outside of the institute (c. 671), assignments to apostolates (cc. 677, §1; 678, §§ 2-3; 681-682), the extraordinary administration of temporal goods (cc. 636, §1; 638, §§ 2-3), visitation of the houses and members entrusted to them (c. 628, §1), appointment, transfer and removal of religious holding offices (cc. 671; 682), permission to live outside a house of the institute, but not

¹⁵² Ghirlanda stresses the authority of the chapters and superiors in the autonomy of life and government of institutes by stating: “The autonomy of life and of government of all religious institutes is not a concession of ecclesiastical authority, but their native right, based on two factors: the nature of consecrated life as such, and its original position in the Church; and, depending on this, the nature of the ecclesiastical power exercised in the institutes by the superiors and the chapters” (G. GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” in *Consecrated Life*, 14 [1989], 50).

¹⁵³ Canon 618: “Superiores in spiritu servitii suam potestatem a Deo per ministerium Ecclesiae receptam exerceant. Voluntati igitur Dei in munere explendo dociles, ipsi subditos regant uti filios Dei, ac promoventes cum reverentia personae humanae illorum voluntariam oboedientiam, libenter eos audiant necnon eorum conspirationem in bonum instituti et Ecclesiae foveant, firma tamen ipsorum auctoritate discernendi et praecipiendi quae agenda sunt.”

for more than a year (c. 665, §1), transfer of members to another institute (c. 684), and the separation of members from the institute (cc. 695, §1; 699, §2).

When defining the office of superior in canons on institutes of consecrated life and societies of apostolic life, the *ius vigens* uses both terms *potestas* (power)¹⁵⁴ and *auctoritas* (authority).¹⁵⁵ Therefore, the distinctions between those two notions need to be made clearly. *Potestas* comes from the Latin verb *posse* which means “to be able to do things”¹⁵⁶ while *auctoritas* comes from the verb of *augere* which means “to increase” or “to enrich.”¹⁵⁷ In regard to the term *potestas*, Juan Arrieta clarifies that the *potestas* of the religious is “the subjective juridical situation capable of unilaterally producing effects in other persons”¹⁵⁸ while Rosemary Smith explains the *potestas* in terms of “the ability or capacity to act.”¹⁵⁹ In regard to the term *auctoritas*, Kelly Connors states that “a person possessing authority can bring about some effect and author or bring something into being, whether by persuasion, definition, or compliance.”¹⁶⁰ On his part, John Kochupurackal asserts that *potestas* is “the ability to compel others to do something, whether legitimately

¹⁵⁴ See cc. 596; 617; 618; 622.

¹⁵⁵ See cc. 608; 609; 621; 650.

¹⁵⁶ *Latin Concise Dictionary*, New York, HarperCollins Publishers, 2003, col. 165.

¹⁵⁷ *Ibid.*, col. 21.

¹⁵⁸ J.I. ARRIETA, Commentary on cc. 617-630, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004 (=CCLA), 144.

¹⁵⁹ SMITH, “Superiors and Councils (cc. 617-630),” 794.

¹⁶⁰ K. CONNORS, The Role of the Major Superior with Particular Reference to Apostolic Women's Religious Institutes in the United States, JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 2012, 33.

or not”¹⁶¹ while *auctoritas* is “a creative and guiding function: that of directing the proper development of the affairs of a society. It then came to mean the respect, dignity and importance of the person concerned.”¹⁶² McDonough offers further distinction: “[...] the technical term *potestas* was generally described as the legal competence to act in a particular matter such that the action would result in juridically recognized effects.”¹⁶³ In contrast, “*auctoritas* is a much broader notion which usually includes and goes beyond the practical boundaries of mere *potestas*.”¹⁶⁴ Although the terms *potestas* and *auctoritas* are often used interchangeably¹⁶⁵ and *auctoritas* frequently implies *potestas*,¹⁶⁶ it should be kept in mind that *potestas* does not have the same meaning as *auctoritas*.¹⁶⁷

The personal power of the superiors mentioned in canon 618 is rooted in canon 501, §1 of the 1917 Code.¹⁶⁸ However, in comparing the previous and present Codes, it should be noted that in the *ius vigens* the internal authority is no longer referred to as “dominative power,” as found in canon 501, §1 of the former Code. According to Fintan Geser, with the “dominative power,” the religious superiors had the right to give orders or commands

¹⁶¹ J. KOCHUPURACKAL, *Religious Authority and Power in the Particular Law of the Little Flower Congregation*, JCD thesis, Rome, Pontificium Institutum Orientale, 1994, 28.

¹⁶² *Ibid.*, 25.

¹⁶³ E. McDONOUGH, “Authority in Institutes of Consecrated Life,” in *Review for Religious*, 55 (1996), 204.

¹⁶⁴ *Ibid.*, 204.

¹⁶⁵ ARRIETA, Commentary on cc. 617-630, in *CCLA*, 144.

¹⁶⁶ CONNORS, *The Role of the Major Superior with Particular Reference to Apostolic Women's Religious Institutes in the United States*, 33.

¹⁶⁷ *Ibid.*; see also ARRIETA, Commentary on cc. 617-630, in *CCLA*, 144.

¹⁶⁸ *CIC/17*, c. 501, §1: “Superiores et Capitula, ad normam constitutionum et iuris communis, potestatem habent dominativam in subditos; in religione autem clericali exempta, habent iurisdictionem ecclesiasticam tam pro foro interno, quam pro externo.”

to members for the common good¹⁶⁹ of the community and institute; they also had the right to give precepts to individuals in particular cases, or even impose penances on individuals.¹⁷⁰

The personal power of the religious superiors mentioned in canon 618 is based on the conciliar¹⁷¹ and post-conciliar teachings which reflect the fundamental nature of that power as based on the teachings and example of Jesus – the Teacher who reveals for us a new concept of authority which cannot be described as “dominative” or authoritarian, but rather as a *ministerium*:¹⁷² “The Son of Man did not come to be served but to serve and to give his life as a ransom for many.”¹⁷³ In another place, He said, “I am among you as the one who serves.”¹⁷⁴ Thus, the religious superior is to exercise their authority not as a “dominative power,” but in a spirit of service for the members as those who God entrusted

¹⁶⁹ The term “common good” is defined by *Guadium et spes*, no. 26 as follows: “[...] the role of the common good, which is the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfilment more fully and more easily [...]” (SECOND VATICAN COUNCIL, Pastoral Constitution on the Church in the Modern World *Gaudium et spes*, 7 December 1965, in AAS, 58 [1966], 1046, English translation in *FLANNERY1*, 927).

¹⁷⁰ See F. GESER, *The Canon Law Governing Communities of Sisters*, St. Louis, Herder, 1938, 71.

¹⁷¹ *PC*, no. 14 developed the understanding of this fundamental notion of the religious superiors’ authority when it said: “Superiors will have to render an account of the souls committed to their care (He 13:17). They should be docile to God’s will in performing the task laid upon them and should exercise authority in a spirit of service of the brethren, thus giving expression to God’s love for them. They should govern their subjects in the realization that they are sons of God and with respect for them as human persons, fostering in them a spirit of voluntary subjection. In particular, therefore, they should allow them due liberty of conscience. They should train their subjects to cooperate with them by applying themselves to their ordinary duties and to new undertakings with an active and responsible obedience” (in AAS, 58 [1966], 709, *FLANNERY1*, 619-620).

¹⁷² See *LG*, nos. 43 and 45, in AAS, 57 (1965), 50-51, *FLANNERY1*, 402-403, 405-406; *PC*, no. 14, in AAS, 58 (1966), 708-709, *FLANNERY1*, 619-620; *ET*, no. 25, in AAS, 63 (1971), 510-511, *FLANNERY1*, 692; *MR*, no. 13, in AAS, 70 (1978), 481, *CLD*, vol. 9, 308.

¹⁷³ Mt 20:28; cf. Mk 10:45.

¹⁷⁴ Lk 22:27.

to them. They should fulfill their office in a way that is responsive to God's will¹⁷⁵ and to manifest their love as God loves them.

The authority of the superiors comes from God through the ministry of the Church,¹⁷⁶ it “does not come from the members, nor is it implied in the profession of vows, sacred bonds or promises.”¹⁷⁷ This understanding follows *Mutuae relationes*, no. 13 (listed as one of the sources of c. 618) which confirmed that the authority of the superior proceeds from God, and it is affirmed and acknowledged by the hierarchical authority of the Church, canonically erecting the institute and approving its particular mission.¹⁷⁸

Canon 618 also determines how religious superiors are to exercise their authority. The canon stipulates that the superiors should treat their sisters or brothers with respect, because of their dignity as sons and daughters of God. This reflects the doctrinal concerns of the *Perfectae caritatis*, no. 14 that superiors should exercise authority in a spirit of service of their sisters or brothers, thus reflecting God's love for them.¹⁷⁹ This perspective on authority is also found in the Post-synodal Apostolic Exhortation on the Consecrated Life and Its Mission in the Church and the World *Vita consecrata*, no. 92 which indicates

¹⁷⁵ As Jesus who came down from heaven to do the will of the Father (see Jn 4:34, 5:30, and 6:38; He 10:5-9).

¹⁷⁶ See c. 618. Cf. Rom 13:1.

¹⁷⁷ E.M. COTTER, *The General Chapter in a Religious Institute with Particular Reference to IBVM, Loreto Branch*, Bern, Peter Lang, 2008, 99-100.

¹⁷⁸ See AAS, 70 (1978), 481, *CLD*, vol. 9, 308.

¹⁷⁹ See *PC*, no. 14, in AAS, 58 (1966), 722, *FLANNERY1*, 619-620.

that the exercise of authority received from God is at the service of discernment and communion.¹⁸⁰

In exercising their authority, the superiors should consult and seek the collaboration of every member by promoting the members' voluntary obedience,¹⁸¹ but, on the other hand, the superiors are the ones to make final decisions.¹⁸² Both Smith and Mary Linscott note that the authority of the superior and the vow of obedience are directly and innately connected.¹⁸³ While Connors reflects upon this, she draws her own conclusion: "authority is at the service of mission and obedience is at the service of mission, they are not at the service of one for the sake of other."¹⁸⁴

Pope Paul VI, in his Apostolic Exhortation on the Renewal of Religious Life *Evangelica testificatio* addressed the obligations implied by the personal authority of religious superiors, e.g., "serving in their brothers the design of the Father's love."¹⁸⁵ *Evangelica testificatio*, no. 25 specially emphasizes the authority of the superior and

¹⁸⁰See VC, no. 92, in AAS, 88 (1996), 467, in *Origins*, 25 (1996), 711.

¹⁸¹ See c. 618; also LG, no. 43, in AAS, 57 (1965), 50, *FLANNERY1*, 402-403; PC, no. 14, in AAS, 58 (1966), 709, *FLANNERY1*, 619-620.

¹⁸² See PC, no. 14, in AAS, 58 (1966), 709, *FLANNERY1*, 619-620; cf. VC, no. 43, in AAS, 88 (1996), 417, in *Origins*, 25 (1996), 695; CN, no. 50, in *Enchiridion Vaticanum*, vol. 14, 220-283, in *Origins*, 23 (1994), 706; SA, no. 14, in *Origins*, 32 (2002-2003), 135-136. See also McDONOUGH, "Basic Governance Structures in Religious Institutes," 931.

¹⁸³ See SMITH, "Superiors and Councils (cc. 617-630)," 781; see also M. LINSCHOTT, "Leadership, Authority, and Religious Government," in D.L. FLEMING and E. McDONOUGH (eds.), *The Church and Consecrated Life, Review for Religious*, St. Louis, MO, Herder, 1996, 168.

¹⁸⁴ CONNORS, *The Role of the Major Superior with Particular Reference to Apostolic Women's Religious Institutes in the United States*, 34-35.

¹⁸⁵ See ET, no. 25: "[...] oportet in fratribus consilio Patris, amoris pleno, obsecundent [...]" (in AAS, 63 [1971], 510-511, *FLANNERY1*, 692).

obedience of the members in the service of the common good by seeking and fulfilling the will of God through a trustful dialogue.¹⁸⁶ Reflecting on the notion of personal authority, Sharon Holland also highlights that the privacy of an individual should be respected by the superiors, providing for necessary confidentiality in dealing with members in personal difficulties.¹⁸⁷

Regarding the obedience of religious, Enid Williamson states that “voluntary obedience is seen as something to be encouraged through appropriate dialogue and consultation [...], superiors are to consider those in their charge as children of God – not in a mere adult-child relationship, rather as fellow children of the same Father.”¹⁸⁸ A comment by Hans Waldenfels should be noted in this regard that when the authority is replaced by, or identified solely with, or reduced to power, then it “can no longer be experienced as something promoting freedom but rather as something endangering freedom.”¹⁸⁹

¹⁸⁶ See *ET*, no. 25, in *AAS*, 63 (1971), 510, *FLANNERY*1, 692.

¹⁸⁷ See S. HOLLAND, “What Is Meant by the ‘Personal Authority’ of Religious Superiors?” in P. COGAN (ed.), *Selected Issues in Religious Law*, Washington, DC, CLSA, 1997, 11. Regarding confidentiality, the universal law does present a number of stipulations from which such a right might be inferred, such as the right to privacy and the right to one’s good name (c. 220; see also cc. 1717, §2; 1395, §2; 1362; 489, §2).

¹⁸⁸ E. WILLIAMSON, “Superiors and Councils (cc. 617-630),” in G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995 (=CLSGBI *Comm*), 340.

¹⁸⁹ H. WALDENFELS, “Authority and Knowledge,” in *Concilium*, 180 (1985), 32.

Furthermore, reflecting on *Lumen gentium*, no. 43¹⁹⁰ and *Perfectae caritatis*, no. 14,¹⁹¹ canon 618 calls for superiors to listen willingly to their members. *Vita consecrata*, no. 92 directs the superiors to enter into a fruitful dialogue with their sisters or brothers in order to discern and find the will of God so that all can walk together with one mind and heart while respecting the diversity of gifts and individual personalities.¹⁹² Canon 618 also calls for fostering the members' common endeavor for the good of the institute and the Church, to give them "a stable and more solidly based way of Christian life [...] [and] bound [them] together in brotherly communion in the army of Christ."¹⁹³

The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life in its Instruction on the Service of Authority and Obedience *Faciem tuam*, no. 20b calls for superiors to use the principle of subsidiarity, consultation, and mutual accountability in building up fraternal life in the community. It adds: "persons in authority promote the growth of fraternal life through the service of listening and dialogue, the creation of a favourable atmosphere for sharing and co-responsibility, the participation of everyone in

¹⁹⁰ *LG*, no. 43 reads as follows: "Members of these families enjoy many helps towards holiness of life. They have a stable and more solidly based way of Christian life. They receive well-proven teaching on seeking after perfection. They are bound together in brotherly communion in the army of Christ. Their Christian freedom is fortified by obedience. Thus they are enabled to live securely and to maintain faithfully the religious life to which they have pledged themselves. Rejoicing in spirit they advance on the road of love" in AAS, 57 (1965), 50, *FLANNERY1*, 403.

¹⁹¹ *PC*, no. 14 calls for the superiors to respect the human dignity of the members, to foster in them a spirit of voluntary subjection, to listen to their subjects willingly and to promote cooperation between them for the good of the institute and of the Church (see AAS, 58 [1966], 709, *FLANNERY1*, 619-620).

¹⁹² See *VC*, no. 92, in AAS, 88 (1996), 467, in *Origins*, 25 (1996), 711.

¹⁹³ *LG*, no. 43, in AAS, 57 (1965), 50, *FLANNERY1*, 403.

the concerns of each one, service balanced between the individual and the community, discernment and the promotion of fraternal obedience.”¹⁹⁴

Instruction *Faciem tuam*, no. 14a reminds the superiors that they are first of all called to be an example of obedience:

[...] Moving from the characteristic nature of *munus* of ecclesial authority, the Code reminds the religious superior that he or she is first of all called to be the first one to be obedient. In the strength of the assumed office, he or she owes obedience to the law of God, from whom his or her authority comes and to whom he or she must render an account in conscience, to the law of the Church, to the Roman Pontiff, and to the proper law of the institute.¹⁹⁵

Besides rights and obligations of religious superiors stipulated in canon 618, the universal law in canon 619 indicates numerous major pastoral obligations attached to the office of religious superiors who are to strive to build a community of brothers or sisters in Christ:

Superiors are to devote themselves diligently to their office and together with the members entrusted to them are to strive to build a community of brothers or sisters in Christ, in which God is sought and loved before all things. Therefore, they are to nourish the members regularly with the food of the word of God and are to draw them to the celebration of the sacred liturgy. They are to be an example to them in cultivating virtues and in the observance of the laws and traditions of their own institute; they are to meet the personal needs of the members appropriately, solicitously to care for and visit the sick, to correct the restless, to console the faint of heart, and to be patient toward all.¹⁹⁶

¹⁹⁴ In *Iustitia*, 108 (2011), 216, in *Origins*, 38 (2008-2009), 75.

¹⁹⁵ In *Iustitia*, 108 (2011), 209, in *Origins*, 38 (2008-2009), 73.

¹⁹⁶ Canon 619: “Superiores suo officio sedulo incumbant et una cum sodalibus sibi commissis studeant aedificare fraternam in Christo communitatem, in qua Deus ante omnia quaeratur et diligatur. Ipsi igitur nutrant sodales frequenti verbi Dei pabulo eosque adducant ad sacrae liturgiae celebrationem. Eis exemplo sint in virtutibus colendis et in observantia legum et traditionum proprii instituti; eorum necessitatibus personalibus convenienter subveniant, infirmos sollicito curent ac visitent, corripiant inquietos, consolentur pusillanimes, patientes sint erga omnes.”

Reflecting on the primary goal of the exercise of authority of superior in canon 619, *Faciem tuam*, no. 14c states that “[...] in the religious community authority is essentially pastoral by its nature in that it is entirely in function of the building of fraternal life in community, according to the very ecclesial identity of consecrated life.”¹⁹⁷ The same document in no. 17 adds: “Superiors, in union with the persons entrusted to them, are called to build a fraternal community in Christ in which God is sought and loved above things in order to fulfil God’s redemptive plan.”¹⁹⁸

Canon 619 states the obligation of the superior in leading the members through good example in cultivating virtues and in the observance of the laws and traditions of their own institute. *Faciem tuam* remarks on this obligation by stating: “[...] to be in the position of promoting the spiritual life, persons in authority will have to cultivate first in themselves an openness to listening to others and to the signs of the times through a daily familiarity in prayer with the Word of God, with the Rule and the other norms of the life.”¹⁹⁹ Superiors are also to appropriately meet the members’ needs, “solicitously to care for and visit the sick, to correct the restless, to console the faint of heart, and to be patient toward all.”²⁰⁰

¹⁹⁷ *FT*, no. 14c: “[...] nella comunità religiosa l'autorità è essenzialmente pastorale, in quanto per sua natura è tutta in funzione della costruzione della vita fraterna in comunità, secondo l'identità ecclesiale propria della vita consacrata” (in *Iustitia*, 108 [2012], 209-210, in *Origins*, 38 [2008-2009], 73).

¹⁹⁸ *FT*, no. 17: “I superiori e le superiore, in unione con le persone loro affidate, sono chiamati a edificare in Cristo una comunità fraterna, nella quale si ricerchi Dio e lo si ami sopra ogni cosa, per realizzare il suo progetto redentivo” (in *Iustitia*, 108 [2012], 212, in *Origins*, 38 [2008-2009], 74).

¹⁹⁹ *FT*, no. 13a: “Per essere in grado di promuovere la vita spirituale, l'autorità dovrà prima coltivarla in se stessa, attraverso una familiarità orante e quotidiana con la Parola di Dio, con la Regola e le altre norme di vita, in atteggiamento di disponibilità all'ascolto degli altri e dei segni dei tempi” (in *Iustitia*, 108 [2012], 204, in *Origins*, 38 [2008-2009], 72; cf. *SA*, nos. 24-26, in *Origins*, 32 [2002-2003], 139-141).

²⁰⁰ Canon 619; cf. *MR*, no. 13, in *AAS*, 70 (1978), 481-482, in *CLD*, vol. 9, 308-309; *FT*, no. 14c, in *Origins*, 38 [2008-2009], 73.

Although every superior enjoys a definite power over his or her members as determined by universal law and proper laws of the individual institutes and exercises this power personally, bearing the responsibility to make final decisions, the *ius vigens* sets limitations upon the exercise of the power of superiors by requiring superiors to be assisted by a council in fulfilling their obligations.

Canon 627 mandates that superiors are to have their own council²⁰¹ and also requires that they actually use it when universal or proper law call for seeking consent²⁰² or advice²⁰³ of the council, with due regard for the prescriptions of canon 127. Holland points out to the essence of this requirement which is to protect “against abuse or autocratic use of authority of superior.”²⁰⁴ On the other hand, Smith notes that while the law may

²⁰¹ Similarly, the Eastern Code stipulates that “superiors are to have their own permanent council” and “particular law shall provide whether in houses of less than six members a council shall be established or not” (*Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctus*, Libreria editrice Vaticana, 1995, English translation *Code of Canons of the Eastern Churches: Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, DC, Canon Law Society of America, 2001, cc. 422, §1 and 2, respectively. All references to the canons of the 1990 Code will be styled “CCEO, c.” for canon and “CCEO, cc.” for canons, followed by the canon number[s]).

²⁰² The universal law requires that religious superiors must have consent of their council for the following matters: the alienation and any other affair in which the patrimonial condition of institute can worsen (c. 638, §3); erecting, transferring, or suppressing the novitiate house (c. 647, §1); permitting an individual to make the novitiate outside the novitiate house (c. 647, §2); admission to temporary profession (c. 656, 3°); permitting a member to live outside a house of the institute for a period of time not longer than a year (c. 665, §1); allowing a transfer to or from another religious institute (c. 684, §1); granting an indult of exclaustation to a member in perpetual vows for a period of up to three years (c. 686, §1); presenting the petition to impose exclaustation on a member (c. 686, §3); allowing a religious in temporary vows to leave the institute (c. 688, §2); readmitting a member who had legitimately left the institute (c. 690, §1); issuing a declaration of fact so that the dismissal be established juridically (c. 694, §2); expelling immediately a member from a religious house in the case of grave external scandal or of most grave imminent harm to the institute (c. 703). In order to issue a decree of dismissal from the institute, however, the supreme moderator needs to act in a collegial way together with the members of his/her council (c. 699, §1).

²⁰³ See cc. 689, §1; 697-699.

²⁰⁴ HOLLAND, “Internal Governance in Consecrated Life,” 46.

require the consent or advice of the council, nevertheless the council is “not a decision-making body” but rather it is only a “part of the decision-making process.”²⁰⁵

The councilors assist the superior in governing the institute by giving their advice, by “sharing insights, evaluating initiatives, raising issues, extending support, and generally participating in council discussions with candor, courage, and creativity.”²⁰⁶ By providing independent judgements and thoughtful advice to the superior, they assist in making quality choices for the institute.²⁰⁷ McDermott stresses the point that the councilors should not be merely “[...] ‘yes’ persons, simply concurring with the opinions of the superior, but must study the issue and give advice or decide for or against an issue with integrity and intelligence.”²⁰⁸ She adds that each councilor should “[...] share his or her vision of how best to serve the members, the institute, and the Church in accord with the charism of the institute and the enactments of the chapter.”²⁰⁹

The Code explicitly allows for the proper law of each institute to determine the number of councilors, their expected qualifications, the frequency of meetings, the limitation of authority of the council on each structural level of the institute, and those cases

²⁰⁵ SMITH, “Superiors and Councils (cc. 617-630),” 788.

²⁰⁶ Ibid.

²⁰⁷ See R. MCDERMOTT, *Consecrated Life: Cases, Commentary, Documents, Readings*, Alexandria, VA, CLSA, 2006, 102; see also SMITH, “Superiors and Councils (cc. 617-630),” 789.

²⁰⁸ MCDERMOTT, *Consecrated Life*, 102.

²⁰⁹ Ibid.

which would require consent or advice of the council additionally to what is established in universal law.²¹⁰

As a practical solution in some religious institutes, the number of councilors is an odd number in order to possibly avoid the equal distribution of votes.²¹¹ The number of councilors very much depends on the size of the institute, province, or local community.²¹² Smith notes that councilors “should not be so numerous as to hamper the superior unnecessarily or prevent appropriate flexibility and timeliness in responding to situations.”²¹³ Thanh Phan adds that in small communities where there are fewer than ten religious, all members of the community should be in the council. To substantiate his opinion, he refers to psychological concerns, e.g., in the case of a community that has six religious in which one is the superior and four are councilors, how does the sixth religious feel!²¹⁴

The proper law of each institute sets the requirements for eligibility for the office of councilor. In choosing a member of the council some qualities which are not strictly

²¹⁰ See c. 627, §1; cf. SMITH, “Superiors and Councils (cc. 617-630),” 789.

²¹¹ It may happen though, that in the council of an odd number of councilors one member abstains from voting and the number of councilors casting votes is then equal.

²¹² See T.T. PHAN, *Giải Thích Giáo Luật – Hội Dòng Tận Hiến và Tu Đoàn Tông Đồ* (Commentary on the Code of Canon Law – Religious Institutes of Consecrated Life and Societies of Apostolic Life), Hồ Chí Minh City, Học Viện Đaminh Gò Vấp, 2012, 246. It should be kept in mind that in the case of dismissal of a member, a council composed of four members, in addition to the supreme moderator, is needed for the validity of the decree (c. 699, §1; cf. CCEO, c. 500, §1). See F. MORRISEY, “Contemporary Issues relating to Constitutions and Other Parts of the Proper Law of Religious Institutes,” in *Legal Education for Leadership of Religious Institutes*, Ottawa, Saint Paul University, July, 2018, 10.

²¹³ SMITH, “Superiors and Councils (cc. 617-630),” 789.

²¹⁴ See PHAN, *Giải Thích Giáo Luật*, 246.

canonical in character might be sought, as common sense would call for “wise, intelligent, experienced religious who are able to make independent judgements and give good advice to the superior to assist in quality choices for the institute.”²¹⁵

The provision of holding meetings of the superior with their council should be made clearly in proper law. Meetings to be held by electronic means, e.g., telephone conference, or by video-conferencing and the like, should be put into consideration in the case of large institutes or whenever there are reasons which prevent member(s) of the council to gather physically for the meeting in one place, but always in such a way that all may be able to hear each other and participate in the deliberations. Recent replies from the Apostolic See have permitted the councilors to give their advice in such meetings. However, for all meetings when the consent is required, the councilors must be convoked and their actual physical presence is required, at least to provide for the quorum.²¹⁶ However, due to the COVID-19 pandemic (coronavirus) drastically impacting day to day life, with lockdowns and social distancing orders, and especially restrictions in travelling within a country or from one country to another, superiors of religious institutes in affected areas have shifted the meetings of their councils from in-person (face-to-face) to virtual (online) assemblies through MS Teams, Zoom, Webex, Google Team, Zalo Group, Viber Group, or other means of communication, even for the meetings which include seeking advice or obtaining

²¹⁵ MCDERMOTT, *Consecrated Life*, 102; see also SMITH, “Superiors and Councils (cc. 617-630),” 789.

²¹⁶ CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, rescript (private), 25 July 2011, prot. no. 22367/2011. Cf. MCDERMOTT, *Consecrated Life*, 103. Cf. also MORRISEY, “Contemporary Issues relating to Constitutions and Other Parts of the Proper Law of Religious Institutes,” 12.

consent of the council. Regarding issues in which obtaining of consent is required, a question is posed, whether meetings online would satisfy the demands of the law? Some superiors argue that this way of acting would be followed only in the extraordinary situation of the pandemic, and not in the normal circumstances. Moreover, in a virtual meeting, a secure, anonymous and reliable online voting by using Polys system, Doodle, Google Forms, or other means can be provided. In response to those difficulties, Pope Francis, at the audience of June 30, 2020, “[...] has granted the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life an ‘extraordinary faculty,’ approved in specific form which authorizes the Dicastery to dispense for individual cases, the physical presence of councilors according to the prescriptions of can. 166 §1.”²¹⁷ It seems, that a major superior has to submit the request to the Congregation for each formal meeting with the council to be held using telecommunication means.²¹⁸

If the universal or proper laws require the consent of the council, the superior must convoke the council according to the norm of canon 166 and obtain the consent of an absolute majority of those present in order to act validly (c. 127, §1). If the vote results in a tie, the superior may neither act nor break the tie by voting himself or herself.²¹⁹ When

²¹⁷ CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, response, 1 July 2020, prot. no. Sp.R. 2452/20, no. 1, in D. MILLER, P. COONEY, and M.A. SOUCKAR (eds.), *Roman Replies and CLSA Advisory Opinions 2020*, Washington, DC, Canon Law Society of America, 2020, 13-15. Regarding seeking counsel of the council, c. 127, §1 requires the superior to convoke the council according to the norm of c. 166 unless “proper law provides otherwise.” This exception opens a possibility of providing for additional norms to obtain counsel via meetings with individual councilors, email services, phone calls, or videoconferencing technology. However, in the case the proper law of a religious institute does not provide any particular norm on that, the extraordinary faculty of the CICLSAL will be applicable.

²¹⁸ See *ibid.*, no. 3, 14.

²¹⁹ Regarding canon 127, §1, the Pontifical Commission for the Authentic Interpretation of Legal Texts was asked: “Q: Whether when the law requires that the superior must have the consent of the council

the consent is required and it has been obtained by an absolute majority vote by the council, the superior is free to act, but is not bound to do so.²²⁰ However, if an absolute majority vote is not obtained from the council, the superior is not free to act; if he or she does so, then the act is invalid. When advice is required, the superior must convoke the council according to the norm of canon 166 and seek advice of the councilors in order to act validly (c. 127, §1).

If the universal or proper laws require the consent or counsel of certain persons as individuals, the superior must seek the consent or hear of those persons in order to act validly (c. 127, §2, 1°-2°). However, the superior is not obliged to accept or follow their advice even if unanimous. However, the superior should not act contrary to that opinion, especially if unanimous, without an overriding reason in the superior's judgment (c. 127, §2, 2°).

It should be kept in mind that whenever consent or advice of the council are sought, the superiors are the ones who make the decisions and bear the responsibility for them.²²¹

or of a body of persons in order to act, in keeping with canon 127, §1, does the superior have the right of voting with the others, at least to break a tie? R: Negative" (PONTIFICAL COMMISSION FOR THE AUTHENTIC INTERPRETATION OF THE CODE OF CANON LAW, authentic interpretation of c. 127 §1, 14 May 1985, in AAS, 77 [1985], 771, English translation in *CLD*, vol. 11, 16).

²²⁰ See SMITH, "Superiors and Councils (cc. 617-630)," 790.

²²¹ Ibid.; cf. *PC*, no. 14, in AAS, 58 (1966), 709, *FLANNERY1*, 619-620; cf. *VC*, no. 43, in AAS, 88 (1996), 417, in *Origins*, 25 (1996), 695.

1.3. Just Autonomy of Life of Religious Institutes

The autonomy of life of a religious institute is recognized by the universal law (c. 586, §1) due to its charismatic origin and the power of internal governance granted by the law at the time of its canonical erection (see cc. 579, 589). However, this autonomy can never become total independence²²² since religious institutes are also subject to an external ecclesial authority in the spirit of *communio* with the Church.²²³ Therefore, the law points to the responsibility of local ordinaries to preserve and safeguard the autonomy of religious institutes (c. 586, §2).

1.3.1. Internal Autonomy of Religious Institutes: Canon 586, §1

The internal autonomy of the religious institutes²²⁴ of simple vows was first officially recognized by Pope Leo XIII in his apostolic constitution *Conditae a Christo*

²²² See CD, no. 35, 3-4, in AAS, 58 (1966), 691-692, *FLANNERY1*, 585.

²²³ See LG, nos. 43-44, in AAS, 57 (1965), 50-51, *FLANNERY1*, 402-405.

²²⁴ The term “religious institute” (*institutum religiosum*) is used forty times in the 1983 Code of Canon Law and refers to what the Pio-Benedictine Code referred to as “religious order” (*ordo religiosus*) or “religious congregation” (*congregatio religiosa*).” Therefore, a religious institute can be either a religious order (e.g., Benedictines, Carmelites, Franciscans, Dominicans, Augustinians, etc.) or a religious congregation (e.g., Redemptorists, Missionary Oblates of Mary Immaculate, etc.). Each order and congregation responds to a specific charism in the Church (see c. 577; see also LG, nos. 36, 46; PC, nos. 8a, 11) (see M. STEVENS, “Revitalizing Charism Inspiring Religious Life,” in *Review for Religious*, 53 [1994], 856).

(1900)²²⁵ and for secular institutes by Pope Pius XII in the apostolic constitution *Provida Mater Ecclesia* (1947).²²⁶

Canon 586, §1 states:

A just autonomy of life, especially of governance, is acknowledged for individual institutes, by which they possess their own discipline in the Church and are able to preserve their own patrimony intact, as mentioned in can. 578.²²⁷

The canon affirms the right of each institute to its own autonomy, especially with regard to governance. As stated by Gianfranco Ghirlanda: “Autonomy of life is a right of the institute which flows first of all from its charismatic origin.”²²⁸ The Church acknowledges, reveres, and protects the gifts of the Holy Spirit given to founders or foundresses of religious institutes and guarantees them a “just autonomy of life,” especially of governance in order to promote and foster, safeguard and protect the patrimony of each institute.²²⁹ Patrimony is described in canon 578 as encompassing the nature, character, spirit and ends of the institute that the founders or foundresses intended and determined as well as the institute’s sound traditions. The spirit of the founder(s) or foundress(es) must be discerned in each religious institute since it expresses the special charism which

²²⁵ LEO XIII, Apostolic Constitution on Religious Orders *Conditae a Christo*, 8 December 1900 (=CC), in ASS, 33 (1900-1901), 341-347, English translation in I. LANSLOTS, *Handbook of Canon Law for Women Under Simple Vows*, 9th ed., rev. and enl., New York, F. Pustet, 1920, Appendix A, 246-258.

²²⁶ PIUS XII, Apostolic Constitution on Secular Institutes *Provida Mater Ecclesia*, 2 February 1947 (=PME), in AAS, 39 (1947), 114-124, English translation in CLD, vol. 3, 135-146.

²²⁷ Canon 586, §1: “Singulis institutis iusta autonomia vitae, praesertim regiminis, agnoscitur, qua gaudeant in Ecclesia propria disciplina atque integrum servare valeant suum patrimonium, de quo in can. 578.”

²²⁸ GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 46.

²²⁹ See cc. 586, §1; 578. See also T. RINCÓN-PÉREZ, Commentary on Canon 586, in *Exegetical Comm*, vol. 2/2, 1500.

distinguishes one religious institute from other institutes.²³⁰ McDermott observes that through the rightful autonomy of life, especially in governance, the religious institute “orders its life and ensures proper discipline of the members.”²³¹

1.3.2. Local Ordinaries and Just Autonomy of Religious Institutes: Canon 586, §2

Canon 586, §2 states the obligation of the local ordinaries to preserve and safeguard the autonomy of religious institutes:

It is for local ordinaries to preserve and safeguard this autonomy.²³²

This stipulation has no foundation in the 1917 Code, but instead reflects the conciliar²³³ and post-conciliar²³⁴ teaching of the Church. *Lumen gentium*, no. 45 states that it is the duty of the ecclesiastical hierarchy to supervise and safeguard the autonomy of those institutes in order to ensure that they may grow and flourish in accordance with the spirit of the founder(s) or foundress(es)²³⁵ with due regard “for the need of unity and harmony in carrying out the apostolate.”²³⁶

²³⁰ See F. MORRISEY, “The Spirit of the Proposed New Law for Institutes of Consecrated Life,” in *Studia canonica*, 9 (1975), 81.

²³¹ MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 753.

²³² Can. 586, §2: “Ordinariorum locorum est hanc autonomiam servare ac tueri.”

²³³ See *LG*, no. 45, in *AAS*, 57 (1965), 51, *FLANNERY1*, 405; *CD*, no. 35.2, in *AAS*, 58 (1966), 691, *FLANNERY1*, 584.

²³⁴ See *MR*, nos. 9c-d, 28, 52, in *AAS*, 70 (1978), 479, 490, 500-501, in *CLD*, vol. 9, 305-306, 320, 333.

²³⁵ See *LG*, no. 45, in *AAS*, 57 (1965), 51, *FLANNERY1*, 405. See also *MR*, no. 8, in *AAS*, 70 (1978), 478-479, in *CLD*, vol. 9, 304-305.

²³⁶ *Ibid.*

1.3.2.1. Prerogatives and Responsibilities regarding Preservation of Just Autonomy (*autonomiam servare*)

Each institute is given proper autonomy by law, particularly in the internal life and governance of the institute.²³⁷ The chapters and superiors have the authority and duty to preserve the institute's nature, spirit, character, and purpose as recognized by the competent ecclesiastical authorities.²³⁸ Gianluigi Pasquale provides for a more complete understanding of the notion of autonomy of governance in the internal life of the institute:

The proper sphere in which autonomy of governance is initially expressed is the internal order of institutes, that is to say, the proper patrimony, the profession of the evangelical counsels, fraternal life, internal organization, the formation of members, their obligations and rights. Through the structuring of this internal order all institutes of consecrated life must have a proper law, approved by the competent authority and which explains the rights and obligations of individual members and their groupings. The care, vigilance and responsibility for observing this proper law principally reside with the internal superiors of the institute.²³⁹

However, religious institutes are also subject to an external ecclesial authority since they remain within the *communio* of the Church.²⁴⁰ First of all, as stated in canon 590, all institutes of consecrated life are “subject to the supreme authority of the Church in a special

²³⁷ See c. 586, §1.

²³⁸ See cc. 596; 617; 618.

²³⁹ G. PASQUALE, “Autonomia e corresponsabilità dei religiosi nel Codex iuris canonici,” in *Commentarium pro religiosis et missionariis*, 76 (1995), 280- 281.

²⁴⁰ See V. DE PAOLIS, “Gli istituti de vita consacrata nella Chiesa,” in G. GHIRLANDA, V. DE PAOLIS, and A. MONTAN (eds.), *Il Codice del Vaticano II, La vita consacrata*, Bologna, Edizioni Dehoniane, 1983, 82.

way”²⁴¹ and individual members of religious institutes “are bound to obey the Supreme Pontiff as their highest superior by reason of the sacred bond of obedience.”²⁴²

Canons 593, 594, 595 establish further principles of the relationship of religious institutes to ecclesiastical authority. Accordingly, religious institutes of pontifical right are directly and exclusively subject to the Apostolic See regarding internal matters of discipline and governance beyond the competence of the superiors of the institute (c. 593)²⁴³ while religious institutes of diocesan right remain under the special care of the diocesan bishops (cc. 594, 595).²⁴⁴ It should be kept in mind that religious institutes, whether of pontifical right or diocesan right, remain subject to diocesan bishops in certain aspects of their mission, i.d. the care of souls, the public exercise of divine worship, and other works of the apostolate (c. 678, §1).²⁴⁵ This principle addresses the duty of the diocesan bishop in watching over the flock in his jurisdiction²⁴⁶ in order to ensure that the

²⁴¹ Canon 590, §1.

²⁴² Canon 590, §2.

²⁴³ See also JOHN PAUL II, Apostolic Constitution on the Roman Curia *Pastor bonus*, 28 June 1988 (=PB), no. 108, in AAS, 80 (1988), 887, English translation in *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, DC, Canon Law Society of America, 1999, 718.

²⁴⁴ Cf. CCEO, c. 413.

²⁴⁵ Cf. CD, no. 35.4, in AAS, 58 (1966), 691-692, *FLANNERY1*, 585; AG, no. 30, in AAS, 58 (1966), 981, *FLANNERY1*, 847; ES I, nos. 22-40, in AAS, 58 (1966), 769-773, *FLANNERY1*, 604-609; MR, nos. 52-53, in AAS, 70 (1978), 500-501, in *CLD*, vol. 9, 333-334; VC, no. 49, in AAS, 88 (1996), 422-423, in *Origins*, 25 (1996), 697.

²⁴⁶ See c. 394, §1.

norms of law are observed and no abuses creep into the affairs of internal governance and disciplines of the institute.²⁴⁷

The second paragraph of c. 586 serves therefore as a reminder of the obligation which exists as a correlative to the right of just autonomy of each institute of consecrated life as stated in paragraph one of canon 586.

Canon 134, §§1-2 determines that local ordinaries are: the Roman Pontiff, the diocesan bishop and those equivalent to him by law according to the norm of c. 368²⁴⁸ (prelate to whom the care of the territorial prelature is entrusted,²⁴⁹ abbot to whom the care of the territorial abbacy is assigned,²⁵⁰ apostolic vicar,²⁵¹ apostolic prefect,²⁵² and apostolic administrator²⁵³) as well as vicars general and episcopal vicars. Canons 579,²⁵⁴ 594,²⁵⁵ and 678, §1, 3²⁵⁶ address certain responsibilities of the diocesan bishop with regard to

²⁴⁷ See E. WILLIAMSON, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” in *CLSGBI Comm*, 327. See also cc. 394, §1; 305, §1; 392, §2; 528, §2.

²⁴⁸ Canon 368 reads as follows: “Particular churches, in which and from which the one and only Catholic Church exists, are first of all dioceses, to which, unless it is otherwise evident, are likened a territorial prelature and territorial abbacy, an apostolic vicariate and an apostolic prefecture, and an apostolic administration erected in a stable manner.”

²⁴⁹ See c. 370.

²⁵⁰ See *ibid.*

²⁵¹ See c. 371, §1.

²⁵² See *ibid.*

²⁵³ See c. 371, §2.

²⁵⁴ Canon 579 reads as follows: “Diocesan bishops, each in his own territory, can erect institutes of consecrated life by formal decree, provided that the Apostolic See has been consulted.”

²⁵⁵ Canon 594 reads as follows: “Without prejudice to can. 586, an institute of diocesan right remains under the special care of the diocesan bishop.”

²⁵⁶ Canon 678: “§1. Religious are subject to the power of bishops whom they are bound to follow with devoted submission and reverence in those matters which regard the care of souls, the public exercise

institutes of consecrated life on his territory. The diocesan bishop need not personally attend to every detail of the matter; he can designate an “episcopal vicar for religious” to act on his behalf in relation to religious institutes or other institutes of consecrated life/societies of apostolic life in the diocese.²⁵⁷ In the matters concerning those institutes,²⁵⁸ the episcopal vicar has ordinary,²⁵⁹ vicarious,²⁶⁰ executive²⁶¹ power which belongs to the diocesan bishop in law. That is, he has power to place administrative acts with the exception of those cases which the bishop has reserved to himself or which by law require a special mandate of the bishop (c. 479, §2). Within his scope of authority, the episcopal vicar for religious possesses the habitual faculties granted to the bishop by the Apostolic See (see c. 479, §3). In accordance with the law, the episcopal vicar for religious must be a priest,²⁶² but the diocesan bishops can appoint a lay religious (male or female religious) as delegate for consecrated life.²⁶³ The latter would have special delegated authority from the diocesan bishop.²⁶⁴ Regarding this delegation, a question is posed, that is, what kind of authority a delegated lay religious for consecrated life would possess since in the strict

of divine worship, and other works of the apostolate. [...] §3. In organizing the works of the apostolate of religious, diocesan bishops and religious superiors must proceed through mutual consultation.”

²⁵⁷ See S. HOLLAND, “The Episcopal Vicar for Religious,” in *The Way Supplement*, 50 (1984), 101-102.

²⁵⁸ Cf. canon 476.

²⁵⁹ Because it is attached to the office itself (see c. 131, §1).

²⁶⁰ Because he exercises his power in the name of the diocesan bishop (see c. 131, §2).

²⁶¹ Which is distinguished from legislative and judicial power (see c. 35).

²⁶² For the qualifications of the episcopal vicar for religious, cf. c. 478.

²⁶³ See R. McDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop: Diocesan/Eparchial Right Institutes/*Sui Iuris* Monasteries/Hermits/Ascetics/Virgins/Windows,” in *Studies in Church Law*, 8 (2012), 5, footnote 22. See also ID., *Consecrated Life*, 73.

²⁶⁴ Ibid.

sense, this office relates to executive power (see c. 134). Can a religious sister be delegated an executive power? Canon 129, §2 affirms that lay persons can cooperate in the exercise of the power of governance according to the norm of law.²⁶⁵ Referring to Apostolic Exhortation on the Vocation and the Mission of the Lay Faithful in the Church and in the World *Christifideles laici*, no. 23,²⁶⁶ James Corriden notes:

Very frequently lay persons engaged in the Church's functions and ministries simply exercise the power of governance in the course of carrying out the responsibilities which have been assigned to them, without regard to the formal source of their authority. They are appointed to offices or assigned specific tasks, and they simply perform their governance-related duties (e.g., major administrative functions in parishes and dioceses) as they are expected to, with approval and without challenge. Thus lay persons often share de facto in the power of governance.²⁶⁷

In such a case, following canon 131, §1, the power granted to the religious sister is a delegated power which is granted to a person but not by means of an office. Since a religious sister, delegate for consecrated life, is not an “ordinary” nor a “local ordinary” mentioned in canon 134, she does not possess general ordinary executive power. However, she can possess delegated executive power as asserted by John Huels: “lay persons may be delegated to exercise executive power.”²⁶⁸

²⁶⁵ Cf. *CCEO*, c. 979. See also cc. 228, §2; 229, §3; 482, § 1; 482, §2; 482 §3; 483, §1; 494, §1; 492, §1; 517, §2; 806, §2; 1279, §2; 1421, §2; 1424; 1428, §2; 1435; 1483; 1574; etc.

²⁶⁶ See JOHN PAUL II, Apostolic Exhortation on the Vocation and the Mission of the Lay Faithful in the Church and in the World *Christifideles laici*, 30 December 1988 (=CL), no. 23, in AAS, 81 (1989), 429-430, English translation in *Origins*, 18 (1989), 571.

²⁶⁷ J. CORRIDEN, “Lay Persons and Power of Governance,” in *The Jurist*, 59 (1999) 340. See also J. BEAL, “Lay People and Church Governance: Oxymoron or Opportunity,” in *Together in God's Service: Toward a Theology of Ecclesial Lay Ministry*, Washington, USCCB, 1998, 103-129.

²⁶⁸ J. HUELS, “The Power of Governance and Its Exercise by Lay Persons: A Juridical Approach,” in *Studia canonica*, 35 (2001), 86-94

John Doran concluded that “the existence and life of any institute of consecrated life begins, continues, and even ends, within a relationship to an ecclesiastical authority external to the particular institute.”²⁶⁹ Indeed, once erected as an institute of diocesan right by a diocesan bishop,²⁷⁰ it remains subject to the diocesan bishop in those matters exceeding the competence of the chapter and superiors of the institute.²⁷¹ The diocesan bishop has the responsibility of preserving of the proper autonomy of life of each institute in his diocese personally or by his representative, i.e., episcopal vicar for religious.²⁷² Ghirlanda asserts that this care “consists above all in the preservation and protection of this autonomy. The diocesan bishop must help the institute, generally in its initial stage, to strengthen itself spiritually and materially.”²⁷³ Doran adds that “once approved by a competent authority, the purpose of the law becomes the preservation of what has been approved. Thus, the object of autonomy concerns the proper discipline of the institute and the preservation of its patrimony from unwarranted external interference.”²⁷⁴

The diocesan bishop has true and well-defined authority over a religious institute of diocesan right, but he has no jurisdiction in the internal affairs. In many matters of internal government of the institute, the bishop exercises vigilance and not decision-

²⁶⁹ DORAN, *Just Autonomy of Religious Institutes and Episcopal Authority from the Second Vatican Council to the Ninth Ordinary Synod of Bishops on Consecrated Life*, 100.

²⁷⁰ See cc. 579; 589.

²⁷¹ See c. 595.

²⁷² For more, see HOLLAND, “The Episcopal Vicar for Religious,” 99-112.

²⁷³ GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 50.

²⁷⁴ DORAN, *Just Autonomy of Religious Institutes and Episcopal Authority from the Second Vatican Council to the Ninth Ordinary Synod of Bishops on Consecrated Life*, 99.

making authority.²⁷⁵ McDermott stresses the point that diocesan bishops are not internal superiors of the institutes; therefore, they should not interfere in those matters reserved to the authority of the institute as determined by universal or proper law.²⁷⁶

1.3.2.2. Prerogatives and Responsibilities regarding Safeguarding Just Autonomy (*autonomiam tueri*)

The duty to protect the proper autonomy of each religious institute is reflected in *Mutuae relationes*, no. 9c which requests that the bishops care for religious charisms, foster religious life and protect it in “conformity with its own definite characteristics”²⁷⁷ because “the very indivisibility of their pastoral ministry makes them responsible for perfecting the entire flock.”²⁷⁸ Moreover, *Mutuae relationes*, no. 28 strongly calls for bishops along with their clergy to “[...] be convinced advocates of the consecrated life, defenders of religious communities, promoters of vocations, firm guardians of the specific character of each religious family both in the spiritual and in the apostolic field.”²⁷⁹

²⁷⁵ See I.D. LANSLOTS, *A Handbook of Canon Law for Congregations of Women under Simple Vows*, 6th ed., New York, F. Pustet, 1911, 12.

²⁷⁶ MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 760. Against such interference, there is a formal remedy of lodging hierarchical recourse or informal communication of concern to the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life.

²⁷⁷ *MR*, no. 9c: “[...] vitam religiosam provehendo eamque iuxta proprias definitas notas protegendo [...]” (in *AAS*, 70 [1978], 479, in *CLD*, vol. 9, 306).

²⁷⁸ *MR*, no. 9c: “[...] eo magis quod indivisum ipsum pastorale ministerium perfectores totius gregis eos efficit” (in *AAS*, 70 [1978], 479, in *CLD*, vol. 9, 306).

²⁷⁹ “Episcopi, una cum proprio clero, firmi sint vitae consecratae assertores, religiosarum communitatum defensores, vocationum educatores, efficaces tutores cuiusvis peculiaris religiosarum familiarum naturae sive in campo spirituali sive in campo apostolico” (in *AAS*, 70 [1978], 490, in *CLD*, vol. 9, 243).

The diocesan bishop's role is recognized in canon 586 §2: "It is for local ordinaries to preserve and safeguard this autonomy."²⁸⁰ This phrase runs parallel to canon 678, §2, which indicates that diocesan bishops are to oversee and urge the religious involved in the exercise of an apostolate to faithfully fulfill the obligations of their institutes. The diocesan bishop has a duty to protect of the proper autonomy of each religious institute. Holland asserts that the bishops must respect, protect, and foster not only the just autonomy of governance of the institute, but also the particular discipline and the patrimony (i.e., the nature, purpose, spirit, and character) of an institute and its sound traditions (cf. c. 578).²⁸¹ Moreover, c. 385 emphasizes the responsibility of the diocesan bishop in his role as pastor of the particular church "to foster vocations to different ministries and to consecrated life."²⁸²

With regard to the apostolate of religious, canon 678 sets the general principle: "Religious are subject to the power of bishops whom they are bound to follow with devoted submission and reverence in those matters which regard the care of souls, the public exercise of divine worship, and other works of the apostolate."²⁸³ The canon demands submission and reverence, since the bishop's duty is to exercise his pastoral care and

²⁸⁰ Canon 586, §2: "Ordinariorum locorum est hanc autonomiam servare ac tueri."

²⁸¹ See HOLLAND, "Norms Common to All Institutes of Consecrated Life (cc. 573-606), 459.

²⁸² Canon 385: "[...] vocationes ad diversa ministeria et ad vitam consecratam quam maxime foveat [...]."

²⁸³ Canon 678, §1: "Religiosi subsunt potestati Episcoporum, quos devoto obsequio ac reverentia prosequi tenentur, in iis quae curam animarum, exercitium publicum cultus divini et alia apostolatus opera respiciunt."

authority in the particular church.²⁸⁴ The submission and reverence of religious, expressed in their compliance with lawful commands of the diocesan bishop and in treating him with deep respect due to his pastoral office, are necessary for unity and harmony in carrying out the apostolic work. In the care of souls, members of religious institutes are subject to the diocesan bishop insofar as they exercise or participate in the pastoral care entrusted to them regarding the proclamation of the Word of God and celebration of the sacraments.²⁸⁵ This norm derives from the Decree on the Pastoral Office of Bishops in the Church *Christus Dominus*, no. 35:

Religious should at all times treat the bishops, as the successors of the apostles, with loyal respect and reverence. Moreover, whenever legitimately called upon to do apostolic work, they must carry out these duties in such a way as to be the auxiliaries of the bishop and subject to him. Furthermore, religious should comply promptly and faithfully with the requests or desires of the bishops when they are asked to undertake a greater share in the ministry of salvation. Due consideration should be given to the character of particular institute and to its constitutions, which may, if necessary, be adapted for this purpose in accord with the principles of this decree of the Council.²⁸⁶

Regarding the public exercise of divine worship, the bishop is to exercise vigilance over the sacred liturgy and other forms of divine worship.²⁸⁷ He has the obligation to prevent liturgical abuses in the celebration the sacred liturgy. He also has the obligation to

²⁸⁴ See cc. 391, §1; 375, §1; 376. For more on the three aspects of bishop's pastoral ministry, i.e., teacher of doctrine, priest of sacred worship, minister of governance, see T.J. GREEN, "Particular Churches and the Authority Established in Them (cc. 368-430)," in *CLSA Comm1*, 319-320.

²⁸⁵ See cc. 515-552.

²⁸⁶ "Episcopos, utpote Apostolorum successores, religiosi omnes devoto semper obsequio ac reverentia prosequantur. Praeterea quoties ad apostolatus opera legitime vocantur ita munia sua exercere tenentur ut episcopis auxiliares adsint et subsint. Quin immo religiosi episcoporum postulationibus votisque prompte ac fideliter obsecundent ut ampliores partes in salutis humanae ministerium suscipiant, salva instituti indole et secundum constitutiones, quae, si necesse sit, ad hunc finem accommodentur, inspectis huius Decreti Concilii principiis" (in AAS, 58 [1966], 690-691, English translation in *FLANNERY1*, 584).

²⁸⁷ See cc. 392, §2; 835, §1.

protect the Christian faithful from celebrations of the sacred liturgy and other acts of divine worship that are not in conformity with liturgical rites, thus causing confusion or misconceptions regarding divine worship.²⁸⁸

In the works of the apostolate, including the religious and moral education of the Christian faithful, especially of children, religious are subject to the diocesan bishops and particular law.²⁸⁹ The bishop has the duty to promote and coordinate the works of the apostolate in his diocese (see c. 680).

McDermott stresses the aspect of reciprocity in relations between diocesan bishop and religious: “[...] bishops should welcome and support the services of religious, while religious should work in full communion with the bishops.”²⁹⁰ Religious should view the bishop not only as a pastor of the local Church, but also as guarantor of their own fidelity in making their proper contribution to the Church.²⁹¹ Since the bishop is responsible for all the spiritual, liturgical, catechetical, and pastoral life of the diocese,²⁹² he has the obligation to foster and protect the charisms in his particular church, and employs them for the good of the Church.²⁹³

²⁸⁸ See J. KHOURY, *Vie consacrée: essai de commentaire des canons 573-709*, Rome, Pontificia Università Gregoriana, 1985, 269.

²⁸⁹ See cc. 773; 774, §1; see also CD, no. 34, in AAS, 58 (1966), 690, *FLANNERY*1, 584.

²⁹⁰ MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 846.

²⁹¹ See A. DELANEY, “Bishops and Religious: The Document *Mutuae relationes*,” in *The Furrow*, 34 (1983), 233-241.

²⁹² See c. 392.

²⁹³ See cc. 586. Cf. cc. 394; 605.

While canon 678, §1 states the obligation of members of religious institutes to treat the bishops with sincere submission and reverence in matters pertaining to care of souls, public divine worship, and other works of apostolate, canon 678, §2 reminds the religious that “[i]n exercising an external apostolate, religious are also subject to their proper superiors and must remain faithful to the discipline of the institute. The bishops themselves are not to fail to urge this obligation if the case warrants it.”²⁹⁴ Obviously then, a religious engaged in the external apostolate should observe the discipline of his/her institute and be obedient to his/her proper superior (see c. 678, §2).

CONCLUSION

The first chapter considered the notion of the just autonomy of a religious institute as described in canon 586 of the 1983 Code of Canon Law. This autonomy is expressed in the charism which points to the primacy of the special gift given by the Holy Spirit. This gift is to serve the renewal and upbuilding of the Church and the good of the world. Likewise, the autonomy is also expressed in the way of life of the institute, a life inspired by the Holy Spirit, by following Christ more closely, and deepening one’s baptismal consecration through a free and total self-giving, a sacrifice offered to God loved above all, through a new and special title or commitment. The consecrated persons strive to reach

²⁹⁴ Canon 678, §2: “In apostolatu externo exercendo religiosi propriis quoque Superioribus subsunt et disciplinae instituti fideles permanere debent; quam obligationem ipsi Episcopi, si casus ferat, urgere ne omittant.”

the perfection of charity in service to the Kingdom of God and this dedication prompts and fosters the love expressed in prayer and service of others.

The religious institutes are governed by the internal authority of the institute, i.e. general chapters (and other chapters) and superiors supported by their councils. The universal law explicitly provides for the authority and obligations of the general chapters. They are collegial bodies with highest internal authority in the institute; their primary juridic function is legislating for the entire institute. Their particular obligation is to protect the patrimony or spiritual heritage of the institutes and to promote suitable renewal and adaptation of the patrimony by reviewing and evaluating the charism, the loyalty of the institute to the charism of its founder(ress), and the way of life. Especially, a general chapter gathering is a privileged time for all members of a religious institute to collaborate in the renewal and adaptation by proposing anew the enterprising initiative, creativity and holiness of their founder(s) and foundress(es) in response to the signs of the times emerging in today's world.

Besides the general chapters, the *ius vigens* defines the office of superiors who exercise personal power over the institute's members in accordance with the universal law and the proper law of each institute. The religious superior is to exercise their authority not in a spirit of what was once known as *dominative power*, but in *a spirit of service* for the members as those who God entrusted to them. In exercising their authority, superiors should treat their brothers or sisters with respect because of their dignity as sons and daughters of God. The law also calls for superiors to consult and seek the collaboration of every member by promoting the members' voluntary obedience with reverence for the

human person. Superiors are to engage in fruitful dialogue with their brothers or sisters in the diversity of gifts and individual personalities, in order to discern and find the will of God so that all can walk together with one mind and heart and foster the common endeavors for the good of the institute and the Church. Furthermore, the law indicates numerous major pastoral obligations attached to the office of the religious superiors who share in the authority of the Church and participate in the triple *munera* of teaching, sanctifying, and governing, hence striving to build a community of brothers or sisters in Christ where God is sought and loved before all things.

Although every superior enjoys a definite power over his or her members and can exercise this power personally as determined by universal and proper law, nevertheless the Church's law requires that each superior have a council which would assist them in governing the institute by offering advice and shared experience to help the superior in making wise decisions and quality choices.

Just autonomy of life and of governance of each religious institute is acknowledged, revered, and protected by the Church. However, this autonomy is not absolute, since all religious institutes are subject to the competent authorities of the Church. They remain subject to the supreme authority of the Church and to the diocesan bishops according to the norm of law. The law enjoins on local ordinaries the obligation to preserve and safeguard the patrimony and autonomy of religious institutes. They are to respect the legitimate authority of superiors and chapters of the religious institutes in the internal life of the institute as granted by the universal and proper law. For their part, religious are to

respect the diocesan bishop and comply with his decision in all he orders regarding the care of souls, liturgical worship, and apostolic works.

CHAPTER TWO

THE AUTHORITY OF THE DIOCESAN BISHOP OF THE PRINCIPAL SEAT OVER AN INSTITUTE OF DIOCESAN RIGHT: CANON 595

INTRODUCTION

Chapter Two will focus on the authority of the diocesan bishop of the principal seat (c. 595) in affairs beyond the competence of the superiors of the religious institute of diocesan right. The law provides that all religious institutes, whether of the pontifical or diocesan right have their own proper autonomy of governance as described in canon 586. However, this autonomy is not absolute; all religious institutes are subject to ecclesiastical authorities as it has been presented in Chapter One. Since the scope of this thesis is limited to institutes of diocesan right, the first part of the chapter concentrates on the authority of the diocesan bishop regarding the constitutions of an institute. It will address issues related to the approval of the constitutions (c. 595, §1), confirmation of changes in the constitutions (c. 595, §1), and dispensations from the norms of the constitutions for cases effecting the entire institute (c. 595, §2). In this regard some other, related norms, namely cc. 6, §1, 2°; 86-87; 90, §1; 587, §2; 595, §1; 586, §1; 589; 595; 576; 587, §2; 595, §1; 577; 631, §1; and 654 will be examined. Among the conciliar and post-conciliar sources, *Lumen gentium*, no. 45,¹ *Perfectae caritatis*, no. 2b,² *Ecclesiae Sanctae II*, nos. 8, 11, 12, 16.3,³ *Christus*

¹ In AAS, 57 (1965), 51, *FLANNERY1*, 405.

² In AAS, 58 (1966), 703, *FLANNERY1*, 612.

³ In AAS, 58 (1966), 762-763, 777-778, *FLANNERY1*, 626-627.

Dominus, no. 35.1,⁴ *Ecclesiae Sanctae I*, no. 28⁵ will be studied.

The second part of the chapter will examine the prerogatives of the diocesan bishop of the principal seat with regard to governance of the institute of diocesan right. It will address matters exceeding the power of the institute's internal authority, such as transferring the principal house of a religious institute of diocesan right from one diocese to another, merging or uniting with another religious institute or institutes (c. 582), and presiding at the elections of the supreme moderator (c. 625, §2). As in the first part, related canons, namely cc. 620; 622; 170; 172, §1, 1^o-2^o; 165; 166, §3; 169; 173, §3; 149, §1; 625-626; and 631, §1 will be studied. Accordingly, the relevant conciliar and post-conciliar sources, that is *Perfectae caritatis*, no. 21,⁶ *Ecclesiae Sanctae II*, nos. 40-41,⁷ and *Mutuae relationes*, nos. 45-46⁸ will be taken into consideration.

2.1. The Authority of the Diocesan Bishop regarding the Constitutions of an Institute

The constitutions of an institute bear different names in various orders and congregations. Some orders and congregations call them “Book I,” others “Rule of Life,” “Fundamental Code,” “Fundamental Book,” “Primary Code,” etc. The essential and

⁴ In AAS, 58 (1966), 691, *FLANNERY1*, 584.

⁵ PAUL VI, Apostolic Letter on the Implementation of the Decrees *Christus Dominus*, *Presbyterorum ordinis* and *Perfectae caritatis Ecclesiae Sanctae I*, 6 August 1966 (=ES I), no. 28, in AAS, 58 (1966), 770-771, English translation in *FLANNERY1*, 605-606.

⁶ In AAS, 58 (1966), 726, *FLANNERY1*, 622.

⁷ In AAS, 58 (1966), 782, *FLANNERY1*, 632.

⁸ In AAS, 70 (1978), 497-498, in *CLD*, vol. 9, 329.

fundamental elements which must be contained in the constitutions are the intention and the designs of the founder(s) or foundress(es), the nature,⁹ purpose,¹⁰ spirit,¹¹ and character¹² of each institute (cf. c. 578). Other essential elements¹³ are stated in canon 587, §1 and include the fundamental norms for the governance on all levels (central, provincial, local) (see cc. 617-633),¹⁴ determination of the way of life in common (see c. 602), temporal goods and their administration (see cc. 634-640),¹⁵ admission and formation of members (novitiate and temporary profession) (see cc. 641-661),¹⁶ obligations and rights

⁹ Cf. cc. 573-575. The “nature” of an institute refers to the distinction between a religious institute, secular institute, and society of apostolic life (see MCDERMOTT, “Norms Common to All Institutes of Consecrated Life [cc. 573-606],” 747). Cf. *CIC/17*, cc. 487; 488, 1°; *LG*, nos. 42-45, in AAS, 57 (1965), 47-52, *FLANNERY1*, 400-406; *CD*, no. 33, in AAS, 58 (1966), 690, *FLANNERY1*, 583-584; *PC*, nos. 1, 2, 5, in AAS, 58 (1966), 702-705, *FLANNERY1*, 611-614; PAUL VI, Allocution to Certain Superiors General *Magno gaudio*, 23 May 1964, in AAS, 56 (1964), 566-568, English translation in *CLD*, vol. 6, 426-429; *ET*, no. 7, in AAS, 63 (1971), 501-502, *FLANNERY1*, 683-684; SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, Instruction on the Renewal and Adaptation of Formation for Living the Religious Life *Renovationis causam*, 6 January 1969 (=RC), no. 1, in AAS, 61 (1969), 103, English translation in *FLANNERY1*, 63; *MR*, no. 8, in AAS, 63 (1971), 502, *FLANNERY1*, 684; *VC*, nos. 14-22, in AAS, 88 (1996), 387-396, in *Origins*, 25 (1996), 686-689.

¹⁰ An institute can be contemplative or apostolic (see MCDERMOTT, “Norms Common to All Institutes of Consecrated Life [cc. 573-606],” 747).

¹¹ It refers to particular spirituality of the institute (*ibid.*).

¹² An institute can be monastic or conventual (*ibid.*).

¹³ Cf. *LG*, no. 45, in AAS, 57 (1965), 51, *FLANNERY1*, 405; *ES II*, no. 12, in AAS, 58 (1966), 777, *FLANNERY1*, 626-627. See also WILLIAMSON, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 318; MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 754; MORRISEY, “Proper Law,” 7, 10-23, 25-26.

¹⁴ McDermott suggests that the constitutions “should describe the basic structures of governance, the convocation and membership of the general chapter, how major moderators are constituted, their terms of office, councils and how decision-making is effected, and all essential elements of local governance” (MCDERMOTT, “Norms Common to All Institutes of Consecrated Life [cc. 573-606],” 754).

¹⁵ The constitutions “should include the key elements for ordinary and extraordinary administration, as well as for acts of alienation of the temporal goods of the institute” (*ibid.*).

¹⁶ McDermott stresses that in areas of formation, the constitutions “should contain a description of the various stages of formation, their requirements, purpose, and length; the competent authority to admit or refuse admission to different stages; the juridical effects of temporary and perpetual or definitive profession; the nature of the sacred bonds and the rights and obligations assumed at temporary and perpetual or definitive profession” (*ibid.*). Other stages, such as postulancy, pre-novitiate, studentate are determined by the proper law of each religious institute.

of the institute and its members (see cc. 662-672; 831-832), proper object of the sacred bonds (see cc. 598-601; 535, §2; 654-658; 1037; 1088), the apostolate of the institute (see cc. 673-683), and norms on separation from the institute (see cc. 684-703).¹⁷ In the Norms for Implementing the Decree on the Up-to-Date Renewal of Religious Life *Ecclesiae Sanctae II*, Pope Paul VI lists the following elements: “[...] the evangelical and theological principles concerning religious life and its incorporation in the Church, and an apt and accurate formulation in which ‘the spirit and aims of the founder should be clearly recognized and faithfully preserved, as indeed each institute’s sound traditions, for all of these constitute the patrimony of an institute’.”¹⁸ Further he points to “the juridical norms necessary to define the character, aims and means employed by the institute. Such rules must not be multiplied, but should always be clearly formulated.”¹⁹

Ellen O’Hara provides in more detail the elements that should appear in the constitutions:

[...] those matters which the Code requires to appear in the constitutions are the following: the competent authority to erect or divide parts of the institute (c. 581), specific topics which must be covered in the constitutions (c. 587), the bishop to approve and grant dispensation from the constitutions for diocesan communities (c. 595), the definition of the powers of superiors in chapters (c. 596), the specific mode of living out the evangelical counsel within the institute (c. 598), the specific mode, in particular, of living out the vow of obedience (c. 601), the authority competent to erect houses of the institute (c. 609), [...]

¹⁷ McDermott emphasizes that the constitutions must strictly adhere to the universal law regarding separation from the religious institute (see MCDERMOTT, *Consecrated Life*, 47).

¹⁸ *ES II*, no. 12a: “principia evangelica et theologica de vita religiosa eiusque unione cum Ecclesia, atque apta et certa verba quibus ‘agnoscantur et servantur Fundatorum spiritus propriaque proposita, necnon sanae traditiones quae omnia cuiusque Instituti patrimonium constituent’” (in AAS, 58 [1966], 777, *FLANNERY1*, 626. Cf. *PC*, no. 2b, in AAS, 58 [1966], 703, *FLANNERY1*, 612).

¹⁹ *ES II*, no. 12b: “normas iuridicas necessarias ad Instituti indolem, fines mediaque clare definienda, quae normae nimis multiplicandae non sunt sed semper adaequato modo exprimi debent” (in AAS, 58 [1966], 777, *FLANNERY1*, 627).

the authority competent to suppress houses of an institute (c. 616), [...] the requirements for major superiors (c. 623), the exception to the term of office for the supreme moderator and local superiors (c. 624), the mode of election of the supreme moderator in the institute and the confirmation of other superiors (c. 625), provision for councils to assist the superiors (c. 627), the authority of the general chapter (c. 631), the limitation of rights with regard to temporal goods if there are any (cc. 634, 668), the specification of how the following of Christ is to be lived in the institute (c. 662), [...] and the definition of which necessities the institute must provide for its members (c. 670).²⁰

These main elements in the constitutions comprise of practical instruments that aim to illustrate the unique identity of each religious institute and protect the vocation of its members.²¹

It should be kept in mind that as a rule, the stipulations of the constitutions of any religious institute cannot be contrary to the canons of the Code. Regarding this matter, c. 489 of the 1917 Code expressly stated: “rules and particular constitutions of individual religious [institutes] not contrary to the canons of this Code retain their force; but those that are opposed are abrogated.”²² Also, c. 6, §1, 2^o stipulates that when the 1983 Code came into force, it abrogated other universal or particular laws contrary to the prescripts of the Code “unless other provision [was] expressly made for particular laws.”²³ Additionally, c. 135, §2 of the *ius vigens* expressly determines that “[a] lower legislator cannot validly

²⁰ E. O’HARA, “Norms Common to All Institutes of Consecrated Life – Canons 573-606,” in J. HITE et al., *A Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, 43.

²¹ Cf. c. 587.

²² *CIC/17*, c. 489: “Regulae et particulares constitutiones singularum religionum, canonibus huius Codicis non contrariae, vim suam servant; quae vero eisdem opponuntur, abrogatae sunt.”

²³ “[...] nisi de particularibus aliud expresse caveatur.” The clause means that all contrary norms of proper laws are abrogated unless the Code expressly makes an exception, as for instance, in c. 127 §1. With regard to proper law of religious institutes, “[a]lthough the canon speaks only of *leges*, that is, laws promulgated by legislative authorities, it also encompasses lesser juridical norms of executive authorities, such as those in general documents published by the Roman Curia, certain statutes of juridic persons (c. 94, §3), and the proper law (*ius proprium*) of institutes of consecrated life and societies of apostolic life” (J.M. HUELS, “Introductory Canons [1-6],” in *CLSA Comm2*, 54).

issue a law contrary to higher law.”²⁴ Nevertheless, the proper law of a religious institute can contradict the universal law if an institute had lawfully acquired some rights or was granted privileges by the Apostolic See, which were in use and had not been revoked before the Code came into force, and are not expressly revoked by the canons of the Code (see c. 4).

2.1.1. Approval of the Constitutions – Canon 595, §1

In accordance with canon 587, §2, the constitutions must be approved by the competent ecclesiastical authority.²⁵ The current law determines that the competent authority to approve the constitutions of a religious institute of diocesan right is the diocesan bishop of the principal seat,²⁶ as stated in canon 595, §1:

It is for the bishop of the principal seat to approve the constitutions and confirm changes legitimately introduced into them, without prejudice to those things which the Apostolic See has taken in hand, and also to treat affairs of greater importance affecting the whole institute which exceed the power of internal authority, after he has consulted the other diocesan bishops, however, if the institute has spread to several dioceses.²⁷

²⁴ “[...] a legislatore inferiore lex iuri superiori contraria valide ferri nequit.”

²⁵ Canon 587, §2 reads as follows: “A code of this type is approved by competent authority of the Church and can be changed only with its consent.” Cf. *ES II*, nos. 8, 11, in *AAS*, 58 (1966), 762-763, *FLANNERY*1, 626.

²⁶ The diocesan bishop of the mother house or, if it is different, the one in which the general government is located (see *WILLIAMSON*, “Norms Common to All Institutes of Consecrated Life [cc. 573-606],” 327).

²⁷ Canon 595, §1: “Episcopi sedis principis est constitutiones approbare et immutationes in eas legitime introductas confirmare, salvis iis in quibus Apostolica Sedes manus apposuerit, necnon negotia maiora totum institutum respicientia tractare, quae potestatem internae auctoritatis superent, consultis tamen ceteris Episcopis dioecesanis, si institutum ad plures dioeceses propagatum fuerit.” Cf. *CIC/17*, cc. 492, §1; 495, §2. Cf. *CCEO*, c. 414, §1, 1^o.

The authority to approve the constitutions of a religious institute of diocesan right can be seen as an extension of the diocesan bishop's right to erect the institute (see c. 595, §1). Canon 595 is rooted in canons 492, §1 and 495, §2 of the 1917 Code. A comparison of the provisions in both Codes reveals that the previous Code did not define the competent authority to approve the constitutions of either religious institutes of pontifical or diocesan right as the *ius vigens* does. Canon 492, §1 of the 1917 Code just stated very generally as follows: "Bishops, but not the Vicar Capitular or the Vicar General, can found religious Congregation; but they shall not found them or allow them to be founded without consulting the Apostolic See, but if it concerns tertiaries living in common, it is also required that they be aggregated by the supreme moderator to the first Order of that religious [institute]." ²⁸

Before issuing his decision, the diocesan bishop is to discern the charism or spirituality of the institute, its constitutions, the quality ²⁹ and number of its members, ³⁰ the

²⁸ *CIC/17*, c. 492 §1: "Episcopi, non autem Vicarius Capitularis vel Vicarius Generalis, condere possunt Congregationes religiosas; sed eas ne condant neve condi sinant, inconsulta Sede Apostolica; quod si agatur de tertiariis in communi viventibus, requiritur praeterea ut a supremo Moderatore primi Ordinis suae religioni aggregentur." The expression referring to "founding of religious congregations" (*condere possunt*) in c. 492, §1 of the 1917 Code might cause a confusion. However, the context of the canon points clearly to a juridical act of the competent ecclesiastical authority formally establishing a religious institute (the Holy See for religious institutes of pontifical right or the diocesan bishop for religious institutes of diocesan right), and not the "charismatic foundation," that is an action of a person (persons) who has (have) started a community in view of having it eventually raised to the status of a religious institute.

²⁹ The term "quality of members" refers to the demand that they meet requirements of universal and proper law, e.g., sound mind, ability of discernment, right intention, mature personality (self-initiative and self-determination for various activities relating to their life in the institute), good physical health, ability to live community life and to observe the evangelical counsels.

³⁰ Ordinarily, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL) requires the number of members is about forty (40) professed of whom the major part are in perpetual vows for an association to be erected as an institute of diocesan right. Cf. CONGREGATION FOR THE EVANGELIZATION OF PEOPLES, Requirements for the Erection of a Religious Institute of Diocesan Rite,

institute's financial stability,³¹ the abilities to attract new members to maintain and keep its charism, spirit and end,³² etc. Normally, the approval of the constitutions occurs at the time of erection of the institute.³³ Before approving the constitutions, however, the bishop must send "six copies of the text of the Constitutions and the Directory, revised in accord with the Code of Canon Law"³⁴ and "two copies of the books of prayers of the Congregation"³⁵ to the competent dicastery for consultation.

The Congregation for the Institutes of Consecrated Life and the Societies of Apostolic Life "[...] aware that every new Institute of consecrated life, even if it comes to light and develops within a particular Church, is a gift granted to all the Church, and acknowledging the need to avoid the erection at diocesan level of new Institutes without sufficient discernment to ascertain the originality of the charism [...]"³⁶ saw a need for a clear determination of the obligation established by canon 579 of the Code. Therefore,

[...] following the advice of the Pontifical Council for Legislative Texts, the Holy Father Francis, in the audience granted to Cardinal Secretary of State Pietro Parolin on 4 April 2016, decreed that the prior consultation of the Holy See is to be considered necessary *ad*

rescript [private], n.d., in F.S. PEDONE and P.D. COUNCE [eds.], *Roman Replies and CLSA Advisory Opinions 2006*, Washington, DC, CLSA, 2006, 15.

³¹ The text does not mention finances, it would seem the potential institute should have financial stability to maintain institute and decent support and social security for all members of the institute in accord with canon 670.

³² See MCDERMOTT, *Consecrated Life*, 11.

³³ See MCDERMOTT, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," 754.

³⁴ CONGREGATION FOR THE EVANGELIZATION OF PEOPLES, Requirements for the Erection of a Religious Institute of Diocesan Rite, 15.

³⁵ *Ibid.*

³⁶ In <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2016/05/20/160520b.html>. The rescript, signed by Cardinal Secretary of State, Pietro Parolin on 11 May 2016, was to be promulgated by its publication in *L'Osservatore Romano*, entering into force on 1 June, and later published in AAS, 108 (2016), 584-585.

validitatem for the erection of a diocesan Institute of consecrated life, and that the lack thereof shall invalidate the decree for the erection of the same Institute.³⁷

Four years later, however, in his Apostolic Letter *Motu Proprio* Amending Canon 579 of the Code of Canon Law *Authenticum charismatis*, 1 November 2020, Pope Francis further changed the norm, requiring now prior permission (*praevia licentia*) of the Holy See:

The act of canonical erection by the Bishop transcends the solely diocesan sphere and makes it relevant to the wider horizon of the universal Church. In fact, by its very nature, every Institute of Consecrated Life or Society of Apostolic Life, even if it has arisen in the context of a particular Church, “as a gift to the Church, is not an isolated or marginal reality, but deeply part of her. It is at the very heart of the Church, a decisive element of her mission” (Letter to Consecrated Persons, III, 5).

With this in mind, I have decided to modify can. 579, which is replaced by the following text:

Episcopi dioecesani, in suo quisque territorio, instituta vitae consecratae formali decreto valide erigere possunt, praevia licentia Sedis Apostolicae scripto data.³⁸

One can expect that what was previously required for the *nihil obstat*, will continue for obtaining the permission. It was the Congregation for Institutes of Consecrated Life that gave the *nihil obstat*. However, for exclusively missionary institutes, the Congregation for the Propagation of the Faith has jurisdiction and for Eastern-rite institutes, it is the Congregation for the Oriental Churches. In these latter cases, there was consultation among the Vatican dicasteries involved.

³⁷ Ibid.

³⁸http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20201101_authenticum-charismatis.html (10 November 2020).

After receiving the permission from the Apostolic See, the diocesan bishop approves the constitutions.³⁹ Once the diocesan bishop approves the institute's constitutions, he is recognizing and declaring authentic the gift of the Spirit which is now recognized and protected by the Church.⁴⁰

2.1.2. Confirmation of Changes in the Constitutions – Canon 595, §1

The Second Vatican Council, in the spirit of renewal called for each religious institute to revise its constitutions, especially in view of theological and spiritual elements which might have been lacking or out-of-date, certain inflexible or inapplicable norms, unacceptable jargon and/or uncanonical terms, in order to adapt the fundamental law of an institute to new insights, new demographic situations, and new needs of the time and place.⁴¹ Reflecting on the conciliar call, Jesus Torres highlights the necessity of revising the constitutions by stating: “Each institute should discern, in the light of the doctrine and history of the Church, of the teaching of the founder and of its own history, the elements which are basic, those specific to the institute and those which, on the other hand, are changeable or even ‘obsolete.’”⁴²

Regarding the revision of the constitutions, the universal law does not expressly

³⁹ See c. 595, §1; cf. cc. 576; 587, §2.

⁴⁰ Cf. c. 577; see also J.P. TORRES, “Ecclesiastical Approval of Constitutions-Meaning and Scope,” in *Consecrated Life*, 9 (1984), 124.

⁴¹ See CD, no. 35:1, in AAS, 58 (1966), 691, *FLANNERY1*, 584; *ES I*, no. 28, in AAS, 58 (1966), 770-771, *FLANNERY1*, 605-606; *ES II*, no. 14, in AAS, 58 (1966), 777, *FLANNERY1*, 625; *ET*, no. 5, in AAS, 63 (1971), 500, *FLANNERY1*, 682.

⁴² TORRESS, “Ecclesiastical Approval of Constitutions-Meaning and Scope,” 123.

define the competent authority to do so and the manner of proceeding. It leaves to the proper law of each institute to determine it. It is rather clear that the competent authority must be the general chapter which has the primary juridic function of legislating for the entire institute (see c. 631, §1). As for the manner of balloting, it depends on each institute. According to McDermott: “subsequent changes in the constitutions are to be accepted by the members of the institute as reflected by a two-third majority vote of the general chapter.”⁴³ However, it could also be decided by an absolute majority of affirmative votes of the Capitulars in the general chapter.⁴⁴

After reaching the required majority of affirmative votes, the institute must send to the diocesan bishop of the principal seat a petition for confirmation of those changes, together with the revised text (see cc. 595, §1; 587, §2).⁴⁵ The bishop has the authority to confirm changes legitimately introduced into the constitutions, except in matters in which the Apostolic See has intervened (c. 595, §1). McDermott notes: “If the Apostolic See intervenes or approves certain measures for an institute of consecrated life, neither the diocesan bishop nor the internal authorities of the institute can approve or effect changes in the same without authorization from the Apostolic See.”⁴⁶

In accord with the principle of subsidiarity, religious institutes have besides the constitutions some other codes to be obeyed by all, which are sometimes called “statutes”

⁴³ MCDERMOTT, *Consecrated Life*, 48.

⁴⁴ See THE CONGREGATION OF THE DOMINICAN SISTERS OF SAINT ROSE OF LIMA, *Directory*, Hồ Chí Minh City, 2017 (=CDSSRL, *Directory*), art. 137.1, 74-75.

⁴⁵ MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 755.

⁴⁶ MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 751.

or “directories.” Their enactment and approval is reserved to the competent authority of the institute, namely, the general chapter (see cc. 631, §1; cf. 587, §4).⁴⁷ These statutes or directories may not contradict either the universal law or constitutions of the institute.⁴⁸ In particular, directories interpret in detail and clarify the practical application of the norms of the constitutions.

2.1.3. Dispensations from the Norms of the Constitutions – Canon 595, §2

Canon 595, §2 states:

A diocesan bishop can grant dispensations from the constitutions in particular cases.⁴⁹

The canon does not determine which dispensations are reserved to the diocesan bishop of principal seat. Since this chapter focuses on the authority of the diocesan bishop of the principal seat, the authority of the local diocesan bishop in dispensing from the constitutions of the institute will be discussed in Chapter Three. According to McDermott, in matters affecting the entire institute, the competent authority to dispense is the diocesan bishop of the principal seat who approves the constitutions of the institute.⁵⁰ The author agrees with McDermott since a local diocesan bishop has no authority over the entire religious institute of diocesan right. His authority is limited to the institute’s house(s) which are located in his diocese (see cc. 628, §2, 2^o; 683, §1; 637; 638, §4; 672; 285, §4; 630, §3;

⁴⁷ See *ibid.*, 755.

⁴⁸ See MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 754; see also *Id.*, “The Vigilance of the Diocesan or Eparchial Bishop,” 9-10.

⁴⁹ Canon 595, §2: “Episcopus dioecesanus potest dispensationes a constitutionibus concedere in casibus particularibus.”

⁵⁰ See MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 761.

567, §1; 673-683) and to members who are assigned to those house(s) (see cc. 686, §1; 686, §3; 688, §2; 691, §2; 700).

The diocesan bishop of the principal seat may dispense from the disciplinary norms of the constitutions, for instance, referring to the observance of fast and abstinence⁵¹ on the profession day. It should be kept in mind that he cannot dispense from constitutive, procedural, penal laws or those laws from which the dispensation is reserved to the Apostolic See (see cc. 1078, §2; 1090; etc.) or some other authority (see cc. 688, §2; 691, §2).⁵² John McIntyre notes that the diocesan bishop of the principal seat is not free to dispense from the observance of the three vows of poverty, chastity, and obedience.⁵³ He can give a dispensation *only* for the “spiritual good” of the religious and for a just and reasonable cause.⁵⁴

2.2. The Prerogatives of a Diocesan Bishop with regard to Governance of the Institute

The Church acknowledges the autonomy of life for each institute which means that an institute possesses its own governance and discipline.⁵⁵ In such matters, the chapters and superiors possess power over the members of the institute, described in the universal

⁵¹ See CDSSRL, *Constitutions*, art. 59, 26; cf. CDSSRL, *Directory*, art. 47, 36.

⁵² See cc. 86-87.

⁵³ J.P. MCINTYRE, “Dispensations (cc. 85-93),” in *CLSA Comm2*, 130.

⁵⁴ See cc. 87, §1; 90, §1.

⁵⁵ See c. 586, §1.

law and the proper law of the institute.⁵⁶ However, those matters that extend beyond the authority of the chapters and superiors of the institute and affect the entire institute must be addressed by the diocesan bishop of the principal seat.⁵⁷ Such major affairs would seemingly be infrequent, but they could regard transferring the principal house of a religious institute to another diocese, merging or uniting with another religious institute or institutes,⁵⁸ and presiding at the election of the supreme moderator.⁵⁹ However, the law determines that the diocesan bishop of the principal seat must consult the diocesan bishops of the dioceses where the houses of the institute are located⁶⁰ since these diocesan bishops also have certain responsibilities toward the houses and members of the institute according to the norms of law.⁶¹ The law requires the consultation, but not the consent, therefore the bishop of the principal seat can act once he has consulted the other diocesan bishops. After making the decision, the bishop of the principal seat should share it with other consulted bishops.

2.2.1. Transfer of the Principal House of an Institute to Another Diocese

The previous Code treated the matter of establishing houses in the dioceses other than the one in which the principal house was located in c. 495, §1: “A religious

⁵⁶ See cc. 618-619; 631- 632.

⁵⁷ See c. 595, §1.

⁵⁸ Canon 582; see MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 754; see also ID., “The Vigilance of the Diocesan or Eparchial Bishop,” 10.

⁵⁹ See c. 625, §2.

⁶⁰ See c. 595, §1.

⁶¹ See cc. 628, §2, 1^o-2^o; 637; 638, §4; 686, §3; 688, §2; 691, §2; 700.

Congregation of diocesan right cannot constitute houses in another diocese, except with the consent of both Ordinaries, both of the place where there is the principal house and of the place where it wishes to go; the local Ordinary from which it leaves, however, shall not deny this consent except for grave cause.”⁶² However, the *ius vigens* does not explicitly mention the transferring of a religious institute’s house nor the transferring of the principal house⁶³ of a religious institute of diocesan right from one diocese to another.

Stephen Quinn states that the transfer of the principal house of an institute to another diocese would require the permission of the two diocesan bishops.⁶⁴ He explains that the permission of the diocesan bishop where the principal house is located (diocesan bishop *a quo*) is needed, since he could “reasonably oppose any such change when it entails the loss of special rights and duties in relation to the institute.”⁶⁵ Likewise, the consent of the diocesan bishop *ad quem* is required, because he “thereby assumes towards the institute the special rights and duties relinquished by the first ordinary.”⁶⁶ It should be noted that the transfer should be studied carefully by the two bishops and the chapter and major superiors of the religious institute in order to determine the wisdom of this move and its practical advantages/disadvantages. The transfer does not require the permission or the

⁶² *CIC/17*, c. 495, §1: “Congregatio religiosa iuris dioecessani in alia dioecesi domos constituere non potest, nisi consentiente utroque Ordinario, tum loci ubi est domus princeps, tum loci quo velit commigrare; Ordinarius autem loci unde excedit, consensum sine gravi causa ne deneget.”

⁶³ Fanfani and O’Rourke provide a useful determination that the principal house is the house where the supreme moderator or superior general habitually resides (see L.G. FANFANI and K. O’ROURKE, *Canon Law for Religious Women*, Dubuque, IA, The Priory Press, 1961, 32).

⁶⁴ See S. QUINN, *Relation of the Local Ordinary to Religious of Diocesan Approval*, Canon Law Studies, no. 283, Washington, DC, The Catholic University of America Press, 1949, 70.

⁶⁵ Ibid.

⁶⁶ Ibid.

recognitio from the Apostolic See since it is treated just like an internal reorganization of the religious institute. However, the institute should inform the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life of the new address of the principal house so that necessary changes in its records can be properly effected.⁶⁷

2.2.2. Merger or Union with Another Institute or Institutes – Canon 582

A merger takes place when one or more institutes are absorbed by another institute. After the merger, the identity of the joining institute(s) is suppressed; only the receiving institute's entity and identity exists.⁶⁸ The joining institute(s) takes on the receiving institute's identity and proper law. A union, however, takes place when two or more institutes unite together. The institutes lose their identity and form a new institute with a new name and proper law.⁶⁹

⁶⁷ E.L. AYUBAN, *Selected Canonical Issues Related to Religious Life, Vol. 2: Practical Cases, Questions and Answers*, Quezon City, Claretian Communications Foundation, 2016, 108.

⁶⁸ See O'HARA, "Norms Common to All Institutes of Consecrated Life – Canons 573-606," 39. See also HOLLAND, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," 458; WILLIAMSON, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," 321; McDERMOTT, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," 750; T. RINCÓN-PÉREZ, "Commentary on Canon 582," in *Exegetical Comm*, vol. 2/2, 1492; M. BAIR and J. HITE, "The Merger and Union of Religious Institutes," in COGAN (ed.), *Selected Issues in Religious Law*, 51; S. HOLLAND, "New Institutes, Merger, and Suppression," in *Procedural Handbook for Institutes of Consecrated Life and Societies of Apostolic Life*, Washington, DC, CLSA, 2001, 44.

⁶⁹ See CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, *Union of Several of Religious Institutes*, rescript (private), n.d., in J.J. KOURY and M.V. SHIOBHAN [eds.], *Roman Replies and CLSA Advisory Opinions 2007*, Washington, DC, CLSA, 2007, 15-17. See also O'HARA, "Norms Common to All Institutes of Consecrated Life – Canons 573-606," 39. See also HOLLAND, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," 458; WILLIAMSON, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," 321; McDERMOTT, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," 750; RINCÓN-PÉREZ, "Commentary on Canon 582," 1492; BAIR and HITE, "The Merger and Union of Religious Institutes," 51; HOLLAND, "New Institutes, Merger, and Suppression," 44.

Regarding the merger and union, the Council Fathers called for the religious institutes who were seeking a merger or union to take into consideration some other religious institutes “whose aims and spirit differ little from their own”⁷⁰ in order to create a flourishing new entity.⁷¹ Holland, Williamson, McDermott, Rincón-Pérez, Bair and Hite also suggest that the religious institutes which are seeking a merger or union should take into consideration the questions of nature, spirit, and purpose of each entity to make sure that those religious institutes can adjust to life together.⁷² Additionally, Bair and Hite⁷³ point out to some specific factors that should be taken into account, such as the way of life,⁷⁴ spirituality,⁷⁵ and recognized ministries of the institutes,⁷⁶ their structures of

⁷⁰ *PC*, no. 21: “[...] quod fine et spiritu haud multum differat [...]” in *AAS*, 58 (1966), 711, *FLANNERY1*, 622; cf. *ES II*, no. 41, in *AAS*, 58 (1966), 782, *FLANNERY1*, 632. Reflecting on the teachings of the Council, Rincón-Pérez goes a step further by commenting that normally, “the united institutes have the same founder, but there can be unions between institutes that have different founders” (RINCÓN-PÉREZ, “Commentary on Canon 582,” 1493).

⁷¹ *ES II*, no. 41, in *AAS*, 58 (1966), 782, *FLANNERY1*, 632. Cf. *PC*, no. 21, in *AAS*, 58 (1966), 711, *FLANNERY1*, 622.

⁷² See HOLLAND, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 451; see also WILLIAMSON, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 321; MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 750; RINCÓN-PÉREZ, “Commentary on Canon 582,” 1492; BAIR and HITE, “The Merger and Union of Religious Institutes,” 51.

⁷³ See BAIR and HITE, “The Merger and Union of Religious Institutes,” 51-52.

⁷⁴ According to Bair and Hite, the following questions should be taken into account in this regard: “Has the institute lived in small or large communities or both? What are the personnel policies? Are assignments usually initiated by the community or the individual or are both allowable? What is the understanding and norms regarding the vow of poverty? Is the custom to have individual budgets or allowances?” (*ibid.*, 51).

⁷⁵ Regarding the spirituality, Bair and Hite remark that some religious institutes, e.g., Benedictine, Carmelite, Franciscan, etc. which have a common spiritual tradition and heritage may experience little difficulty when they join together (*ibid.*).

⁷⁶ Bair and Hite note some particular concerns here: “Are the ministries more institutional or non-institutional? Is there a tradition of being educated for the ministries of health care, education, etc.? Is ministry focused on a particular group such as the poor, uneducated, unchurched, rural or racial or ethnic background?” (*ibid.*).

government, size,⁷⁷ civil law organization, and finances,⁷⁸ and also differences in culture and geographical location.⁷⁹ Another aspect of restructuration calls for special attention given to possible psychological effects on members of the units joined into a merger or union.⁸⁰

In considering a petition for a merger or union, the CICLSAL requests⁸¹ that there be a suitable preparation of those whose lives will be affected by the merger or union:⁸² a period of study, prayer, and careful discernment on the part of the members.⁸³ The freedom of each member of the amalgamating institutes must be respected in making the decision

⁷⁷ The size of the institute is an important factor that may affect the governance. Normally, a large institute may tend to dominate in a merger or union. Consequently, members of the merged or united institutes may have “a feeling of a lack of participation or voice or loss of identity” (ibid., 52).

⁷⁸ Regarding the temporal goods, Holland emphasizes that both institutes must observe canon law, the intention of the benefactors, and civil law. She also advocates paying special attention to “[...] the manner and timing of changing civil titles of ownership and making necessary changes in civil documents of incorporation for the institute and for apostolic works separately incorporated civilly” (HOLLAND, “New Institutes, Merger, and Suppression,” 44).

⁷⁹ Geography factor has its importance since it may cause difficulties in case of transfers to another region of the country or to a foreign country (see BAIR and HITE, “The Merger and Union of Religious Institutes,” 52).

⁸⁰ Psychological effects may include “[...] experiencing the death of a part of self, facing an unknown future, being accountable to new leadership or need to change a way of life [...]” (ibid.). Cf. *ES II*, no. 39, in *AAS*, 58 (1966), 781-782, *FLANNERY I*, 632.

⁸¹ See HOLLAND, “New Institutes, Merger, and Suppression,” 46; see also BAIR and HITE, “The Merger and Union of Religious Institutes,” 52-53.

⁸² See ibid., 52. Bair and Hite point to some practical steps in the preliminary process of seeking merger or union: all involved religious institutes should be engaged to help their members to get to know and understand each other on a person-to person basis, namely, through “exchange of newsletters, reports (on ministry and finances), join meetings of leadership (councils and parallel administrative offices) and formation personnel, presentations (oral and audio-visual) on the charism and tradition of the institutes, inter-community visits, join times of recollection retreat or vacation, informal discussions and dialogues, study of substance and style of constitutions and proper law and sharing personnel openings.” They also stress another important factor, that is, to “give the members of the institute an opportunity to express their fears and expectations regarding a union and merger” (BAIR and HITE, “The Merger and Union of Religious Institutes,” 54. See MCDERMOTT, *Consecrated Life*, 29).

⁸³ See BAIR and HITE, “The Merger and Union of Religious Institutes,” 53; see also MCDERMOTT, *Consecrated Life*, 29.

to be part of the merger or union, or to transfer to another religious institute/secular institute/society of apostolic life (see c. 684), or to request an indult of departure (see c. 688 for religious in temporary profession; c. 691 for perpetually professed).⁸⁴ In addition, a secret formal vote of the members of the amalgamating institute(s) is needed.⁸⁵ The law does not expressly demand a two-thirds majority vote or an absolute majority of affirmative votes in merging and union. Because of the importance of the matter, on the vote of the members regarding entering a union, Holland comments:

It is the general practice that there must be a two-thirds vote in favor of union in the general chapter for an institute to continue to move forward toward a formal petition. After the chapters, there will be continuing preparations which, at a certain point, must include a new a consultation with every member in order to know his or her intention in the face of an eventual union. In this case, it is the practice of the Holy See to consider a petition only if at least 80% of the members express themselves in favor of being a part of the new institute to be created by the union.⁸⁶

However, in a private rescript (2007), the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life accepted an absolute majority of affirmative votes.⁸⁷ For the vote regarding entering a merger, it is as in the cases of union

⁸⁴ See BAIR and HITE, “The Merger and Union of Religious Institutes,” 53. Cf. *ES II*, no. 40, in AAS, 58 (1966), 782, *FLANNERY I*, 632.

⁸⁵ See BAIR and HITE, “The Merger and Union of Religious Institutes,” 53. See also E.M. O’Hara, “Issue of Aggregation, Merger and Dissolution,” in *CLSA Proceedings*, 49 (1987), 163. HOLLAND, “New Institutes, Merger, and Suppression,” 43.

⁸⁶ HOLLAND, “New Institutes, Merger, and Suppression,” 45.

⁸⁷ See CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, *Union of Several of Religious Institutes*, 17.

mentioned above.⁸⁸ It much depends on the determination of the proper law of each institute.

For mergers, the CICLSAL require the following documents:

For an institute asking for a merger:

1. Petition of the Superior General.
2. Brief history of the Institute (not more than two pages).
3. List of the members: name, surname, age, date of temporary, perpetual profession and their ministry.
4. List of the houses and of the dioceses in which the religious are living.
5. Motives for requesting merger.
6. Results of voting (referendum): in favor and against.
7. Intention of those voting against merger of their Institute.⁸⁹

For an institute accepting a merger:

1. Letter of the Superior General.
2. Minutes of the General Chapter or General Council, accepting merger.
3. Brief history of the institute (not more than two pages).
4. Number of sisters in perpetual and temporal profession, novices and postulants; average age of the perpetually professed; number of the houses and the name of the dioceses in which the religious are living.⁹⁰

For both institutes:

1. Process toward merger: preparation of the members.
2. A preliminary agreement regarding the disposition of temporalities according to the norms of canon and civil law.⁹¹

⁸⁸ Although, strictly speaking, the rescript of CICLSAL concerns unions of religious institutes, it is also applied to merger cases since the CICLSAL addresses the similar issues related to “the protection of the rights of the members” (BAIR and HITE, “The Merger and Union of Religious Institutes,” 55).

⁸⁹ CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, *Merger of Religious Institutes: Documents Required*, in F.S. PEDONE and J.I. DONLON [eds.], *Roman Replies and CLSA Advisory Opinions 2002*, Washington, DC, CLSA, 2002, 8.

⁹⁰ Ibid.

⁹¹ Ibid.

Both mergers and unions with another institute or institutes⁹² are exclusively reserved to the Apostolic See (c. 582). Regarding the merger and union of religious institutes of diocesan right, the law does not expressly require the *nihil obstat* of diocesan bishop(s), but in practice of CICLSAL, the *nihil obstat* of the diocesan bishops concerned is requested.⁹³ Surely, the diocesan bishop of the principal seat must be involved in carefully considering the importance of the charism, the way of life, cultural, spiritual, and financial factors, as well as the apostolate of the institute being merged or united. *Ecclesiae Sanctae II*, no. 40 notes that the most important issues that the diocesan bishop of the principal seat is to take into account are the specific character of each institute and the question of safeguarding the freedom of individual members.⁹⁴ The bishop is to be assured that the institutes being merged or united are not significantly different in spirit, nature, goals, culture, apostolate, etc. Furthermore, he must assure that the merging or uniting institute has financial stability and a preliminary financial agreement is made with the institute or institutes to which it merges or unites. The diocesan bishop of the principal seat may consult⁹⁵ with other bishops of the dioceses in which the houses of the institutes are situated. Then he is to send his opinion concerning the merger or union to the CICLSAL. The CICLSAL respects the opinion of the diocesan bishop of the principal seat of the

⁹² Whether of pontifical or diocesan right.

⁹³ See CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, *Merger of Religious Institutes: Documents Required*, 8.

⁹⁴ See *ES II*, no. 40, in *AAS*, 58 (1966), 782, *FLANNERY I*, 632.

⁹⁵ This consultation is not required by law.

institute,⁹⁶ and before granting permission for the merger or union,⁹⁷ requires that the diocesan bishop of the principal seat of the institute give his *nihil obstat*. Once the CICLSAL grants the permission for the merger or union, all the religious forming part of the new institute “remain in the same condition of religious profession in which they are at present and a new religious profession is not required.”⁹⁸

2.2.3. Presiding at the Election of the Supreme Moderator – Canon 625, §2

The *ius vigens* requires that the supreme moderator⁹⁹ of a religious institute be designated by canonical election according to universal law¹⁰⁰ and the norm of the constitutions.¹⁰¹ The supreme moderator is elected by the electors in the general chapter.¹⁰²

⁹⁶ See BAIR and HITE, “The Merger and Union of Religious Institutes,” 54.

⁹⁷ See McDERMOTT, *Consecrated Life*, 28-29.

⁹⁸ CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, *Union of Several of Religious Institutes*, 17.

⁹⁹ Canon 622 defines the supreme moderator as one who “holds power over all the provinces, houses, and members of an institute; this power is to be exercised according to proper law.” In some religious institutes the title “supreme moderator” is substituted with other names, e.g., superior general, president, minister general, prioress general, etc. One should distinguish carefully between two different terms: “the major superior” mentioned in canon 620 and “supreme moderator” in canon 622. The term “major superior” includes not only those who govern an entire institute, but also those who govern a province of an institute or part equivalent to a province, or an autonomous house, as well as their vicars. It should be kept in mind that all supreme moderators are major superiors, but not all major superiors are supreme moderators.

¹⁰⁰ Canonical election requires that for a vote to be valid, it must be secret, certain, absolute, determined (c. 172, §1, 2°); free (see cc. 170; 172, §1, 1°). It should be noted that the election is invalid if more than one-third of the electors were overlooked (see c. 166, §3), a person who did not belong to the college or group has been admitted to vote (see c. 169), the number of votes exceeded the number of electors (see c. 173, §3); or the election was a result of simony (see c. 149, §3).

¹⁰¹ See c. 625, §1. The proper law of each institute defines particular norms regarding the election of the supreme moderator, such as the length of term for the office, the qualifications necessary to be eligible for office, the size and composition of the electoral body, the manner of balloting, the detailed process of election, and the like (see R. SMITH, “Election of Major Superiors,” in COGAN [ed.], *Selected Issues in Religious Law*, 18). If the proper law of the institute does not determine provisions on election, then the canons 119, 1°; 165-179 will be observed. Cf. *CIC/17*, cc. 160-182.

¹⁰² See c. 631, §1. Cf. *CIC/17*, c. 507, §1.

The electors must consciously (cf. c. 626), freely (cc. 170; 172, §1, 1°), and responsibly cast their ballots for the person whom they believe to be most worthy and suitable (cf. c. 626). Smith remarks that if the electors carry out their task in this spirit, the election itself becomes “an act of worship of God and a means of expressing truth, witnessing to unity, and participating in the construction of the future.”¹⁰³

For religious institutes of diocesan right, c. 625, §2 states that the diocesan bishop of the principal seat presides at the elections of the supreme moderator. This provision repeats the norm the 1917 Code stated in c. 506, §4: “The Ordinary of the place in which the election is conducted presides, personally or through another, over the general election of the Superioress in Congregations of women if it concerns a Congregation of diocesan right, [and it is for him] to confirm the election results or to rescind it as an action of conscience.”¹⁰⁴ It should be noted that the *ius vigens* expressly specifies that the right and obligation to preside at the elections of the supreme moderator belongs to “the diocesan bishop of principal seat,” and not to the bishop of the place in which the election is conducted. Thus, the diocesan bishops of the dioceses where the other houses of the institute are located, coadjutor, auxiliary, retired bishops, the vicars general or episcopal vicars are excluded, unless they are delegated by the diocesan bishop of principal seat (see cc. 134, §3 and 137, §1). In addition, the responsibility of presiding at elections no longer entails the right to confirm or rescind the result of the election as defined by the previous

¹⁰³ SMITH, “Election of Major Superiors,” 20.

¹⁰⁴ *CIC/17*, c. 506, §4: “In mulierum Congregationibus electioni Antistitae generalis praesideat per se vel per alium Ordinarius loci, in quo electio peragitur; cui, si agatur de Congregationibus iuris dioecesiani, peractam electionem confirmare vel rescindere integrum est pro conscientiae officio.”

Code.¹⁰⁵ Commenting on these rights, Smith highlights that “if such discretionary power were to be accorded, it now would have to come from the proper law of the institute itself.”¹⁰⁶

Presiding over the election of the supreme moderator of the religious institute of diocesan right is *an obligation* and *a right* of the diocesan bishop of the principal seat¹⁰⁷ since he has competence to deal with certain matters that affect the entire institute and that transcend the power of internal authority (c. 595, §1). He exercises the special care over religious institutes of diocesan right, both men and women, which he or his predecessor recognized and erected according to the norm of canon 579. The bishop’s function at the election of the supreme moderator is to see that the canonical procedure is observed carefully in keeping with the general norms for election provided in the universal law¹⁰⁸ and the proper law of the institute.¹⁰⁹

At such elections, the bishop is to preside personally or through a delegate he appoints, if he cannot fulfill this canonical obligation.¹¹⁰ McDermott spells out that the delegate can be a cleric, a religious brother or sister, or a member of laity. However, the

¹⁰⁵ See c. 625, §2. See also *CIC/17*, c. 506, §4.

¹⁰⁶ SMITH, “Election of Major Superiors,” 18.

¹⁰⁷ See D.J. ANDRÉS, “Commentary on Canon 625,” in *Exegetical Comm*, vol. 2/2, 1645.

¹⁰⁸ See cc. 165-179.

¹⁰⁹ See MCDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 12.

¹¹⁰ See HITE, “The Governance of Institutes (cc. 607-640),” 479. See also SMITH, “The Governance of Institutes (cc. 607-640),” 786; ANDRÉS, “Commentary on Canon 625,” 1645.

most suitable delegate for this task would be the episcopal vicar for religious.¹¹¹ She stresses further that the bishop or his delegate does not interfere in the process of the election, but “makes certain that the process is carried out validly and licitly.”¹¹² Ghirlanda emphasizes that the bishop or his delegate must respect the autonomy of life and governance of the institute described in canon 586, §1 and any interference which would limit the freedom and autonomy of life and governance would be considered an abuse of power.¹¹³ McDermott adds that in order to perform this obligation of oversight, it is important that the bishop or his delegate be “familiar with the electoral process not only in the universal law, but also in the proper law of the diocesan right institute.”¹¹⁴ Once a member accepts the election, the bishop or his delegate’s presidency ceases.¹¹⁵ The elected supreme moderator presides at any other election of officers of the institute in accord with the norms of the proper law.¹¹⁶

CONCLUSION

Within the scope of his authority with regard to an institute of diocesan right concerning the affairs beyond the competence of the chapters and superiors, the diocesan bishop of the principal seat has the competency to approve the constitutions, confirm

¹¹¹ See R. McDERMOTT, “*Apostolorum successores* and the Episcopal Vicar for Consecrated Life,” in *Studia canonica*, 39 (2005), 248, footnote, no. 49.

¹¹² McDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 12.

¹¹³ See GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 56.

¹¹⁴ McDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 12.

¹¹⁵ See GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 56.

¹¹⁶ See *ibid.*

legitimate changes in the constitutions, and give dispensations from the norms of the constitutions. Before granting such approbation or confirmation, the diocesan bishop must carefully examine the intentions and the dispositions of the founder(s) or foundress(es), the nature, purpose, spirit, character, and sound tradition of the institute as well as other essential elements stated in canon 587, §1. He also needs to follow the procedures required by CICLSAL. It should be kept in mind that the approval of constitutions is now granted only after receiving the permission from CICLSAL. However, there is no need for a consultation with the CICLSAL when there is a question of confirming the legitimate changes in the constitutions (c. 595, §1). Regarding granting a dispensation from the norms of the constitutions, the law demands that the diocesan bishop grant dispensations for the spiritual good of the institute in particular cases for a just and reasonable cause (see cc. 87; 90; 595, §2).

In addition, the law determines the competency of the diocesan bishop of the principal seat in matters of treatment of affairs of greater importance that exceed the power of the internal authority of an institute of diocesan right. Such major affairs would include transferring of the principal house of a religious institute to another diocese, merging or uniting with another religious institute or institutes (c. 582), and presiding at the election of the supreme moderator (c. 625, §2).

CHAPTER THREE

THE AUTHORITY THE DIOCESAN BISHOP REGARDING THE SUBJECTION OF THE RELIGIOUS INSTITUTE OF DIOCESAN RIGHT TO HIS SPECIAL CARE: CANON 594

INTRODUCTION

Chapter Three will examine the authority of the local diocesan bishop regarding the subjection of the religious institute of diocesan right to his special care as per canon 594. This chapter will be divided into two parts. The first part concentrates on the authority of the diocesan bishop over the institute and addresses issues related to: (1) organizational structures of the institute, i.e., erection of religious institute of diocesan right (c. 579), erection of the house of a religious institute (c. 609, §1) and suppression of the legitimately erected house of a religious institute (c. 616, §1); (2) internal affairs of the institute, i.e., interpreting the evangelical counsels (c. 576), establishment, dedication and blessing of an oratory and converting it to profane use (cc. 1223; 1206-1207; 1224, §2), appointment of confessors and chaplains (cc. 630, §3, 567, §1), and visitation of individual religious houses (c. 628, §2, 2^o); (3) apostolate of the religious institute, i.e., entrusting works of religion or charity to a religious institute (cc. 675-677; 681-682), subjection of members of religious institutes to the power of diocesan bishop in exercising external apostolate (cc. 678, 680-682), establishment of schools by religious institutes (c. 801), visitation of works of apostolate or charity (c. 683, §1), and cooperation and coordination under the direction of the diocesan bishop of the works and apostolic activities of individual institutes (c. 680); and (4) administration of temporal goods of a religious institute, i.e., financial reports (c. 637), alienation of temporal goods (c. 638, §4), and pious foundations entrusted to a

religious institute (c. 1304). In this regard, related canons and the conciliar and post-conciliar sources will also be studied.

The second part of the chapter will examine the authority of the local diocesan bishop over individual religious in a religious institute of diocesan right, which address issues related to: (1) religious life of a particular member, i.e., dispensations from the constitutions in particular cases (c. 595, §2), the permission for management of the goods of lay persons (cc. 672; 285, §4), the prohibition from residing in the diocese (c. 679), the extension of an indult of exclaustation or granting it for more than three years (c. 686, §1), the confirmation of the indult of departure of a temporarily professed religious (c. 688, §2), the granting of the indult of departure of a perpetual professed religious (c. 691, §2), the confirmation of the decree of dismissal (c. 700); and (2) works of apostolate and charity of an individual member, i.e., conferring an ecclesiastical office on a religious (cc. 681-682), granting the mandate to teach theological subjects in institutes of higher studies (c. 812), permitting the publication of writings and the use of instruments of social communication dealing with questions of religion and morals (823-824; 826-827; 831, §1), begging for pious purposes (c. 1265, §1), and administering pious trusts (c. 1302). As in the first part, related canons and the conciliar and post-conciliar sources will also be taken into consideration.

3.1. Authority of the Diocesan Bishop over the Institute

The law determines that the diocesan bishop of the dioceses where the houses of the institute are located has certain authority and exercises vigilance in particular matters

pertaining to the institute that exceed the competence of authorities of the religious institutes of diocesan right. This authority and vigilance are granted in order to protect the rights and encourage the responsibilities of both the diocesan bishop and the institute regarding its organizational structures, internal affairs, and apostolate.

3.1.1. Organizational Structures of the Institute

A religious institute is a visible society with an organizational structure (see c. 607, §2). The essential element of its structure is lawful authority (see cc. 631-632; 596; 617-619; 627), established in order to govern the institute and to direct or guide their members to the attainment of the purpose of the institute. Since religious institutes are part of the local Church, they cannot be considered as independent from the authority of the diocesan bishop.¹ Therefore, in order to clarify the authority of the diocesan bishop regarding the subjection of the religious institutes of diocesan right to his special care as per canon 594, this section will examine the competence of the diocesan bishop in dealing with erection of institutes of diocesan right (see c. 579, rescript *Ex audientia*² and *Authenticum charismatis*³), erection of the house(s) of religious institute (see c. 609, §1), and suppression of the erected house of a religious institute (see c. 616, §1).

¹ See *MR*, no. 36, in *AAS*, 70 (1978), 494, in *CLD*, vol. 9, 325. Cf. *CD*, no. 34, in *AAS*, 58 (1966), 690, *FLANNERY*1, 584.

² FRANCIS, Rescript *Ex audientia*, 11 May 2016 (=EU), in *AAS*, 108 (2016), English translation in https://www.vatican.va/roman_curia/secretariat_state/parolin/2016/documents/rc_seg-st_20160511_parolin-rescritto-can579cdc_en.html (20 August 2018).

³ FRANCIS, Apostolic Letter *Motu Proprio* Amending Canon 579 of the Code of Canon Law *Authenticum charismatis*, 1 November 2020 (=AC), in *L'Osservatore Romano*, English edition, 6 November 2020, http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20201101_authenticum-charismatis.html (10 November 2020).

3.1.1.1. Erection of a Religious Institute of Diocesan Right – Canon 579, Rescript *Ex audientia* of 11 May 2016 and *Authenticum charismatis* of 4 November 2020

The Code recognizes the right of the diocesan bishop to erect institutes of consecrated life, whether religious institutes⁴ or secular institutes,⁵ and societies of apostolic life.⁶ Since the law expressly gives this right to the diocesan bishop, other bishops, i.e., coadjutor, auxiliary, retired bishops, are excluded, unless they are delegated by the diocesan bishop (see cc. 134, §3 and 137, §1).⁷ This right was found in canon 492, §1 of the 1917 Code as it stated: “Bishops, but not the Vicars Capitular or the Vicar

⁴ Religious institute is an institute of consecrated life. All religious take public vows either perpetual or temporary which are to be renewed, to observe the three evangelical counsels of chastity, poverty, and obedience (see c. 607, §2). The religious state requires fraternal life in common and entails a separation from the world in conformity with the character and purpose of each institute (see c. 607, §§2-3). The 1983 Code does not make distinction between “orders” and “congregations” as the 1990 Code of the Eastern Churches does. In particular, canon 506 of the Code of the Eastern Churches distinguishes the competent authority in establishing orders and congregations. For a congregation, it can be erected by the eparchial bishop after consulting the Apostolic See; if within the territorial boundaries of a patriarchal Church, the eparchial bishop can also erect a congregation after consulting the patriarch (see c. 506, §1). Canon 506, §2 defines that “the patriarch can erect orders and congregations with the consent of the permanent synod and after consulting the Apostolic See.”

⁵ A secular institute is an institute of consecrated life in which the Christian faithful, consecrated to God by undertaking to observe the three evangelical counsels of chastity, poverty, and obedience by means of a sacred commitment. They still live in the world, strive for the perfection of charity and seek to contribute to the sanctification of the world (see c. 710). The members are not required to live in common, but they lead fraternal life. The members do not change their proper canonical status, whether lay or clerical. They continue to live and to work in the midst of the people of God (see c. 711) whether through the witness of a Christian life and of fidelity toward their own consecration, or through the participation in the evangelizing through apostolic activities (see c. 713).

⁶ This requirement is also applied for the erection of societies of apostolic life (see c. 732). Societies of apostolic life “resemble institutes of consecrated life; their members, without religious vows, pursue the apostolic purpose proper to the society and, leading a life in common as brothers or sisters according to their proper manner of life, strive for the perfection of charity through the observance of the constitutions” (c. 731, §1). In some societies, their members “assume the evangelical counsels by some bond defined in the constitutions” (c. 731, §2).

⁷ When the diocesan bishop extends his “reserved” powers to a vicar general or episcopal vicar by granting a special mandate in the manner of c. 134, §3, they do not act in virtue of ordinary vicarious power, but delegated power (see c. 131).

General, can found religious Congregations.”⁸ The 1983 Code repeated the norm of canon 492, §1 of the former Code to be followed for the erection of an institute of consecrated life of diocesan right, namely, the diocesan bishop to consult the Apostolic See beforehand.

Canon 579 stated:

Diocesan bishops, each in his own territory, can erect institutes of consecrated life by formal decree, provided that the Apostolic See has been consulted.⁹

Canon 579 used the clause *dummodo* to emphasize the obligation of the diocesan bishop in consulting the Apostolic See. Therefore, this had to be done.¹⁰ The intervention of the Apostolic See was to ensure there is no duplication of existing religious institutes.¹¹ As stated in the Post-synodal Apostolic Exhortation on the Consecrated Life and Its Mission in the Church and the World *Vita consecrata*:

[...] in recent years following the Second Vatican Council, new or renewed forms of the consecrated life have arisen. In many cases these are institutes similar to those already existing, but inspired by new spiritual and apostolic impulses. Their vitality must be judged by the authority of the church, which has the responsibility of examining them in order to discern the authenticity of the purpose for their foundation and to prevent the proliferation of institutions similar to one another, with the consequent risk of a harmful fragmentation into excessively small groups. In other cases, it is a question of new experiments which are

⁸ *CIC/17*, c. 492, §1: “Episcopi, non autem vicarius capitularis vel vicarius generalis, condere possunt congregationes religiosas [...]”

⁹ Canon 579: “Episcopi dioecesani, in suo quisque territorio, instituta vitae consecrate formali decreto erigere possunt, dummodo Sedes Apostolica consulta fuerit.”

¹⁰ See E. GAMBARI and M.M. ARMATO, *The Canonical Establishment of a Religious Institute: Process and Procedures*, Piscataway, NJ, Dominican Sisters of Divine Providence, 1999, 170; see also T. RINCÓN-PÉREZ, Commentary on cc. 573-606, in *CCLA*, 476; T. RINCÓN-PÉREZ, Commentary on Canon 579, in *Exegetical Comm*, vol. 2/2, 1485.

¹¹ See MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 747. Cf. HOLLAND, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 457; WILLIAMSON, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 319; RINCÓN-PÉREZ, Commentary on Canon 579, 1485. Also cf. *PC*, no. 19, in *AAS*, 58 (1966), 711, *FLANNERY1*, 621-622.

seeking an identity of their own in the church and awaiting official recognition from the Apostolic See, which alone has final judgement in these matters.¹²

Before erecting a religious institute of diocesan right according to canon 579, the diocesan bishop had to follow processes and procedures defined by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, namely, to establish a *public association*¹³ according to canons 312, §1, 3^o; 313-314. In the decree establishing the public association, the diocesan bishop must expressly include the phrase: “We erect the public association of Christ’s faithful, called [full name] in view of it being erected in the future an institute of consecrated life of diocesan right.”¹⁴

In order to avoid new institutes being erected on the diocesan level which would be useless or lacking in sufficient discernment of the originality of the charism,¹⁵ *Lumen gentium*, no. 12,¹⁶ *Perfectae caritatis*, no. 19,¹⁷ *Mutuae relationes*, no. 51,¹⁸ and *Vita*

¹² VC, no. 12: “[...] proximis enim decenniis, post nempe Concilium Vaticanum II, *novae sive renovatae formae exstiterunt ipsius consecratae vitae*. Saepenumero de Institutis agitur quae prioribus iam exstantibus similia sunt, verum ex novis spiritalibus et apostolicis impulsionebus enata. Vitalis eorum vigor oportet ab Ecclesiae auctoritate excutatur, cuius est necessarias experiri probationes quibus et finis concitantis veritas confirmetur simulque nimia institutionum inter se consimilium multitudo vitetur, imminente scilicet periculo ne magno cum detrimento in parvulos manipulos diffingantur. Alias vero de experimentis agitur primis quae propriam quandam in Ecclesia identitatem quaerunt atque praestolantur donec a Sede Apostolica publice agnoscantur, cuius solius est ultimum ferre iudicium” (in AAS, 88 [1996], 385, in *Origins*, 25 [1996], 658).

¹³ Under former legislation, these were referred to as pious unions (see *CIC/17*, cc. 686, 687, 689).

¹⁴ McDERMOTT, *Consecrated Life*, 13. Cf. HOLLAND, “New Institutes, Merger and Suppression,” 37; also cf. V. D’SOUZA “Erection of a Religious Institute of Diocesan Right: Law and Praxis,” in *Studies in Church Law*, 1 (2005), 63. Cf. also c. 114 on the erection of juridical persons.

¹⁵ Joseph Galante expresses his concern when bringing up a reality that has occurred and persisted in some particular churches where diocesan bishops brought into existence religious institutes without a special charism. See GALANTE, “The Relationship of the Diocesan Bishop and Institutes of Pontifical Right,” 92.

¹⁶ In AAS, 57 (1965), 16-17, *FLANNERY*1, 363- 364.

¹⁷ In AAS, 58 (1966), 711, *FLANNERY*1, 621-622.

¹⁸ In AAS, 70 (1978), 499-500, in *CLD*, vol. 9, 331-332.

consecrata, no. 62c¹⁹ recommended that the diocesan bishops judge, weigh, and evaluate carefully the following matters: (1) authenticity of the charism, namely, the docility of the founder(s) or foundress(es) to the gift of the Holy Spirit and ecclesiastical authorities; (2) the usefulness for the local Church(es) through significant service or contribution; and (3) the sufficient resources.

Once the public association reaches the requirements defined by Apostolic See, the diocesan bishop was to consult with the Apostolic See²⁰ by sending the following required documents:

1. Curriculum vitae of the Founder and of the first Superior general of the Institute.
2. A historical juridical account of the religious Institute from its beginning (not more than two or three pages). A copy of the document by which the ecclesiastical authority founded the religious Institute of diocesan right should be included.²¹
3. Six copies of the Constitutions and the Directory, revised in accord with the Code of Canon Law.
 - Two copies of the books of prayers.
4. Description of the religious habit of a professed member and of a novice.
5. Up-to-date statistics of membership:
 - number and age of the perpetually and temporarily professed members
 - number of novices; and dates of admission
 - name of the dioceses and locations of houses where the members are living and working, kinds of activities.

To have a diocesan religious institute recognized as of diocesan right, the number of members required is about 40 professed of whom the major part are in perpetual vows.

¹⁹ In AAS, 88 (1996), 435-436, in *Origins*, 25 (1996), 701-702.

²⁰ For missionary dioceses, the ecclesiastical competent authority would be the Congregation for the Evangelization of Peoples. See *PB*, art. 90.1, in AAS, 80 (1988), 882-883, in *Code of Canon Law*, 715; for non-missionary dioceses, the ecclesiastical competent authority would be the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. See *PB*, art. 106.1, in AAS, 80 (1988), 887, in *Code of Canon Law*, 718.

²¹ In this particular case, a province of an already existing institute of diocesan right was to be erected as a separate institute of diocesan right under the authority of the diocesan bishop in another country.

6. Financial status besides declaring any debts, if any, indicate only: a) the number of houses owned by the Institute; b) the sum of money (in USA dollar) banks
7. A statement regarding the following points:
 - a) any facts of extraordinary nature, such as visions, etc.;
 - b) what are the particular devotions or the acts of piety;
 - c) whether in the diocese where the Generalate is located, there exists already any other religious institute with the same name and charisma.
8. Testimonial letters from the diocesan Bishops of those dioceses in which the Institute is present.

Such letters are to be sent directly to the Holy See, together with the opinion of the same Bishops about the following items, namely:

 - a) utility, stability and discipline of the association;
 - b) initial and on-going formation of the members;
 - c) government;
 - d) administration of goods;
 - e) liturgical and sacramental dimension;
 - f) conformity with the way of thinking of the Church;
 - g) collaboration with the hierarchy.
9. Forward to the Office a deposit equivalent to 500 US\$ on account for expenses of the entire process.²²

After receiving the *nihil obstat* from CICLSAL, the diocesan bishop, through a formal decree,²³ could erect a religious institute of diocesan right.²⁴ At the time of erecting, he was to approve the constitutions of the institute.²⁵

²² CONGREGATION FOR EVANGELIZATION OF THE PEOPLES, Rescript on the Requirements for the Erection of a Religious Institute of Diocesan Rite (private), 15-16. See also SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, Rescript on the Documents Necessary for Erection of Diocesan-Law Congregation or to Obtain Decree of Praise (private), 1970, English translation in *CLD*, vol. 7, 458. It should be noted that the amount of the deposit can continue to increase, e.g., the amount of 1970: 150 USD (see *CLD*, vol. 7, 458); the amount of 1990: 500 USD. See CONGREGATION FOR EVANGELIZATION OF THE PEOPLES, Rescript on the Requirements for the Erection of a Religious Institute of Diocesan Rite, 16.

²³ Must be issued in writing (see cc. 37; 51). Cf. *CCEO*, c. 1514. A copy of the decree of erection of the new institute and a copy of its approved constitutions was to be sent to CICLSAL (see CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Rescript on the Erection of a Public Association of the Faithful as a Religious Institute of Diocesan Right (private), n.d., in A.E. SHARON and J.A. ALESANDRO [eds.], *Roman Replies and CLSA Advisory Opinions 2013*, Washington, DC, CLSA, 2013, 32).

²⁴ See c. 579. Cf. *CCEO*, c. 506, §1 which determines that the eparchial bishop can erect an eparchial religious congregation after he has consulted the Apostolic See and the patriarch within the territorial boundaries of a patriarchal Church.

²⁵ See c. 595, §1.

Was the *nihil obstat* from CICLSAL required for the validity? Williamson²⁶ and Ellen O'Hara²⁷ argued that it is required for validity because of the clause “provided that” (*dummodo*) which is considered to affect the validity of an administrative act according to canon 39.²⁸ Rincón-Pérez²⁹ and Victor G. D'Souza,³⁰ on the other hand, argued that authorization from the Apostolic See as mentioned in canon 579 is not required for validity. According to Rincón-Pérez, since canon 579 does not clearly require prior authorization, thus “once the consultation had been made, the bishop could act validly, in principle, even without following the advice of the Holy See.”³¹

Because of the controversy among the commentators in this subject matter and because of many new religious institutes being erected on the diocesan level without sufficient discernment of the originality of the charism, on 11 May 2016, Pope Francis issued a rescript *Ex audientia* to clarify the question arising from canon 579 of the Code of Canon Law on the erection of a religious institute of diocesan right. The rescript sets forth that “prior consultation with the Holy See is to be understood as necessary *ad validitatem* before establishing of a diocesan Institute of consecrated life, otherwise risking nullity of

²⁶ See WILLIAMSON, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 319.

²⁷ See O'HARA, “Norms Common to All Institutes of Consecrated Life – Canons 573-606,” 37.

²⁸ Canon 39 reads as follows: “Conditions in an administrative act are considered added for validity only when they are expressed by the particles if (*si*), unless (*nisi*), or provided that (*dummodo*).”

²⁹ See RINCÓN-PÉREZ, Commentary on cc. 573-606, 476; see also ID., Commentary on Canon 579, 1485.

³⁰ See V. D'SOUZA, “Erection of A Religious Institute of Diocesan Right: Law and Praxis,” 78-81.

³¹ RINCÓN-PÉREZ, Commentary on cc. 573-606, 476; see also ID., Commentary on Canon 579, 1485.

the decree of establishment of this said Institute.”³² The rescript *Ex audientia* entered into force on 1 June 2016.

It must be kept in mind that after 1 June 2016, an act of erecting religious institutes of diocesan right without prior consultation with the Holy See would be invalid and illicit.³³ However, the rescript *Ex audientia* does not explicitly mention the *nihil obstat* from the Holy See, thus, after consulting with and hearing opinion from the CICLSAL, some diocesan bishops erected new religious institutes in their dioceses even against the expressed negative opinion of the Apostolic See. Due to such abused matter, Pope Francis issued the motu proprio *Authenticum charismatis* to amend canon 579 of the Code of Canon Law. The motu proprio revised it as follows: “Diocesan bishops, each in his own territory, can validly erect institutes of consecrated life by formal decree with the prior written permission of the Apostolic See.”³⁴ In *Authenticum charismatis*, the Pope emphasized that “a sure sign of the authenticity of a charism is its ecclesial character, its ability to be integrated harmoniously into the life of God’s holy and faithful people for the good of all.”³⁵ The call for a sufficient discernment of the originality of the charism of new

³² *EU*, no. 6: “[...] ha stabilito che la previa consultazione della Santa Sede sia da intendersi come necessaria *ad validitatem* per l’erezione di un Istituto diocesano di vita consacrata, pena la nullità del decreto di erezione dell’Istituto stesso [...]” in *AAS*, 108 (2016), 696, English translation in https://www.vatican.va/roman_curia/secretariat_state/parolin/2016/documents/rc_seg-st_20160511_parolin-rescritto-can579cdc_en.html (20 August 2018).

³³ See *ibid.*

³⁴ “Episcopi dioecesani, in suo quisque territorio, instituta vitae consecratae formali decreto valide erigere possunt, praevia licentia Sedis Apostolicae scripto data” (AC, in http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20201101_authenticum-charismatis.html [10 November 2020]).

³⁵ *Ibid.*

religious institutes being erected on the diocesan level was already mentioned in *Perfectae caritatis*, no. 19³⁶ and in Pope Francis' apostolic exhortation *Evangelii gaudium*, no. 130.³⁷ In his motu proprio *Authenticum charismatis*, Francis also quotes *Vita consecrata*, no. 12 which refers to the growth of new forms of consecrated life: "Their vitality must be judged by the authority of the Church, which has the responsibility of examining them in order to discern the authenticity of the purpose for their foundation and to prevent the proliferation of institutions similar to one another, with the consequent risk of a harmful fragmentation into excessively small groups."³⁸ Pope Francis also points to the "the act of canonical erection by the Bishop [that] transcends the solely diocesan sphere and makes it relevant to the wider horizon of the universal Church. In fact, by its very nature, every Institute of Consecrated Life or Society of Apostolic Life, even if it has arisen in the context of a particular Church, 'as a gift to the Church, is not an isolated or marginal reality, but deeply part of her. It is at the very heart of the Church, a decisive element of her mission' (Letter to Consecrated Persons, III, 5)."³⁹

The motu proprio *Authenticum charismatis* entered into force on 10 November 2020. It must be kept in mind that after 10 November 2020, an act of erecting religious

³⁶ PC, no. 19, in AAS, 58 (1966), 711, *FLANNERY*1, 621-622.

³⁷ See FRANCIS, Apostolic Exhortation on the Proclamation of the Gospel in Today's World *Evangelii gaudium*, 21 December 2012 (=EG), no. 34, in AAS, 105 (2013), 1034, English translation in USCCB, *The Joy of the Gospel Evangelii gaudium*, Washington, DC, USCCB, 2013, 19.

³⁸ VC, no. 12, in AAS, 88 (1996), 385, in *Origins*, 25 (1996), 658.

³⁹ AC, in http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20201101_authenticum-charismatis.html (10 November 2020).

institutes of diocesan right without the prior written permission of the Apostolic See would be invalid and illicit.

After the legitimate erection of a religious institute, the superior general will make her perpetual profession⁴⁰ in the hands of the diocesan bishop or his delegate, according to the formula indicated in the institute's constitutions. Then, the rest of the professed members will make their temporary or perpetual vows in the hands of the superior general or her delegate. In the future, all vows will be received by the legitimate superior according to canon 1192, §1, not by the diocesan bishop.⁴¹

It should be noted that once a religious institute is erected, it possesses a juridical personality *ipso iure* (see c. 634, §1), with perpetuity by its nature (see c. 120, §1).⁴² Once possessing the juridical personality, it is capable of acquiring,⁴³ possessing,⁴⁴ administering,⁴⁵ and alienating⁴⁶ temporal goods (see c. 634, §1).

⁴⁰ The vows will be considered public vows (see c. 1192, §1).

⁴¹ See CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Rescript on the Erection of a Public Association of the Faithful as a Religious Institute of Diocesan Right, 31.

⁴² However, it can be extinguished if it is legitimately suppressed by competent authority or has ceased to act for a hundred years; or it can be merged or divided (see c. 120, § 1).

⁴³ The acquisition of the goods of these religious institutes, provinces, and houses is governed by canons 1259-1272.

⁴⁴ To keep them as possessors.

⁴⁵ To protect them, to help them bear fruit, to use them for their proper ends; the administration of these goods is governed by canons 638, §§1-2; 1273-1289.

⁴⁶ To lose ownership, to lose possession; alienation of the ecclesiastical temporal goods is governed by canons 638, §§3-4; 1290-1298.

3.1.1.2. Erection of the House(s) of a Religious Institute – Canon 609, §1

Canon 609, §1 states:

Houses of a religious institute are erected by the competent authority according to the constitutions, with the previous written consent of the diocesan bishop.⁴⁷

The canon provides the requirements for the process of erecting a house of a religious institute, whether of an institute of pontifical right or of diocesan right. In canon law the term “religious house” is understood as a formally established house to become a stable community under the authority of a superior.⁴⁸ Jordan Hite clarifies further that “religious house” is “more than the residence or living quarters of religious.”⁴⁹

The process to erect a house of a religious institute mentioned in canon 609, §1 is rooted in canon 497, §1 of the 1917 Code and Decree *Ad instituenda experimenta*, 2^o.⁵⁰ The previous Code stated: “For the erection of an exempt religious house, whether formal or not formal, or a monastery of nuns or of any religious house whatsoever in any place subject to the Sacred Congregation for the Propagation of the Faith, there is required the

⁴⁷ Canon 609, §1: “Instituti religiosi domus eriguntur ab auctoritate competenti iuxta constitutiones, praevisio Episcopi dioecesis consensu in scriptis dato.” Cf. *CCEO*, c. 509, §1.

⁴⁸ See cc. 608; 609, §1.

⁴⁹ R.A. HILL, “A House is More Than a House,” in *Review for Religious*, 48 (1989), 137.

⁵⁰ SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTE, decree *Ad instituenda experimenta*, 4 June 1970, no. 2 reads as follows: “Suspended is the obligation to request the approval of the Apostolic See to erect an exempt religious house or to suppress it in virtue of canons 497, § 1 and 498, with the exception, however, of independent (*sui iuris*) monasteries of nuns and without prejudice to those matters which according to law belong to the competence of local Ordinaries (cf. can. 497, § 1) and *motu proprio Ecclesiae Sanctae*, I, 34, § 1” (in *AAS*, 62 [1970], 549, English translation in *CLD*, vol. 7, 81).

good pleasure of the Apostolic See and the consent of the local Ordinary given in writing; otherwise it is sufficient that the Ordinary approves.”⁵¹

In comparing the process of erecting a house of a religious institute of diocesan right in the previous and present Code, we can see several interesting similarities and also differences between the two Codes. Both Codes determine that the erection of a religious house is made by a formal decree issued by the competent authority according to the constitutions (see c. 609, §1; cf. *CIC/17*, c. 497, §1). In addition, both Codes require the consent of the proper ecclesiastical authority. However, the previous Code required the consent of the *local Ordinary* (see *CIC/17*, c. 497, §1) while the present Code requires the consent of the *diocesan bishop* (see c. 609, §1). It should be noted that the diocesan bishop is always the local ordinary, but the local ordinary is not always the diocesan bishop (see c. 134, §2). Since the *ius vigens* expressly specifies the “diocesan bishop,” the vicars general or episcopal vicars are excluded except by special mandate in virtue of c. 134, §3.

Canon 609, §1 does not specify the competent authority to erect a house of a religious institute. It leaves room for proper law of each institute to determine the competent authority. In addition, the constitutions should also determine if the consent or counsel of the council is needed or not. If the constitutions determine that the consent or

⁵¹ *CIC/17*, c. 497, §1: “Ad erigendam domum religiosam exemptam, sive formatam sive non formatam, aut monasterium monialium, aut in locis Sacrae Congregationi de Prop. Fide subiectis quamlibet religiosam domum, requiritur beneplacitum Sedis Apostolicae et Ordinarii loci consensus in scriptis datus; secus, satis est Ordinarii venia.”

counsel of the council is required, then the superior must observe canon 127, §1⁵² and canon 166.⁵³

In regard to the competency to erect a house of a religious institute, Domingo Andrés excludes the local superior⁵⁴ and the general chapter.⁵⁵ He maintains that “in all cases it is important that the general superior participate either as the competent authority in the establishment, according to the degree of centralization of the development of the institute; or as the confirming authority of the act of establishment carried out by another superior; or be attending to other requirements or questions of permission.”⁵⁶ He emphasizes further that “the constitutions cannot grant the competency to issue a decree to

⁵² Canon 127, §1 reads as follows: “When it is established by law that in order to place acts a superior needs the consent or counsel of some college or group of persons, the college or group must be convoked according to the norm of can. 166 unless, when it concerns seeking counsel only, particular or proper law provides otherwise. For such acts to be valid, however, it is required that the consent of an absolute majority of those present is obtained or that the counsel of all is sought.”

⁵³ Canon 166 reads as follows: “§1. The person presiding over a college or group is to convoke all those belonging to the college or group; the notice of convocation, however, when it must be personal, is valid if it is given in the place of domicile or quasi-domicile or in the place of residence. §2. If anyone of those to be convoked was overlooked and for that reason was absent, the election is valid. Nevertheless, at the instance of that same person and when the oversight and absence have been proved, the election must be rescinded by the competent authority even if it has been confirmed, provided that it is evident juridically that recourse had been made at least within three days from the notice of the election. §3. If more than one-third of the electors were overlooked, however, the election is null by the law itself unless all those overlooked were in fact present.”

⁵⁴ Andrés states that the local superior cannot be the one to erect a religious house “[...] for that would constitute an aberration endowed with not a few practical impossibilities of acting, and substantial risks of negatively affecting the unity of the institute and of its greater juridical persons” (D.J. ANDRÉS, Commentary on Canon 609, in *Exegetical Comm*, vol. 2/2, 1588).

⁵⁵ Andrés states that “[i]t would be improper and unrealistic to subject the necessity of establishment to the periodicity of the chapters. The chapters should limit themselves to reporting the great inspiring principles, following those that must motivate the competent superior” (ANDRÉS, Commentary on Canon 609, 1588).

⁵⁶ ANDRÉS, Commentary on Canon 609, 1588.

erect a religious house to persons not belonging to the institute itself,”⁵⁷ even to a diocesan bishop.

The law requires a written consent⁵⁸ of the diocesan bishop before erecting the house(s). This consent is required for the validity of the act, in accordance with c. 127, §2, 1°. For further clarification, the phrase “diocesan bishop” in this canon should be considered. Does it concern the diocesan bishop where the house will be erected or the diocesan bishop of the principal seat? Technically speaking, it must be the diocesan bishop of the place where the house will be erected, not the diocesan bishop of principal seat⁵⁹ because in reality a religious house is erected within a particular Church in order to respond to the needs of a particular apostolate that addresses the needs of the people of God in that particular place. Thus, obtaining consent from the local bishop is logical since the erected religious house connects to the mission of the institute as the apostolate of the religious institutes is always exercised “in the name and by the mandate of the Church,”⁶⁰ and it is carried out “in the communion of the Church.”⁶¹ Therefore, the mission of an institute will

⁵⁷ Ibid.

⁵⁸ Since the law expressly requires “written consent,” thus an oral consent is excluded.

⁵⁹ See A.L. KAITARATH, *The Autonomy and Hierarchical Dependence of Religious Institutes according to the Code of Canon Law*, JCD dissertation, Rome, Pontificia Universitas Urbaniana, 2002, 174. Regarding such consent, according to Bouscaren, it suffices “[...] to obtain the written consent of the Ordinary of the place in which the house is to be established, as well as the written consent of the Ordinary of the place in which the mother house is located (c. 495, § 1). The latter’s consent would seem to be required only for the first house to be established in another diocese [...]” (T.L. BOUSCAREN and A.C. ELLIS, *Canon Law: A Text and Commentary*, 3rd rev. ed., Milwaukee, WI, The Bruce Publishing Company, 1957, 232).

⁶⁰ Canon 675, §3: “[...] nomine et mandato Ecclesiae exercenda [...]”

⁶¹ Canon 675, §3: “[...] in eius communione peragatur.” Regarding “the communion with the Church,” de Paolis points out to an important rule that: “‘In communion with the Church’ here does not limit itself to communion of the faith, the sacraments, and obedience of c. 205, but to that of c. 209: The observance of all proper duties toward the Church, whether universal or particular. This means that religious, while realizing their apostolate, should have as references for doctrine and practice of the ministry the pastors of

be performed in a particular Church where the diocesan bishop (or his equivalent in law) is the pastor and moderator of all apostolate,⁶² that is the one who takes care that “the prescripts of the canons on the ministry of the Word, especially those on the homily and catechetical instruction, are carefully observed so that the whole Christian doctrine is handed on to all,”⁶³ fosters “various forms of the apostolate in the diocese” and is “to take care that in the entire diocese or in its particular districts, all the works of the apostolate are coordinated under his direction, with due regard for the proper character of each.”⁶⁴

After receiving the written consent of the diocesan bishop, the competent superior⁶⁵ issues a formal decree to erect the house. The law does not explicitly require that the decree must be issued in writing (see c. 609, §1), but according to Andrés’ commentary:

[...] since it evidences a singular administrative act done by an executive authority, it must be subject to the universal writing requirement imposed by c. 51. For all such decrees its nature as an administrative act that affects the external forum, [...] requires it to be written (cf. 37). Regarding the content and consequences of these administrative acts, certainty and juridical certainty are what lead the legislator to impose, in a binding way, the requirement of writing. Nevertheless, by not expressly stating that the writing requirement is *ad*

the Church. An apostolate at the margin of obedience to the legitimate pastors is a contradiction in itself” (V. DE PAOLIS, Commentary on Canon 675, in *Exegetical Comm*, vol. 2/2, 1808).

⁶² See c. 678, § 1; cf. *MR*, no. 9, in *AAS*, 70 (1978), 479, in *CLD*, vol. 9, 305-306.

⁶³ Canon 386, §1: “[...] curet etiam ut praescripta canonum de ministerio verbi, de homilia praesertim et catechetica institutione sedulo serventur, ita ut universa doctrina christiana omnibus tradatur.”

⁶⁴ Canon 394, §1: “Varias apostolatus rationes in dioecesi foveat Episcopus, atque curet ut in universa dioecesi, vel in eiusdem particularibus districtibus, omnia apostolatus opera, servata uniuscuiusque propria indole, sub suo moderamine coordinentur.”

⁶⁵ This “competent superior” is determined by the proper law of each religious institute. If a religious institute is not divided into smaller units, the competent superior would be the supreme moderator. If an institute is divided into provinces or other units, then the competent superior would be the provincial superior or the superior of a given unit.

validitatem, a decree of establishing of a religious house possibly not written will be accepted as valid, though certainly illicit.⁶⁶

It should be noted that before the erection of the house(s), both the institute's governing authority⁶⁷ and the diocesan bishop should consider very carefully "the advantage to the Church and the institute and [...] suitable safeguards for those things which are required to carry out properly the religious life of the members according to the proper purposes and spirit of the institute."⁶⁸ This provision is based on canon 496 of 1917 Code which stated: "No religious house can be erected unless it can be prudently judged that either from its own income or from customary donations or in some other way an appropriate living and sustenance can be provided."⁶⁹ Commenting on canon 610, McDermott points out to four necessary principles: (1) "its [the house's] contribution or usefulness to the diocese; (2) the stability of the institute regarding membership; (3) its financial resources and provision for members assigned to the house; and (4) the institute's ability to fulfill the witness and service promised to the particular Church for an extended period of time."⁷⁰ Likewise, Andrés lists six necessary considerations that should be taken into account before erecting a religious house, namely: (1) imperativity;⁷¹ (2) the welfare

⁶⁶ ANDRÉS, Commentary on Canon 609, 1587.

⁶⁷ It could be the provincial superior with his/her council or superior general with his/her council if this is the question of the house for the central administration.

⁶⁸ Canon 610, §1: "[...] fit prae oculis habita utilitate Ecclesiae et instituti atque in tuto positus iis quae ad vitam religiosam sodalium rite agendam requiruntur, iuxta proprios instituti fines et spiritum." See also J.F. HITE, "Religious Houses and Their Erection and Suppression (cc. 608-616)," in *CLSA Comm1*, 472.

⁶⁹ *CIC/17*, c. 496: "Nulla religiosa domus erigatur, nisi iudicari prudenter possit vel ex redditibus propriis vel ex consuetis eleemosynis vel alio modo congrue sodalium habitationi et sustentationi provisum iri."

⁷⁰ MCDERMOTT, *Consecrated Life*, 25.

⁷¹ "It is presented somewhat randomly, not only because it refers to numerous elements to be established, but especially because some of them, as we will soon see, are practically predictions of the future,

of the Church; (3) the welfare of the institute; (4) safeguards for the religious life of the members; (5) the end and spirit of the religious institute;⁷² and (6) the needs of the members.⁷³

It is noteworthy that the law does not expressly require a specific number of religious in order to erect a religious house. Canonically speaking, when a house of a religious institute is erected in accord with canon 609, §1, then it acquires juridical personality by law itself.⁷⁴ As a juridic person constituted as an aggregate of persons (*universitas personarum*) needs at least three persons (see c. 115, §2), we presume that the required number of persons must be at least three.

It must be kept in mind that the *ius vigens* specifically mentions several juridic consequences related to erection of a religious house. Firstly, the erected house acquires juridical personality by the law itself,⁷⁵ not by the decree of the competent superior. Secondly, it is capable of acquiring, possessing, administering, and alienating temporal goods (see c. 634, §1). In other words, the canonically erected religious house owns its property, both movable and immovable goods, e.g., all the buildings, the furnishings and equipment, the land, the capital funds, the gifts and bequests made to it, etc.⁷⁶ Thirdly, the

not easily grasped in the present” (see D.J. ANDRÉS, Commentary on Canon 610, in *Exegetical Comm*, vol. 2/2, 1591).

⁷² See c. 578.

⁷³ See ANDRÉS, Commentary on Canon 610, 1591-1593.

⁷⁴ See c. 634.

⁷⁵ See c. 634; cf. *CIC/17*, cc. 497, §2; 100, §1.

⁷⁶ See HILL, “A House is More Than a House,” 139. It should be kept in mind that the temporal goods of the house are the goods of the Church (ecclesiastical goods) (see c. 1257, §1), so all provisions in Book V and appropriate prescriptions of civil law are to be observed (see cc. 635, §1; 1254-1310); see also

consent of the diocesan bishop to erect a religious house of an institute entails the right of the members living in that house to “lead a life according to the character and proper purposes of the institute,”⁷⁷ therefore, once the bishop has agreed to the erection of the religious house in his diocese, he has to preserve and safeguard the institute’s autonomy of life and governance which is recognized by canon 586, §1.⁷⁸ Any such interference would be a violation of a right proper to the institute.⁷⁹ Regarding this right, Andrés suggests: “It primarily and directly addresses the character and ends proper to the institute. It secondarily and derivatively, addresses the character and particular ends of the house whose establishment is solicited. Such character and ends must be shown to be substantially in accordance with those of the institute and must be declared in the application for consent directed to the bishop.”⁸⁰ Fourthly, the consent of the diocesan bishop to erect a religious house of an institute entails the right “to exercise the works proper to the institute according to the norm of law and without prejudice to the conditions attached to the consent.”⁸¹ In exercising this right, religious may be thus subject to conditions determined by the diocesan bishop in virtue of his responsibility to foster and coordinate various forms of the apostolate

WILLIAMSON, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 339; MCDERMOTT, “Religious Houses and Their Erection and Suppression (cc. 608-616),” 778.

⁷⁷ Canon 611, 1°: “[...] vitam ducendi secundum indolem et fines proprios institute.” Cf. *CIC/17*, c. 497, §2. See MCDERMOTT, “Religious Houses and Their Erection and Suppression (cc. 608-616),” 775.

⁷⁸ For further clarification, Hite points out to an interesting example that “if a contemplative institute established a house in a diocese, it would not be proper for the bishop to pressure the institute to change its lifestyle to that of an apostolic institute because of the ministerial needs of the diocese” (HITE, “Religious Houses and Their Erection and Suppression [cc. 608-616],” 473); cf. c. 674.

⁷⁹ See GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 53.

⁸⁰ D.J. ANDRÉS, Commentary on Canon 611, in *Exegetical Comm*, vol. 2/2, 1595.

⁸¹ Canon 611, 2°: “[...] opera instituto propria exercendi ad normam iuris, salvis condicionibus in consensu appositis.” Cf. *CIC/17*, c. 497, §2.

in his diocese.⁸² In this regard, Hite suggests that “[...] the bishop and the institute should engage in dialogue leading to the bishop’s written consent (see c. 609, §1) so that the bishop understands the nature and purposes of the institute and that the institute understands any specific conditions the bishop wishes to place on the institute in his diocese [...]”⁸³ He emphasizes further that “the specific conditions should be clearly expressed in the written consent of the bishop”⁸⁴ and the bishop “needs to know the plans of an institute in his diocese so there is not a duplication of services between religious institutes or between religious and the diocese.”⁸⁵ Fifthly, canon 608 stipulates that “each house is to have at least an oratory in which the Eucharist is to be celebrated and reserved so that it is truly the center of the community”⁸⁶ since the Eucharist is the heart of the community and source of religious life⁸⁷ where all religious are nourished by the Body and Blood of Christ and where all are united together in the name of Christ in “the Sacrament of love, the sign of unity and the bond of charity.”⁸⁸ On the other hand, the consent of the diocesan bishop to erect a religious house of a clerical institute gives it the right “to have a church, without prejudice to the prescript of can. 1215, §3 and to perform sacred ministries, after the requirements of

⁸² See c. 394, §1.

⁸³ HITE, “Religious Houses and Their Erection and Suppression (cc. 608-616),” 473.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Canon 608: “[...] in quo Eucharistia celebretur et asservetur ut vere sit centrum communitatis.” Also, it should be kept in mind that the laws regulating the reservation of the Eucharist must be observed (see cc. 934-944; 1206 -1207; 1224, §2; cf. *CIC/17*, cc. 497, §1; 1162, §4; 1267, §1, 2°).

⁸⁷ See *ET*, nos. 47-48, in *AAS*, 63 (1971), 521, *FLANNERY1*, 701-702.

⁸⁸ *SC*, no. 47: “[...] sacramentum pietatis, signum unitatis, vinculum caritatis [...]” in *AAS*, 56 (1964), 113, *FLANNERY1*, 16.

the law have been observed.”⁸⁹ Finally, the consent of the diocesan bishop to erect a religious house of an institute is also valid for the establishment of an association of the faithful attached to that house (see c. 312, §2).

3.1.1.3. Suppression of the House of a Religious Institute – Canon 616, §1

Canon 616, §1 states:

The supreme moderator can suppress a legitimately erected religious house according to the norm of the constitutions, after the diocesan bishop has been consulted. The proper law of the institute is to make provision for the goods of the suppressed house, without prejudice to the intentions of the founders or donors or to legitimately acquired rights.⁹⁰

This provision is based on canon 498 of the 1917 Code⁹¹ and *Ecclesiae Sanctae I*, 34.⁹² The term “suppression” in canon 616, §1 means “completely close.”⁹³ The current norm, which seems to be much simpler than the previous one,⁹⁴ determines that the

⁸⁹ Canon 611, 3°: “pro institutis clericalibus habendi ecclesiam, salvo praescripto can. 1215, §3, et sacra ministeria peragendi, servatis de iure servandis.”

⁹⁰ Canon 616, §1: “Domus religiosa legitime erecta suppressi potest a supremo Moderatore ad normam constitutionum, consulto Episcopo dioecesano. De bonis domus suppressae provideat ius proprium institutis, salvis fundatorum vel offerentium voluntatibus et iuribus legitime quaesitis.”

⁹¹ *CIC/17*, c. 498 read as follows: “A religious house, whether formal or not formal, if it pertains to an exempt religious [institute], cannot be suppressed without apostolic good pleasure; if [it pertains] to a non-exempt Congregation of pontifical rite, it can be suppressed by the supreme Moderator, the local Ordinary consenting; if [it pertains] to a Congregation of diocesan rite, [it can be suppressed] with only the authority of the local Ordinary, having heard the Moderator of the Congregation, with due regard for the prescription of canon 493, and if it concerns the only house [of the institute], then with due regard for the right of recourse in suppression to the Apostolic See.”

⁹² *ES I*, no. 34.1 reads as follows: “A religious house, whether it be a *domus formata* or not, belonging to an exempt religious group cannot be suppressed without the approval of the Apostolic See and without consulting the local ordinary” (in AAS, 58 [1966], 772, *FLANNERY1*, 607).

⁹³ See M.M. MODDE, “Religious Houses and Governance (cc. 607-633),” in J. HITE et al., *A Handbook on Canon 573-746*, Collegeville, MN, Liturgical Press, 1985, 72.

⁹⁴ See E. WILLIAMSON, “Religious Houses and Their Establishment and Suppression (cc. 608-616),” in *CLSGBI Comm*, 339. See also D.J. ANDRÉS, Commentary on Canon 616, in *Exegetical Comm*, vol. 2/2, 1612.

competent authority to suppress legitimately erected houses of a religious institute, whether of pontifical or diocesan right, is the supreme moderator⁹⁵ of the institute. He/she is to act after having consulted the diocesan bishop, while the previous Code determined that the competent authority for non-exempt religious institutes of pontifical right was the supreme moderator, after having obtained *consent* of the *local ordinary*, and, for religious institutes of diocesan right, the local ordinary after having heard the moderator.⁹⁶ The present provision recognizes therefore the autonomy of the religious institute in its internal governance (see c. 586, §1).

It should be noted that the act of suppression of a religious house by the supreme moderator must be carried out in accordance with the norms of the constitutions (c. 616, §1). That means the constitutions of the institute may determine further the requirement of consent of or consultation with the general council; in such a case, the supreme moderator must observe the norms of canon 127, §1 and canon 166.

The law requires the supreme moderator to consult the diocesan bishop before suppression of a legitimately erected house. This consultation is required for the superior's action to be valid in accordance with canon 127, §2, 2°. However, a question has been raised in cases where the diocesan bishop expresses his displeasure or opposition to such suppression. McDermott provides an answer, namely that the diocesan bishop's

⁹⁵ Canon 622 states that the supreme moderator is the one who “holds power over all the provinces, houses, and members of an institute.” The “supreme moderator” can be called by another name in a given institute, e.g., Master of Order, Superior General, President, Minister General, Prioress General, etc.

⁹⁶ See *CIC/17*, c. 498.

“displeasure or opposition to the suppression does not impede the action of the supreme moderator who is obliged to act for the good of the institute.”⁹⁷ Likewise, Andrés confirms that the superior is bound to bring the intention of suppressing the house to the diocesan bishop to seek his opinion, but the superior does not need to follow the response of the diocesan bishop.⁹⁸

Canon 616, §1 expressly requires consultation of the diocesan bishop, not of the local ordinary as in the previous Code; hence, the vicars general and episcopal vicars are excluded, except by special mandate in virtue of c. 134, §3. For further clarification, the phrase “diocesan bishop” in this canon should be considered. Is it the diocesan bishop where the house is located or the diocesan bishop of the principal seat? Logically speaking, it should be the diocesan bishop who gave the consent to erect this house, that is, the diocesan bishop of the place in which the house is located, not the diocesan bishop of the principal seat⁹⁹ because a concrete religious house is situated within a particular Church in order to respond to the needs of the people of God in that particular place.¹⁰⁰ Seeking consultation of the local diocesan bishop is understandable since the suppression of the religious house can affect the good of the community of the faithful.¹⁰¹ Ghirlanda adds that “it is opportune to proceed very prudently, keeping always in mind the good of the Church

⁹⁷ MCDERMOTT, “Religious Houses and Their Erection and Suppression (cc. 608-616),” 778.

⁹⁸ See ANDRÉS, Commentary on Canon 616, 1613.

⁹⁹ See KAITARATH, The Autonomy and Hierarchical Dependence of Religious Institutes according to the Code of Canon Law, 174.

¹⁰⁰ See *ES I*, no. 34.2, in *AAS*, 58 (1966), 772, *FLANNERY1*, 607.

¹⁰¹ See cc. 386, 394. Cf. *LG*, nos. 26, 34, 42, and 45, in *AAS*, 57 (1965), 31-32, 39-40, 47-49, 51-52, *FLANNERY1*, 381-382, 391, 400-402, 405-406.

before suppressing a house and an apostolic work; and partly because the bishop needs time to fill the vacancy created in the pastoral field.”¹⁰²

The law does not expressly state the causes for suppression. McDermott, however, indicates that it can be a “shortage of members and financial difficulties.”¹⁰³ Regarding the causes, Andrés suggests that the lawful causes for suppression should be identified in the proper law of each religious institute.¹⁰⁴ He emphasizes further that the institute should “not [...] proceed in haste and not [...] forget the universal and local ecclesial point of view, as far as the competent superiors are concerned.”¹⁰⁵ It should be kept in mind that the suppression of the *only house* of an institute belongs to the Apostolic See (see c. 616, §2) since such suppression would seem to suppress actually the life of the institute itself.¹⁰⁶

The distribution of the goods of a suppressed house must be taken into consideration. The universal law leaves room for the proper law of each institute to make provisions in this regard, without prejudice, however, to the intentions of the founder(s)/foundress(es) or donor(s)¹⁰⁷ or the legitimately acquired rights.¹⁰⁸ If proper law

¹⁰² GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 54.

¹⁰³ MCDERMOTT, “Religious Houses and Their Erection and Suppression (cc. 608-616),” 778.

¹⁰⁴ See ANDRÉS, Commentary on Canon 616, 1612-1613.

¹⁰⁵ Ibid.

¹⁰⁶ See GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 54. See also MCDERMOTT, “Religious Houses and Their Erection and Suppression (cc. 608-616),” 778.

¹⁰⁷ If there are many of them, then the provision of canons 1299-1310 should be followed (see ANDRÉS, Commentary on Canon 616, 1613).

¹⁰⁸ Andrés clarifies that the acquired rights may belong to the third parties, the house itself, its incorporated members, etc. He also stresses that “no one should be unjustly prejudiced because of the

of the religious institute does not make provisions for the goods of the suppressed house, then canon 123 would be applied, that is, the goods of the suppressed house will go to the juridical person immediately superior, i.e. the province of the institute, or to the institute as such (see c. 123). It should be kept in mind that the goods of the suppressed house are the goods of the Church,¹⁰⁹ so all provisions in Book V of the Code of Canon Law¹¹⁰ and appropriate prescriptions of civil law are to be observed.¹¹¹ For the suppression of the *only house* of an institute, the disposal of the goods of the suppressed house is reserved to the Apostolic See *only* (see c. 616, §2).

3.1.2. Internal Affairs of the Institute

As stated previously, the *ius vigens* recognizes the autonomy of the religious institute in governance, acknowledged in canon 586, §1, namely, the right of the competent authority of the institute to govern its own internal affairs. However, the law also determines that the diocesan bishop has certain authority in particular internal affairs of a religious institute of diocesan right. This section will study the following subject matters: interpreting the evangelical counsels (see c. 576); establishment, dedication and blessing of an oratory and converting it to profane use (see cc. 1223; 1206-1207; 1224, §2);

suppression; nor can suppression be utilized to elude acquired duties of justice” (see ANDRÉS, Commentary on Canon 616, 1613).

¹⁰⁹ See c. 1257, §1.

¹¹⁰ See cc. 1254-1310.

¹¹¹ See WILLIAMSON, “Religious Houses and Their Establishment and Suppression (cc. 608-616),” 339; see also McDERMOTT, “Religious Houses and Their Erection and Suppression (cc. 608-616),” 778.

appointing of confessors and chaplains (see cc. 630, §3; 576, §1); and visitation of individual religious houses (see c. 628, §2, 2^o).

3.1.2.1. Interpreting the Evangelical Counsels – Canon 576

Canon 576 states:

It is for the competent authority of the Church to interpret the evangelical counsels, to direct their practice by laws, and by canonical approbation to establish the stable forms of living deriving from them, and also, for its part, to take care that the institutes grow and flourish according to the spirit of the founders and sound traditions.¹¹²

The canon reflects the teaching of the Dogmatic Constitution *Lumen gentium*, nos. 12, 43-45¹¹³ in recognizing the rights and obligations of the ecclesial competent authority in relation to the evangelical counsels. The Church teaches that the evangelical counsels of chastity, poverty, and obedience are based upon the words and examples of Christ – the Teacher,¹¹⁴ are a gift of the Lord to his Church¹¹⁵ and belong to the life and holiness of the

¹¹² Canon 576: “Competentis Ecclesiae auctoritatis est consilia evangelica interpretari, eorundem praxim legibus moderari atque stabiles inde vivendi formas canonica approbatione constituere itemque, pro parte sua, curare ut instituta secundum spiritum fundatorum et sanas traditiones crescant et floreat.”

¹¹³ In AAS, 57 (1965), 16-17; 49-52, *FLANNERY1*, 364; 402-406.

¹¹⁴ Religious imitate and follow Christ in contemplation on the mountain, or announcing the kingdom of God, or healing the sick, or doing good to all men, or living with people in the world, or maimed and converting sinners to a good life, or blessing children, etc. See c. 577. Cf. *LG*, no. 46, in AAS, 57 (1965), 50, *FLANNERY1*, 406.

¹¹⁵ See c. 575. Cf. *LG*, no. 43, in AAS, 57 (1965), 50, *FLANNERY1*, 402-403.

Church.¹¹⁶ This gift is granted to the Church to help her to live and bear witness to the gospel.¹¹⁷

The term “the ecclesiastical competent authority” mentioned in canon 576 refers to the Apostolic See for religious institutes of pontifical right (see c. 593), or the diocesan bishops for religious institutes of diocesan right (see cc. 579 and 594). For a religious institute of diocesan right, it should always be remembered that once it was erected by the diocesan bishop, it remains under his special care (see c. 594). As a teacher and guide to guarantee the authenticity of the doctrine on religious life, the diocesan bishop has the right and obligation to care for, to foster, and to safeguard its charism¹¹⁸ by giving proper interpretation, regulating and giving direction for the practice of evangelical counsels,¹¹⁹ to ensure that each religious institute established for building up the Body of Christ may develop and flourish in accordance with the orthodox tradition, the spirit of the gospel, and the spirit of the founder(s) or foundress(es). Likewise, he also needs to ensure that all members are nurtured and fostered to live the evangelical counsels so that their consecrated life grows and flourishes (see c. 576).

¹¹⁶ See c. 574, §1. Cf. *LG*, no. 44, in AAS, 57 (1965), 51, *FLANNERY 1*, 405.

¹¹⁷ See c. 575. The Dogmatic Constitution *Lumen gentium* of the Second Vatican Council uses a rich image of “a tree which has grown in the field of the Lord” to express various forms of the consecrated life in the Church to miraculous growth to bring sweet fruits not only for themselves but also for the welfare of the entire Body of Christ see *LG*, no. 43, in AAS, 57 [1965], 50, *FLANNERY1*, 402-403).

¹¹⁸ See *MR*, no. 9, in AAS, 70 (1978), 479, in *CLD*, vol. 9, 305-306.

¹¹⁹ See c. 576.

3.1.2.2. Establishment, Dedication and Blessing of an Oratory or Converting It to Profane Use – Canons 1223; 1206 -1207; 1224, §2

The *ius vigens* provides the definition of the oratory as “a place for divine worship designated by permission of the ordinary for the benefit of some community or group of the faithful.”¹²⁰ This definition is rooted in canon 1188, §1 of the 1917 Code: “An oratory is a place devoted to divine worship, not however principally for the purpose of serving the faithful in general for public religious worship.”¹²¹ The distinction between public, semipublic, and private or domestic oratories, found in canon 1188, §2 of the 1917 Code had been abolished by the 1983 Code. Comparing the two Codes, Thomas Richstatter remarks: “In the present Code, the former ‘public oratory’ is absorbed into the notion of a ‘church;’ the former ‘semi-public oratory’ is now simply ‘an oratory;’ the former ‘private (or domestic) oratory’ is now called a ‘private chapel’.”¹²²

For establishment of an oratory, whether in religious communities, hospitals, schools, prisons, residential houses, or nursing homes, the law expressly states that the permission of the ordinary is required.¹²³ The “ordinary” mentioned in the canon should be

¹²⁰ Canon 1223: “Oratorii nomine intellegitur locus divino cultui, in commodum alicuius communitatis vel coetus fidelium eo convenientium de licentia Ordinarii destinatus, ad quem etiam alii fideles de consensu Superioris competentis accedere possunt.” The distinction between an oratory and a church should be noted: a church is “a sacred building designated for divine worship to which the faithful have the right of entry for the exercise, especially the public exercise, of divine worship” (c. 1214) while an oratory is built “for the benefit of some community or group of the faithful” (c. 1223).

¹²¹ *CIC/17*, c. 1188, §1: “Oratorium est locus divino cultui destinatus, non tamen eo potissimum fine ut universo fidelium populo usui sit ad religionem publice colendam.”

¹²² T. RICHSTATTER, “Oratories and Private Chapels (cc. 1223-1229),” in *CLSA Comm1*, 849. See also J.T.M. MARTIN DE AGAR, Commentary on cc. 1205-1243, in *CCLA*, 945.

¹²³ See c. 1223.

the ordinary of the place where the oratory is built.¹²⁴ For a clerical institute of pontifical right, it can be its personal ordinary (see c. 134, §1). The law does not require the permission to be given in writing (see c. 1223), but the permission in such a case is a singular administrative act performed by an executive authority (see c. 59, §1), thus it is to be given in writing (see c. 51). Particularly, for religious houses which were established according to canon 608 and 609, §1, the law expressly gives the right to have an oratory “in which the Eucharist is celebrated and reserved,”¹²⁵ but the permission of the ordinary is also needed for the reservation of the Eucharist.¹²⁶ Huels clarifies that “this permission is separate from the permission necessary to establish the oratory.”¹²⁷ Obtaining permission from the ordinary is understandable since the establishment of an oratory is in relation to the celebration of the sacred liturgical services.¹²⁸ That is also the reason why the law restricts the ordinary from granting permission to establish an oratory without having visited beforehand the place destined for the oratory,¹²⁹ either in person or through a delegated representative, and having found that it can be properly used for that purpose.¹³⁰

¹²⁴ Cf. cc. 608 and 609, §1.

¹²⁵ Canon 608: “[...] in quo Eucharistia celebretur et asservetur ut vere sit centrum communitatis.” Huels remarks that “houses of societies of apostolic life have a right to have an oratory in which the Eucharist is celebrated and reserved but, unlike houses of religious institutes, they are not required to do so (c. 733, §2)” (J.M. HUELS, “Sacred Places (cc. 1205-1243),” in *CLSA Comm2*, 1434).

¹²⁶ It should be kept in mind that the law regulating the reservation of the Eucharist must be observed (see cc. 934-944; 1206 -1207; 1224, §2; cf. *CIC/17*, cc. 497, §1; 1162, §4; 1267, §1, 2°).

¹²⁷ HUELS, “Sacred Places (cc. 1205-1243),” 1434.

¹²⁸ See *ibid.*

¹²⁹ See c. 1224, §1; cf. *CIC/17*, c. 1192, §2.

¹³⁰ See HUELS, “Sacred Places (cc. 1205-1243),” 1434.

Since an oratory is a place for divine worship,¹³¹ it is dedicated or blessed by the ordinary.¹³² It should be noted that an oratory only becomes a sacred place when it is blessed, not just by the permission of the ordinary.¹³³ The law expressly determines that the competent authority to bless an oratory is the ordinary; however, in the case where the ordinary is impeded, he can delegate another priest for that purpose.¹³⁴ The mandate can be given orally or in writing.¹³⁵

Once the permission of the ordinary for the establishment of an oratory is granted, the oratory cannot be converted to secular use unless with the permission of the same ordinary,¹³⁶ granted in writing.¹³⁷ Importantly, in the decree of converting the oratory to profane use, the ordinary should list the fact(s) and reason(s) for the decision in order that the status of the place be given legal clarity.¹³⁸

3.1.2.3. Appointment of Confessors and Chaplains – Canons 630, §3; 567, §1

There is an interesting difference between the 1917 and 1983 Codes in the placement of the norms on appointing ordinary confessors and chaplains. In the 1917 Code,

¹³¹ See c. 1223. Cf. *CIC/17*, c. 1188.

¹³² See c. 1207. Cf. *CIC/17*, c. 1196, §1.

¹³³ See c. 1229. See also PENACOBIA, Commentary on Canon 1224, 1831; HUELS, “Sacred Places (cc. 1205-1243),” 1434.

¹³⁴ See c. 1207.

¹³⁵ See HUELS, “Sacred Places (cc. 1205-1243),” 1425.

¹³⁶ See c. 1224, §2. Cf. *CIC/17*, c. 1192, §3.

¹³⁷ See HUELS, “Sacred Places (cc. 1205-1243),” 1434.

¹³⁸ See *ibid.*

the appointment of ordinary confessors (*CIC/17*, c. 520, §1) and chaplains (*CIC/17*, cc. 479, §2 and 529) was placed in Book II, Part II (On Religious), Chapter II (On Confessors and Chaplains) (*CIC/17*, cc. 518-530), while in the 1983 Code such appointment is placed in Book II, Part III, Chapter II (The Governance of Institutes), Article 1 (Superiors and Councils) (see cc. 617-630). The appointment of chaplains to a house of a lay religious institute, however, is placed in Book II, Part II of the Hierarchical Constitution of the Church, Section II (Particular Churches and Their Groupings), Title III (The Internal Ordering of Particular Churches), Chapter VIII (Rectors of churches and chaplains), Article 2 (Chaplains) (see c. 567, §1).

3.1.2.3.1. Appointment of Confessors - Canons 630, §3

Canon 630, §3 states:

In monasteries of nuns, in houses of formation, and in more numerous lay communities, there are to be ordinary confessors approved by the local ordinary after consultation with the community; nevertheless, there is no obligation to approach them.¹³⁹

The canon determines the discipline for appointing *ordinary confessors* of religious in monasteries of nuns, houses of formation,¹⁴⁰ and in more numerous lay communities (see c. 630, §3). This discipline is based on canon 520, §1 of the 1917 Code and the Decree

¹³⁹ Canon 630, §3: “In monasteriis monialium, in domibus formationis et in communitatibus numerosioribus laicalibus habeantur confessarii ordinarii ab Ordinario loci probati, collatis consiliis cum communitate, nulla tamen facta obligatione ad illos accedendi.”

¹⁴⁰ E.g., houses of postulants, novices, students.

*Dum canonicarum legum.*¹⁴¹

The appointment of ordinary confessor is the responsibility of the superior¹⁴² for his or her own community¹⁴³ to provide for the good of the members that they may frequently approach the sacrament of penance¹⁴⁴ to foster their union with God and receive the abundant fruits of grace daily for faster progress along the path of virtue; indeed “genuine self-knowledge is increased, Christian humility grows, bad habits are corrected, spiritual neglect and tepidity are resisted, the conscience is purified, the will strengthened, a salutary self-control is attained, and grace is increased in virtue of the Sacrament itself.”¹⁴⁵ As the result, the common good of the entire community will increase. According to Rincón-Pérez, the appointment of ordinary confessor “is a good way to provide for the frequent reception of the sacrament of penance, to ensure the availability of suitable

¹⁴¹ SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTE, decree *Dum canonicarum legum*, 8 December 1970 (=DCL), no. 4b reads as follows: “Nevertheless, in order to provide better for the good of the communities, let an ordinary confessor be given to monasteries devoted to the contemplative life, to houses of formation, and to larger communities; and at least in the case of the aforesaid monasteries as well as houses of formation, let an extraordinary confessor also be provided. However, there is no obligation to go to them” (in AAS, 63 [1971], 319, English translation in CLD, vol. 7, 532-533).

¹⁴² This appointment is made by the competent superior of the religious institute according to the norms of proper law.

¹⁴³ See c. 630, §3; see also DCL, no. 4b, in AAS, 63 (1971), 319, CLD, vol. 7, 532; RINCÓN-PÉREZ, Commentary on cc. 617-640, 508; SMITH, “The Governance of Institutes (cc. 617-640),” 792.

¹⁴⁴ Sacred Congregation for Religious and Secular Institute calls on the superiors to promote the practice of approaching the sacrament of penance “at least every other week and even oftener, if they so desire” (DCL, no. 3, in AAS, 63 [1971], 318, in CLD, vol. 7, 532).

¹⁴⁵ PIUS XII, encyclical letter *Mystici Corporis Christi*, 29 June 1943, no. 88: “[...] crebrae confessionis usum, quo recta sui ipsius cognitio augetur, christiana crescit humilitas, morum eradicatur pravitas, spirituali neglegentiae torporique obsistitur, conscientia purificata, roboratur voluntas, salutaris animorum moderatio procuratur, atque issius sacramenti vi augetur grati [...]” (in AAS, 35 [1943], 235, English translation in J. BLUETT, *The Mystical Body of Christ*, Washington, DC, The America Press, 1962, 31).

confessors, and, in many cases, to avoid frequent and needless departures from the house and the infringement of norms and internal discipline.”¹⁴⁶

This appointment is made after having consulted with the community¹⁴⁷ and in keeping with the wishes of the members. However, the superior does not need to follow every member’s opinion and to meet every member’s need. The law stipulates, however, that “although not obliged to accept their opinion even if unanimous, a superior is nonetheless not to act contrary to that opinion, especially if unanimous, without a reason which is overriding in the superior’s judgment.”¹⁴⁸ Moreover, the law requires that the appointment needs to be approved by the local ordinary.¹⁴⁹ This requirement safeguards the choice of confessor(s) who have suitable maturity and other requisite qualities that are fitting for this office.¹⁵⁰

The *ius vigens* does not require a specific number of ordinary confessors that should be appointed,¹⁵¹ while the previous Code demanded “only one ordinary confessor”¹⁵² *nisi* “because of their [penitents] great number or other just cause there ought to be a second or

¹⁴⁶ RINCÓN-PÉREZ, Commentary on cc. 617-640, 508.

¹⁴⁷ See c. 630, §3.

¹⁴⁸ Canon 127, §2, 2º: “[...] Superior, licet nulla obligatione teneatur accedendi ad earundem votum, etsi concors, tamen sine praevalenti ratione, suo iudicio aestimanda, ab earundem voto, praesertim concordi, ne discedat.”

¹⁴⁹ See c. 630, §3.

¹⁵⁰ See *DCL*, no. 4d, in *AAS*, 63 (1971), 319, in *CLD*, vol. 7, 533.

¹⁵¹ Cf. c. 630, §3.

¹⁵² *CIC/17*, c. 520, §1: “[...] unus dumtaxat detur confessarius ordinarius.”

several others.”¹⁵³ Robert McCormick brings up the reason for having only one ordinary confessor in a community as demanded in canon 520, §1 of the 1917 Code: it is “for unity of direction.”¹⁵⁴ A community having more than fifty resident religious could have been considered as warranting another confessor.¹⁵⁵

It is important to recognize that a member of the community is not forced to approach appointed confessors.¹⁵⁶ This discipline emphasizes the freedom of conscience of religious in making their confession,¹⁵⁷ which reflects the teaching of the *Perfectae caritatis*, no. 14 that called on all religious superiors to respect the due freedom of their subjects with regard to the sacrament of penance and to the direction of their consciences.¹⁵⁸

It should be noted that the *ius vigens* does not explicitly forbid the confessor of a religious house to involve himself in the internal governance of the institute as the 1917 Code did.¹⁵⁹ Joseph Janicki explains that the former legislation had intended so in order to “preserve a clear delineation between the internal and external fora.”¹⁶⁰ Though the current

¹⁵³ *CIC/17*, c. 520, §1: “[...] propter magnum ipsarum numerum vel aliam iustam causam sit opus altero vel pluribus.”

¹⁵⁴ R.E. MCCORMICK, *Confessors of Religious*, Canon Law Studies, no. 33, Washington, DC, The Catholic University of America Press, 1926, 115.

¹⁵⁵ See L. FANFANI, *De Jure Religiosorum, ad Normam Codicis Juris Canonici*, Augustae Taurinorum, 1920, 134. Cf. SMITH, “The Governance of Institutes (cc. 617-640),” 793.

¹⁵⁶ See cc. 630, §3 and 240, §1. See also *DCL*, no. 4b, in *AAS*, 63 (1971), 319, in *CLD*, vol. 7, 533; HITE, “The Governance of Institutes (cc. 617-640),” 482.

¹⁵⁷ See c. 630, §1.

¹⁵⁸ See *PC*, no. 14, in *AAS*, 58 (1966), 709, *FLANNERY1*, 619.

¹⁵⁹ See *CIC/17*, c. 524, §3.

¹⁶⁰ J.A. JANICKI, “Chaplains (cc. 564-572),” in *CLSA Comm1*, 446.

law keeps silent on this prohibition, the confessor should not involve himself in any internal government matters of the religious institute.¹⁶¹ By analogy with the norm of c. 240, §2, he is not allowed to intervene or provide a vote in the process of admission of candidates to the novitiate or to religious profession, whether temporary or perpetual, and in the process of dismissal.¹⁶²

3.1.2.3.2. Appointment of Chaplain – Canon 567, §1

Canon 567, §1 states:

The local ordinary is not to proceed to the appointment of a chaplain to a house of a lay religious institute without consulting the superior, who has the right to propose a specific priest after the superior has heard the community.¹⁶³

This canon treats the appointment of a chaplain¹⁶⁴ to a house of a lay religious institute.¹⁶⁵ The discipline is based on canons 479, §2 and 529 of the 1917 Code. The

¹⁶¹ Cf. c. 586, §1.

¹⁶² Cf. c. 240, §2. Cf. *CCEO*, c. 339, §§2-3.

¹⁶³ Can 567, §1: “Ad nominationem cappellani domus instituti religiosi laicalis, Ordinarius loci ne procedat, nisi consulto Superiore, cui ius est, audita communitate, quemdam sacerdotem proponere.”

¹⁶⁴ Canon 564 provides a notion of chaplain who “is a priest to whom is entrusted in a stable manner the pastoral care, at least in part, of some community or particular group of the Christian faithful, which is to be exercised according to the norm of universal and particular law.” John Renken provides a clarification of the term “chaplain” as used “widely in contemporary settings to identify those who provide pastoral assistance to others” (J.A. RENKEN, “Chaplain in Canon Law,” in *Studia canonica*, 45 [2011], 191). Cf. CONGREGATION FOR THE CLERGY, Instruction on Certain Questions regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priest *Ecclesia de mysterio*, 15 August 1997, art. 1, §3: “It is unlawful for the non-ordained faithful to assume titles such as ‘pastor,’ ‘chaplain,’ ‘coordinator,’ ‘moderator’ or other such similar titles [...]” (in AAS, 89 [1997], 863, English translation Libreria editrice Vaticana, Vatican City, 1997, 19). The term “chaplain” appears 18 times in the 1983 Code (see cc. 317, §1; 317, §2; 317, §3; 318, §2; 564; 565; 566, §1; 566, §2; 567, §1; 567, §2; 568; 569; 570; 571; 572; 911, §1; 911, §2; 1179) while it does not appear at all in the 1990 Code of Canons of the Eastern Churches.

¹⁶⁵ See c. 567, §1. A lay religious institute, “recognized as such by the authority of the Church, has by virtue of its nature, character, and purpose a proper function defined by the founder or by legitimate tradition, which does not include the exercise of sacred orders” (c. 588, §3).

competent authority to appoint chaplain is the local ordinary.¹⁶⁶ However, the appointment is made only after consultation with the superior of the community.¹⁶⁷ This consultation is required for the local ordinary's action to be valid in accordance with canon 127, §2, 2°.

The law gives the superior of the institute the right to propose a suitable priest to the local ordinary after the superior has consulted with the members of the community.¹⁶⁸ It should be noted that the proposal of the superior would be invalid if he or she had not consulted and heard the opinions of the members beforehand.¹⁶⁹ However, the superior does not need to follow the member's opinion. However, "although not obliged to accept their opinion even if unanimous, a superior is nonetheless not to act contrary to that opinion, especially if unanimous, without a reason which is overriding in the superior's judgment."¹⁷⁰ After receiving and considering the opinions of the members of the community, the superior sends the proposal to the local ordinary who will appoint the chaplain.¹⁷¹ A question has been raised in cases where the local ordinary expresses his displeasure or opposition to such proposal: can he freely appoint a candidate whom he discerns as more suitable? According to Beyer and Ghirlanda, in order to foster the peace of the religious house, the bishop (local ordinary) should not appoint a chaplain contrary

¹⁶⁶ See c. 567, §1.

¹⁶⁷ See c. 567, §1.

¹⁶⁸ See *ibid.*

¹⁶⁹ See c. 127, §2, 2°.

¹⁷⁰ *Ibid.*

¹⁷¹ See c. 567, §1.

to the proposal of the superior and of the community.¹⁷² Eloy Tejero shares Ghirlanda's opinion, stressing that the local ordinary should appoint the one who is proposed by the superior.¹⁷³ Bertram Griffin, on the other hand, maintains that "the local ordinary is equally free to appoint the more suitable candidate."¹⁷⁴ Gordon Read presents a neutral solution as he states that "the local ordinary is free to appoint anyone whom he considers suitable, but he should not ignore the advice given, except for an overriding reason."¹⁷⁵ From the practical point of view, the author concurs with Tejero because the local ordinary should respect the free choice of the superior and the community, unless the proposed candidate is found unsuitable, e.g., impeded by law (see cc. 149, §§1-2; 150; 564) or an unsuitable candidate has been proposed repeatedly by the superior (see c. 161, §1). From the purely academic point of view, the author agrees with Griffin since the law allows the local ordinary to weight and judge the suitability of the one legitimately presented by the superior and appoint the priest whom he found suitable.¹⁷⁶ Regarding the decision on the suitability, Juan I. Arrieta stresses that the local ordinary "must always make known expressly its judgement on the suitability of the candidate, whether this judgement is favorable or unfavorable."¹⁷⁷

¹⁷² See J. BEYER, *Risposte a quesiti e dubbi sul nuovo diritto degli Istituti di vita consecrate*, in *Vita consecrata*, 21 (1986), 785-786; see also GHIRLANDA, "Relations between Religious Institutes and Diocesan Bishops," 57.

¹⁷³ See E. TEJERO, Commentary on Canon 567, in *Exegetical Comm*, vol. 2/2, 1438.

¹⁷⁴ B.F. GRIFFIN "Chaplain (cc. 564-572)," in *CLSA Comm2*, 738.

¹⁷⁵ G.V. READ, "Chaplains (cc. 564-572)," in *CLSGBI Comm*, 311.

¹⁷⁶ See c. 163.

¹⁷⁷ J.I. ARRIETA, Commentary on cc. 129-196, in *CCLA*, 508; see also c. 57, §3.

It is noteworthy that the law limits the function of the chaplain of a house of lay religious institute to celebrating or directing liturgical functions;¹⁷⁸ “he is not permitted to involve himself in the internal governance of the institute.”¹⁷⁹ Renken emphasizes further that the chaplain “is not assigned for the internal formation of the members of the religious institute, who enjoy a just autonomy of life.”¹⁸⁰ Any interference in the internal governance of the institute would be a violation of the rights proper to the institute recognized by canon 586, §1.

3.1.2.4. Visitation of Individual Religious Houses – Canon 628, §2, 2º

Canon 628, §2 states:

It is the right and duty of a diocesan bishop to visit even with respect to religious discipline:

1º the autonomous monasteries mentioned in can. 615;

2º individual houses of an institute of diocesan right located in his own territory.¹⁸¹

Canon 628, §2, 2º determines that a diocesan bishop has the right and duty to visit all individual houses, i.e., generalate, provincialate, or local houses, located in his territory.¹⁸² It should be noted that the diocesan bishop of the principal seat visits only the

¹⁷⁸ See c. 566, §1.

¹⁷⁹ Canon 567, §2. Cf. *CIC/17*, cc. 479, §2 and 529. See also JANICKI, “Chaplains (cc. 564-572),” 446.

¹⁸⁰ RENKEN, “Chaplain in Canon Law,” 202. See also cc. 586, 593-594; READ, “Chaplains (cc. 564-572),” 311.

¹⁸¹ Canon 628, §2: “Episcopi dioecesani ius et officium est visitare etiam quoad disciplinam religiosam: 1º monasteria sui iuris de quibus in can. 615. 2º. singulas domos instituti iuris dioecesani in proprio territorio sitas.”

¹⁸² It should be kept in mind that the diocesan bishop does not have the right to visit schools which are opened exclusively to the institutes’ own students, such as for those in initial formation (postulants,

generalate and other houses of the institute located in his territory.¹⁸³ It should be kept in mind that, the religious houses and the members of exempt institutes and institutes of pontifical right are excluded from the canonical visitation of the diocesan bishops (see cc. 591, 593). Canonical visitations of such houses are not within the scope of competence of the diocesan bishops even though these houses might have been established after having obtained the written consent of the diocesan bishop(s) (see c. 609, §1). The above mentioned provision is rooted in canon 512, §1, 2° of the 1917 Code.¹⁸⁴ However, there is a difference between the competent authority as defined in the two Codes. The previous Code defined it as “the local ordinary” (*ordinarius loci*) while the current Code defines it as “the diocesan bishop” (*episcopus dioecesanus*) (c. 628, §2, 2°).

This duty can be fulfilled by the diocesan bishop personally or by another person who is delegated by him, i.e., a vicar¹⁸⁵ or another delegate.¹⁸⁶ If the diocesan bishop appoints a delegate to perform this task, he must “delegate this authority or include it among the responsibilities of the vicar or delegate for religious at the time the priest (vicar) or lay religious (delegate) is appointed.”¹⁸⁷ This delegation should be clearly indicated in

novices, students) (see c. 683, §1) since each institute enjoys full autonomy in the formation of its members (see c. 586, §1).

¹⁸³ Cf. c. 396, §1. Also cf. *CCEO*, cc. 414, §1, 3°; 420, §3.

¹⁸⁴ *CIC/17*, c. 512 reads as follows: “§1. The local Ordinary personally or through another must visit every five years: [...] 2°. Each house of Congregations, whether of men or of women of diocesan right.”

¹⁸⁵ Can be vicar general or episcopal vicar for religious (cf. c. 134, §3).

¹⁸⁶ It could be the coadjutor bishop, an auxiliary bishop, the episcopal vicar for religious or another presbyter. The most suitable delegate, however, would be the episcopal vicar for religious or the episcopal delegate for religious.

¹⁸⁷ McDERMOTT, *Consecrated Life*, 73.

writing.¹⁸⁸ The bishop or his delegate must respect and safeguard the institute's right to autonomy of life and governance accorded by the universal law in canon 586.

Canon 628, §2, 2^o does not determine specific intervals for the episcopal visitations; they are left to the discretion of the bishop. The diocesan bishop can follow the schedule that the proper law of the institute normally sets, but he would not be bound by the determination prescribed in the proper law; he is free to set the times in which he desires to exercise his duty and fulfill his obligation.¹⁸⁹ McDermott suggests that the pastoral visitation of the bishop or his delegate should “occur once a year, biannually, or at least before the election of the major superior takes place.”¹⁹⁰ If some grave scandal or disorder called for his visitation, the diocesan bishop would have the right and duty to conduct visitations as often as he judges it necessary for allaying the scandal or quelling the disorder.¹⁹¹

The purpose of the episcopal visitations is to preserve sound doctrine, promote fidelity in observing the discipline of the institute, and guard against abuses whether on the part of the members or on the part of superiors.¹⁹² More positively, the canonical visitation of the bishop or his delegate can serve as “a source of unity, inspiration, and a mutual

¹⁸⁸ See QUINN, *Relation of the Local Ordinary to Religious of Diocesan Approval*, 80.

¹⁸⁹ See D.J. ANDRÉS, “Commentary on Canon 628,” in *Exegetical Comm*, vol. 2/2, 1655. One could argue that c. 396, §1 on the visitation of the diocese would be applicable; the bishop would need to visit religious houses at least every five years.

¹⁹⁰ MCDERMOTT, *Consecrated Life*, 74-75.

¹⁹¹ See c. 683, §1.

¹⁹² See c. 683, §2.

exchange of ideas and experiences.”¹⁹³ By such visitations, the bishop or his delegate may investigate any laxity in religious discipline by questioning the regularity of the religious life in accord with the constitutions and statutes of the institute. The visitor may also examine the spiritual provisions, i.e., the prayer schedule of the house, the program of formation of candidates, novices and temporarily professed, as well as the ongoing formation of the perpetually professed religious. He may also examine the financial stability and the administration of the goods belonging to the houses of the institute.¹⁹⁴ He may also simply encourage and support the religious that they fulfill faithfully the obligations of their vocation, i.e., the observance of the vows, the attendance at spiritual exercises, the observance of the law of enclosure, etc.¹⁹⁵

Additionally, the bishop or his delegate has the right and duty to question any of the religious whom he wishes. The religious are bound to respond to all inquiries with truth and charity. No one is permitted in any way to prevent the members from fulfilling this obligation, nor in any way hinder the scope of the visitation (see c. 628, §3). Ordinarily, the visitor meets with the superior at the end of his visit to bring concerns to his or her attention. The visitor must keep in mind that the confidential matters shared with him in

¹⁹³ HITE, “The Governance of Institutes (cc. 617-640),” 481.

¹⁹⁴ During the visitation, therefore, the bishop can access account books (including a statement of income and expenses for each year, the balance sheet, and the documentation of important transactions) to gain knowledge about the financial condition of the house.

¹⁹⁵ See McDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 15.

the interviews cannot be revealed. Then, he should have a general meeting with all members following the personal interviews.¹⁹⁶

The visitation itself should not be a burden for the institute or its members. Therefore, the visitation should be well planned within a reasonable frame of time. The bishop should observe courtesy, informing the superior of the proposed visitation, and scheduling it at a mutually agreeable time. Additionally, as the prerogative of the diocesan bishop to visit the houses of the religious institutes of diocesan right does not substitute for the right and duty of the superior of the institute to visit the houses and members entrusted to his or her care as prescribed in the proper law of the institute,¹⁹⁷ the superior and the bishop should coordinate the times of their respective visitations so as to preclude duplicating them or unduly burdening the members.¹⁹⁸

3.1.3. Apostolate of the Religious Institute

The *ius vigens* devotes a chapter of the Code of Canon Law to the apostolate of institutes (see cc. 673-683); it begins by stating that “the apostolate of all religious consists first of all in the witness of their consecrated life,”¹⁹⁹ since the consecrated life is dedicated to the building up of the Church and to the salvation of the world (see c. 573, §1). Indeed, whatever the nature, spirit, and purpose of each religious institute, whether they are

¹⁹⁶ See *ibid.*

¹⁹⁷ See c. 628 §1; see also HITE, “The Governance of Institutes (cc. 617-640),” 481; GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 56.

¹⁹⁸ See SMITH, “The Governance of Institutes (cc. 607-640),” 791.

¹⁹⁹ Canon 673: “Omnium religiosorum apostolatus primum in eorum vitae consecratae testimonio consistit [...]”

dedicated to contemplation (see c. 674) or apostolic action (see c. 675), they are all called to participate in the mission of the Church.²⁰⁰ As Christian faithful and by virtue of their baptism and confirmation (see c. 204),²⁰¹ religious whether they perform an individual service or serve in a corporate apostolate of the institute, they always do so in the name of the Church and by its mandate, and in communion with the Church (see c. 675, §3), since “consecrated persons are called to be a leaven of communion at the service of the mission of the universal Church.”²⁰²

The following section of the thesis will address the authority of the diocesan bishop regarding the apostolate of religious institutes under his special care, i.e., entrusting works of religion or charity to religious institutes (see cc. 675-677; 681-682); exercising external apostolate by the members of religious institutes (see cc. 678, 680-682); establishment of schools by religious institutes (see c. 801); visitation of works of apostolate or charity (see c. 683, §1); and cooperation and coordination of the works and apostolic activities of individual institutes (see c. 680).

²⁰⁰ See *LG*, no. 12, in *AAS*, 57 (1965), 16-17, *FLANNERY1*, 363; *PC*, no. 8, in *AAS*, 58 (1966), 706, *FLANNERY1*, 615-616; *CD*, nos. 33-35, in *AAS*, 58 (1966), 690-692, *FLANNERY1*, 583-586; see also SECOND VATICAN COUNCIL, Decree on the Apostolate of Lay People *Apostolicam actuositatem*, 18 November 1965 (=AA), nos. 20d, 23, in *AAS*, 58 (1966), 855-856, English translation in *FLANNERY1*, 787-789.

²⁰¹ Cf. *LG*, nos. 3, 4, 8-17, 22, 31, 32, 38, in *AAS*, 57 (1965), 6-7, 11-21, 25-27, 37-38, 43, *FLANNERY1*, 351-352, 357-369, 374-376, 388-390, 395-396; *GS*, nos. 29, 40, in *AAS*, 58 (1966), 1048-1049, 1057-1059, *FLANNERY1*, 929-930, 939-940; AA, nos. 2, 6, 7, 9, 10, in *AAS*, 58 (1966), 838-839, 842-844, 846-847, *FLANNERY1*, 767, 772-778.

²⁰² *VC*, no. 47: “Personae consecratae nimirum rogantur ut communionis missionalis universa in Ecclesia [...]” (in *AAS*, 88 [1996], 420, in *Origins*, 25 [1996], 696).

3.1.3.1. Entrusting Works of Religion or Charity to a Religious Institute – Canons 675 – 677; 681 – 682

Works of religion or charity entrusted by the diocesan bishop to a religious institute, such as assisting the parish priest in the pastoral care through the apostolate of catechesis at all levels, retreat centers, hospitals, nursing homes, residence for students and for pregnancy girls, social services, schools, orphanages, etc. are subject to the authority of diocesan bishop and under his direction (see cc. 681, §1; 683, §1).

One should distinguish between the different types of apostolic works, namely (1) “works of the apostolate” (*opera apostolatus*) addressed in canons 675, §1; 678, §1; 222, §1; 298, §1; 311; 394; 678, §3; 897; (2) “works proper to the institute” (*opera instituti propria*), mentioned in canons 611, 2° and 677, §1; and (3) “works entrusted” by a diocesan bishop to a religious institute or individual religious, mentioned in canons 678 and 681. The “works of the apostolate” are the apostolic activities to be performed in the name of the Church (see c. 675, §3)²⁰³ since they constitute “part of the broader apostolic effort of the Church.”²⁰⁴ These apostolic activities are also exercised by the mandate of the Church (see c. 675, §3), which “implies that it is approved by competent ecclesial authority and is not a purely private initiative.”²⁰⁵ The “works proper to the institute” derive from the consent of the diocesan bishop to erect a religious house (see c. 611, 2°) and are connected

²⁰³ Cf. *PC*, no. 8, in *AAS*, 58 (1966), 706, *FLANNERY I*, 615-616.

²⁰⁴ R. A. HILL, “The Apostolate of Institute (cc. 673-683),” in J. HITE, et al., *A Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, 202.

²⁰⁵ *Ibid.*

to the patrimony of the institute (see c. 578) that both superiors and members are to observe faithfully (see c. 578), retain and prudently adapt (see c. 677, §1). The “works entrusted” by a diocesan bishop to a religious institute or individual religious can be an apostolic work to be accomplished in the name of the institute (see c. 665, §1) or works and ecclesiastical offices outside the institute (see c. 671). Such entrusted works can never be contrary to the nature or character of the institute.²⁰⁶

With works of religion or charity entrusted by the diocesan bishop to a religious institute, a written agreement between the diocesan bishop and the competent superior is required in accordance with canon 681, §2. In order to minimize the potential for future problems, rights and obligations of both parties (e.g., determination of requirements, the scope of work, personnel, financial arrangements, contract period, etc.)²⁰⁷ should be spelled out in detail and clearly before being signed by both parties. In regard to the “written agreement,” Hill stresses out that “assignment and transfer of personnel remains within the competence of the superior.”²⁰⁸

In cases where the institute finds itself in the situation of being unable to continue with the entrusted works, the competent superior of the institute should sincerely make known to the bishop the facts, reasons, and problems that are hindering the continuation of

²⁰⁶ Ibid., 221.

²⁰⁷ See *ibid.*, 213.

²⁰⁸ R.A. HILL, “Complementary Competencies: Bishops, Superiors and Apostolates,” in *Bulletin on Issues of Religious Law*, 4 (1985), 9.

the task. As for the bishop, he should consider sympathetically the request of the superior and seek a suitable solution²⁰⁹ for the welfare of the people of God.

3.1.3.2. Subjection of Members of Religious Institutes to the Power of Diocesan Bishop in Exercising External Apostolate – Canons 678, 680-682

Canon 678, §1 states that religious who are exercising an external apostolate, i.e., in matters involving the care of souls, the public exercise of divine worship, and other works of the apostolate are subject to the diocesan bishop.²¹⁰ This provision is based on canon 612 of the 1917 Code which stated: “beyond the prescription of canon 1345, if the local Ordinary for some public cause orders the ringing of bells, certain prayers, or sacred solemnities, all religious, even exempt, are bound to obey, with due regard for the constitutions and privileges of each religious [institute].”²¹¹ Additionally, the provision of canon 678, §1 is based on the conciliar documents, i.e., *Lumen gentium*, no. 45,²¹² *Christus Dominus*, nos. 34-35.1.3.4,²¹³ *Perfectae caritatis*, no. 6,²¹⁴ and *Ecclesiae Sanctae I*, nos. 23-26, 29, 35-36.²¹⁵

²⁰⁹ See *MR*, no. 47, in *AAS*, 70 (1978), 498, in *CLD*, vol. 9, 330.

²¹⁰ Cf. *CCEO*, c. 415, §1.

²¹¹ *CIC/17* c. 612: “Praeter praescriptum can. 1345, si loci Ordinarius ob causam publicam sonitum campanarum, preces aliquas vel sacra sollemnia indicat, religiosi omnes, etiam exempti, obedire debent, salvis constitutionibus et privilegiis suae cuiusque religionis.”

²¹² In *AAS*, 57 (1965), 51-52, *FLANNERY1*, 405-406.

²¹³ In *AAS*, 58 (1966), 690-692, *FLANNERY1*, 584-585.

²¹⁴ In *AAS*, 58 (1966), 705, *FLANNERY1*, 614-615.

²¹⁵ In *AAS*, 58 (1966), 769-772, *FLANNERY1*, 604-608.

The works of the apostolate (e.g., preaching, religious and moral education, catechetical formation, liturgical instruction, etc.)²¹⁶ performed by religious, whether members of exempt or non-exempt institutes, of pontifical or diocesan right, are subject to the power of bishops (see c. 678, §1)²¹⁷ who have the obligation to foster various forms of the apostolate in the diocese and to take care of all the works of the apostolate (see c. 394, §1).²¹⁸

Religious priests can be appointed to those ecclesiastical offices which entail the full care of souls and for whose fulfillment the exercise of the order of priesthood is required (see c. 150). Deacons who are members of religious institutes and non-ordained religious (male or female) can be appointed to offices involving a participation in the care of souls (see cc. 276, §2, 2^o-3^o; 517, §2; 757; 758; 835, §3). Regarding the divine worship,²¹⁹ one should distinguish between the *public* and *private* exercise of divine worship. The *public* exercise of divine worship is a celebration which involves many people or is opened indiscriminately to all. This is surely subject to the bishops' authority, either of individual diocesan bishop or of the bishops conference.²²⁰ Since the diocesan bishops are the pastors of the particular churches (see c. 383, §1),²²¹ they have the

²¹⁶ See CD, no. 35.4, in AAS, 58 (1966), 691-692, *FLANNERY1*, 585.

²¹⁷ Cf. CD, no. 35.4, in AAS, 58 (1966), 691-692, *FLANNERY1*, 585; *ES I*, no. 39, in AAS, 58 (1966), 773, *FLANNERY1*, 608; *MR*, no. 44, in AAS, 70 (1978), 497, in *CLD*, vol. 9, 328-329.

²¹⁸ Cf. CD, no. 17, in AAS, 58 (1966), 681-682, *FLANNERY1*, 573-574.

²¹⁹ Includes the "celebration of the sacraments, funerals, the liturgy of the hours, blessings, religious profession" (HILL, "The Apostolate of Institute [cc. 673-683]," 206).

²²⁰ See *ibid.*

²²¹ Cf. *MR*, no. 9, in AAS, 70 (1978), 479, in *CLD*, vol. 9, 232.

obligation to protect the unity of the universal Church, to promote the common discipline of the whole Church, to urge the observance of all ecclesiastical laws (see c. 392, §1), and to exercise vigilance, especially regarding “the ministry of the Word, the celebration of the sacraments and sacramentals, the worship of God and the veneration of the saints.”²²² In fulfilling this task, the diocesan bishops may act to ensure that the liturgical celebrations and liturgical practices of the faithful be in full harmony with the laws of the Church (see c. 839, §2) and any abuses do not creep into ecclesiastical discipline (see c. 392, §2). However, a celebration within the religious community and for the community belongs in the sphere of *private* exercise of divine worship, and as such, is not subject to the diocesan bishop’s competence since “of its nature, private, individual, or small-group worship does not pertain to the external forum of Church governance.”²²³ It should be kept in mind, however, that in exercising private divine worship, religious are obliged to observe the general liturgical norms and regulations of the Church regarding divine worship (see c. 846).

It should be noted that when performing external apostolate, religious are still under the vow of obedience to their proper superiors, and they are obliged to be faithful to the discipline of the institute. The bishops themselves should not fail to insist on this obligation (see c. 678, §2).²²⁴ Consequently, religious are under the dual authority of the diocesan bishops and of their religious superiors. Richard Hill highlights that “the authority of

²²² Canon 392, §2 : “[...] praesertim circa ministerium verbi, celebrationem sacramentorum et sacramentalium, cultum Dei et Sanctorum [...]”

²²³ HILL, “The Apostolate of Institute (cc. 673-683),” 206.

²²⁴ Cf. *CCEO*, c. 543; *CD*, no. 35.2, in *AAS*, 58 (1966), 691, *FLANNERY1*, 584.

superiors in this case mainly, but not exclusively, looks to the specifically religious well-being of the members who have been missioned by them for a specific apostolic commitment. Superior, as well as bishops, should do what they can to see to it that the enterprise is successful.”²²⁵

In addition, the current law establishes norms governing the relationship between religious superiors and diocesan bishops in the exercise of the apostolate of the religious, as stated in canon 678, §3: “In organizing the works of the apostolate of religious, diocesan bishops and religious superiors must proceed through mutual consultation.”²²⁶ This canon calls for diocesan bishops and religious superiors to proceed through cordial dialogue in order to direct the pastoral initiatives of religious in accord with the needs of the people of God.²²⁷ The sincere dialogue and mutual consultation may help to avoid tensions that may arise and to build up the life and holiness of the Church and the good of the diocese.²²⁸

²²⁵ HILL, “The Apostolate of Institute (cc. 673-683),” 208.

²²⁶ Canon 678, §3: “In operibus apostolatus religiosorum ordinandis Episcopi dioecesani et Superiores religiosi collatis consiliis procedant oportet.”

²²⁷ See MCDERMOTT, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” 846.

²²⁸ Cf. *CD*, no. 33, in *AAS*, 58 (1966), 690, *FLANNERY1*, 583. See also R. MCDERMOTT, “The Apostolate of Institutes (cc. 673-683),” in *CLSA Comm2*, 846. Cf. *VC*, nos. 48-50, in *AAS*, 88 (1996), 421-424, in *Origins*, 25 (1996), 697.

3.1.3.3. Establishment of Schools by Religious Institutes – Canon 801

Canon 801 states:

Religious institutes whose proper mission is education, retaining their mission faithfully, are also to strive to devote themselves to Catholic education through their schools, established with the consent of the diocesan bishop.²²⁹

This canon is not found in the previous Code. It reflects the teachings of the Second Vatican Council, of *Christus Dominus*, no. 35²³⁰ and *Ecclesiae Sanctae I*, nos. 29, 30, 39.²³¹ According to Sharon Euart, “in response to the call for renewal by the Second Vatican Council, religious institutes initiated efforts to adapt their lives and works to the spirit of their founders and the needs of the time. In this process, some religious institutes moved into new apostolates and decreased their involvement in the Catholic school apostolate.”²³² To remedy this situation, the law calls for those religious institutes whose proper mission is education, that they remain faithful to their mandate;²³³ indeed, they are encouraged “to strive to devote themselves to Catholic education through their schools.”²³⁴ This calling is repeated again by the Sacred Congregation for Catholic Education in their document *The Catholic School on the Threshold of the Third Millennium* (1997), in order to emphasize

²²⁹ Canon 801: “Instituta religiosa quibus missio educationis propria est, fideliter hanc suam missionem retinentes, satagant educationi catholicae etiam per suas scholas, consentiente Episcopo dioecesano conditas, sese impendere.”

²³⁰ In AAS, 58 (1966), 691-692, *FLANNERY1*, 585.

²³¹ In AAS, 58 (1966), 771, 773, *FLANNERY1*, 606, 608-609.

²³² S. EUART, “Catholic Education (cc. 793-821),” in *CLSA Comm2*, 957.

²³³ See c. 801: “Instituta religiosa quibus missio educationis propria est, fideliter hanc suam missionem retinentes [...]”

²³⁴ Ibid.: “[...] satagant educationi catholicae etiam per suas scholas.”

the role of the Catholic schools in “bringing forth [...] a Christian vision of the world, of life, of culture and of history.”²³⁵ In these schools, teaching of religion must help students to understand “the meaning of life, the significance of reality and a responsible commitment to transform it in the light of the evangelical values and modern culture.”²³⁶ Furthermore, the Congregation for Catholic Education stressed the important roles of men and women religious in education:

Through schools, men and women religious educate, help young people to grasp their own identity and to reveal those authentic needs and desires that inhabit everyone’s heart, but which often remain unknown and underestimated: thirst for authenticity and honesty, for love and fidelity, for truth and consistency, for happiness and fullness of life. Desires which in the final analysis converge in the supreme human desire: *to see the face of God*.²³⁷

While the competence for establishing schools surely belongs to the religious institutes’ authority, as defined in their constitutions, nevertheless, the last part of canon 801 clearly points to the demand for the consent of the diocesan bishop which is required to establish the schools, whether they are schools of religious institutes of pontifical right or diocesan right.²³⁸ The diocesan bishop mentioned in canon 801 is the diocesan bishop

²³⁵ CONGREGATION FOR CATHOLIC EDUCATION, *The Catholic School on the Threshold of the Third Millennium*, 28 December 1997, Città del Vaticano, Libreria editrice Vaticana, 1996, no. 14, 42-43.

²³⁶ CONGREGATION FOR CATHOLIC EDUCATION, *Consecrated Persons and Their Mission in Schools: Reflections and Guidelines*, 28 October 2002, no. 54, in *The Journal of Catholic Education*, 7 (2003), 12. The decree *Ad gentes*, no. 12 also recommends that Christians dedicate themselves with particular care to the education of children and young people both for their formation and “as a service of great value to men, [...] one that is ordered to raising human dignity and promoting more human conditions” (SECOND VATICAN COUNCIL, Decree on the Church’s Missionary Activity *Ad gentes*, 7 December 1965 [=AG], in AAS, 58 [1966], 960-961, *FLANNERY*1, 826).

²³⁷ CONGREGATION FOR CATHOLIC EDUCATION, *Consecrated Persons and Their Mission in Schools: Reflections and Guidelines*, no. 18, 4.

²³⁸ It is important to clarify the situation of the schools which were established by religious institutes before the promulgation of the 1983 Code. Do such schools need to be legitimated by seeking the consent of the diocesan bishop in the spirit of canon 801 since this consent was not demanded under the 1917 Code? In

of the place where the school is established. The consent is required for the validity of the act, in accordance with c. 127, §2, 1°. This requirement is a logical consequence of the ecclesial context in which the apostolate of religious is exercised; the religious institutes' schools are to be connected to their own apostolate mission²³⁹ as stated in canon 675, §3, and that apostolate is always exercised “in the name and by the mandate of the Church,”²⁴⁰ and carried out “in the communion of the Church.”²⁴¹ Additionally, the Congregation for Catholic Education stresses the *communio* with the local Churches by stating that “consecrated persons involved in the educational mission must be integrated, starting from their charism, in the pastoral activity of the local Church. They, in fact, carry out an ecclesial ministry in the service of a concrete community and in communion with the Diocesan Ordinary.”²⁴² It should be noted that while subject to the local ordinaries

the letter *Siamo certi*, of 15 October 1996 (original in Italian, 14 December 1996), addressed to religious institutes and societies of apostolic life in charge of educational institutions, the Congregation for the Catholic Education replied that this consent was not required (prot. no. 483/96/13, 7). In addition, Cusack clarifies in his commentary: “There is no directly corresponding canon to be found in the 1917 Code. Therefore, in accord with the general norm of canon 9, given to the fact that the law is not retroactive, a religious institute need not seek such consent for schools which were already established within a diocese prior to the promulgation of the new law. This does not remove such schools from the supervision or intervention of the bishop in accord with the norm of law” (B.A. CUSACK, *A Study of the Relationship between the Diocesan bishop and Catholic Schools Below the Level of Higher Education in the US – Canons 801-806*, JCD dissertation, Washington, DC, The Catholic University of America, 1988, 158).

²³⁹ The Sacred Congregation for Catholic Education assured that for religious institute “a school is a place of mission, where the prophetic role conferred by baptism and lived according to the requirements of the radicalism typical of the evangelical counsels is fulfilled. The gift of special consecration that they have received will lead them to recognizing in schools and in the educational commitment the fruitful furrow in which the Kingdom of God can grow and bear fruit” (Consecrated Persons and Their Mission in Schools: Reflections and Guidelines, no. 17, 4).

²⁴⁰ Canon 675, §3: “[...] nomine et mandato Ecclesiae exercenda [...].”

²⁴¹ Ibid.: “[...] in eius communione peragatur.”

²⁴² CONGREGATION FOR CATHOLIC EDUCATION, *Consecrated Persons and Their Mission in Schools: Reflections and Guidelines*, no. 54, 12.

regarding their general policy and supervision, such religious institutes are still maintaining their proper autonomy in management of their own schools (see c. 801).²⁴³

3.1.3.4. Visitation of Works of Apostolate or Charity – Canon 683, §1

Canon 683, §1 stipulates:

At the time of pastoral visitation and also in the case of necessity, the diocesan bishop, either personally or through another, can visit churches and oratories which the Christian faithful habitually attend, schools, and other works of religion or charity, whether spiritual or temporal, entrusted to religious, but not schools which are open exclusively to the institute's own students.²⁴⁴

Canon 683, §1 determines that the diocesan bishop has the right and duty to visit churches and oratories where the Christian faithful habitually attend, all schools, and other works of religion or charity, i.e., nursing homes, assisted living houses, hospitals, orphanages, retreat centers, etc., entrusted to religious institutes,²⁴⁵ whether exempted or non-exempted, of pontifical or of diocesan right, located in his territory.²⁴⁶ This provision

²⁴³ Cf. *CD*, no. 35.4, in *AAS*, 58 (1966), 692, *FLANNERY1*, 585; *ES I*, no. 39.1, in *AAS*, 58 (1966), 773, *FLANNERY1*, 608.

²⁴⁴ Canon 683, §1: “Ecclesias et oratoria, quibus christifideles habitualiter accedunt, scholas aliaque opera religionis vel caritatis sive spiritualis sive temporalis religiosi commissas, Episcopus dioecesanus visitare potest, sive per se sive per alium, tempore visitationis pastoralis et etiam in casu necessitatis; non vero scholas, quae exclusive pateant propriis instituti alumnis.”

²⁴⁵ Cf. c. 396, §1.

²⁴⁶ See MCDERMOTT, *Consecrated Life*, 75-76.

is rooted in canons 344, §§ 1-2;²⁴⁷ 512, §2, 2^o²⁴⁸ and 1382²⁴⁹ of the 1917 Code. However, the previous Code determined the competent authority as “the local ordinary” (*ordinarius loci*) (see *CIC/17*, cc. 344, §1; 1382) while the current Code points to “the diocesan bishop” (*episcopus dioecesanus*) (see c. 683, §1). This right and duty of visitation was highlighted by the Second Vatican Council in *Christus Dominus*, no. 35.4²⁵⁰ and *Ecclesiae Sanctae I*, nos. 25.1; 38; 39.2.²⁵¹

This duty can be fulfilled “at the time of pastoral visitation and also in the case of necessity”²⁵² by the diocesan bishop personally or by another person who is delegated by him.²⁵³ This delegation should be clearly indicated in writing.²⁵⁴ However, the diocesan bishop does not have the right to visit schools which are opened exclusively to the institutes’ own students, such as for those in initial formation (postulants, novices, students) (see c. 683, §1) since each institute enjoys full autonomy in the formation of its members

²⁴⁷ *CIC/17*, c. 344: “§1. Subject to ordinary episcopal visitation are persons, things, and pious places, even though exempt, that are contained within the ambit of the diocese, unless it can be proven that there was a special exemption from visitation granted to them by the Apostolic See. §2. The Bishop can visit exempt religious only in those cases expressed in law.”

²⁴⁸ *CIC/17*, c. 512, §2: “He must at the same time visit: [...] 2^o. Each house of a clerical Congregation of pontifical right, even exempt ones, regarding those things that pertain to the church, sacristy, public oratory, and seat of sacramental confession.”

²⁴⁹ *CIC/17*, c. 1382: “Local ordinaries either personally or through others can visit any schools, oratories, recreation areas, patronage, and so forth, that are concerned with religious or moral instruction; from such visitation no schools or any religious are exempt, unless it concerns an internal school for professed exempt religious.”

²⁵⁰ In AAS, 58 (1966), 691-692, *FLANNERY1*, 585.

²⁵¹ In AAS, 58 (1966), 770, 773, *FLANNERY1*, 605, 608-609.

²⁵² Canon 683, §1: “[...] tempore visitationis pastoralis et etiam in casu necessitates [...].”

²⁵³ The law obliges the diocesan bishop to perform the visitation annually in whole or in part, in such a way that the visitation of his entire diocese is completed within every five years (see c. 396, §1).

²⁵⁴ See QUINN, *Relation of the Local Ordinary to Religious of Diocesan Approval*, 80.

(see c. 586, §1). Nevertheless, if by chance he discovered grave abuses or violations of universal law, he himself can make provision on his own authority after religious superior has been warned in vain (see c. 683, §2).

3.1.3.5. Cooperation and Coordination of the Works and Apostolic Activities of Individual Institutes – Canon 680

Canon 680 calls for coordination among the various institutes and collaboration between religious and the diocesan clergy in the exercise of the apostolate and other public activities:

Among the various institutes and also between them and the secular clergy, there is to be fostered an ordered cooperation and a coordination under the direction of the diocesan bishop of all the works and apostolic activities, without prejudice to the character and purpose of individual institutes and the laws of the foundation.²⁵⁵

The present norm is rooted in canon 608, §§ 1-2 of the 1917 Code which stated:

§1. Let Superiors take care that religious subjects, designated by them, especially in the diocese in which they are present, freely offer themselves whenever they are required for ministry by the local Ordinary and their pastor for the necessary care of the people, whether within or outside of their own churches or public oratories, with due regard for religious discipline.

§2. Local Ordinaries and pastors, in return, may freely make use of the works of religious, especially those present in the diocese, in sacred ministry and especially in the administration of sacramental penance.²⁵⁶

²⁵⁵ Canon 680: “Inter varia instituta, et etiam inter eadem et clerum saecularem, ordinata foveatur cooperatio necnon, sub moderamine Episcopi dioecesan, omnium operum et actionum apostolicarum coordinatio, salvis indole, fine singulorum institutorum et legibus foundationis.”

²⁵⁶ *CIC/17*, c. 608: “§1. Curent Superiores ut religiosi subditi, a se designati, praesertim in dioecesi in qua degunt, cum a locorum Ordinariis vel parochis eorum ministerium requiratur ad consulendum populi necessitati, tum intra tum extra proprias ecclesias aut oratoria publica, illud, salva religiosa disciplina, libenter

This demand was later developed in *Christus Dominus*, no. 35. 5,²⁵⁷ *Ad gentes*, no. 33,²⁵⁸ *Ecclesiae Sanctae I*, no. 28,²⁵⁹ *Ecclesiae Sanctae II*, no. 43,²⁶⁰ and *Ecclesiae Sanctae III*, no. 21²⁶¹ which call for an organized cooperation and close coordination between the religious institutes and between them and the diocesan clergy in all apostolic works and activities which especially depend upon a supernatural attitude of hearts and minds, rooted in and founded upon charity. This charity, according to Ghirlanda, “makes for union among the faithful of every order and category,”²⁶² which he calls “the principle determining juridic relations in ecclesial communion.”²⁶³

Likewise, the call for coordination of efforts was present in the Directives for Mutual Relations between Religious and Bishops in the Church *Mutuae relationes* (1978), nos. 36, 37, 59.²⁶⁴ Since the religious belong in a special way to the diocesan family and offer great assistance to the sacred hierarchy, in view of the growing needs of the apostolate they should constantly increase their contribution to that family.²⁶⁵ Therefore, they should

praesent. §2. Vicissim locorum Ordinarii ac parochi libenter utantur opera religiosorum, praesertim in dioecesi degentium, in sacro ministerio et maxime in administrando sacramento poenitentiae.”

²⁵⁷ In AAS, 58 (1966), 692, *FLANNERY1*, 585-586.

²⁵⁸ In AAS, 58 (1966), 982-983, *FLANNERY1*, 849.

²⁵⁹ In AAS, 58 (1966), 770-771, *FLANNERY1*, 605-606.

²⁶⁰ In AAS, 58 (1966), 782, *FLANNERY1*, 633.

²⁶¹ PAUL VI, Norms for Implementing the Decree on the Church’s Missionary Activity *Ecclesiae Sanctae III*, 6 August 1966 (= *ES III*), no. 21, in AAS, 58 (1966), 787, English translation in *FLANNERY1*, 862.

²⁶² See GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 41.

²⁶³ *Ibid.*, 40.

²⁶⁴ In AAS, 70 (1978), 494, 503, in *CLD*, vol. 9, 325, 336.

²⁶⁵ See *MR*, no. 36, in AAS, 70 (1978), 494, in *CLD*, vol. 9, 325. Cf. *CD*, no. 34, in AAS, 58 (1966), 690, *FLANNERY1*, 584.

cooperate in and coordinate with others their efforts in the caring of souls and other spiritual works. They should aim at fostering brotherly and sisterly relations among members of various institutes and among religious and diocesan clergy in order to increase mutual trust, understanding and respect, apostolic solidarity and fraternal harmony.²⁶⁶ In such a way they “will indeed serve not only to strengthen genuine awareness of the local Church, but also [...] encourage each one to render and request help joyfully, [...] foster the desire for cooperation, and also [...] love the human and ecclesial community, in whose life each one finds himself a part, almost as if it were the fatherland of his own vocation.”²⁶⁷ *Mutuae relationes* also calls for the religious institutes working in a given diocese to act “with concerned commitment, exchanges of information, and better understanding” of each other.²⁶⁸ To this end, it suggests, “superiors should do their part to bring about this dialogue in suitable ways and at regular times. This will certainly serve to increase trust, esteem, mutual exchange of aids, in-depth study of problems and the mutual communication of experiences, so that, as a consequence, the common profession of the evangelical counsels may be more clearly expressed.”²⁶⁹ It should be kept in mind that all organized cooperation

²⁶⁶ See *MR*, nos. 36 -37, in *AAS*, 70 (1978), 494, in *CLD*, vol. 9, 325. Cf. *CD*, nos. 34, 35.5, in *AAS*, 58 (1966), 690-692, *FLANNERY1*, 584-586; *ES I*, no. 28, in *AAS*, 58 (1966), 770-771, *FLANNERY1*, 605-606.

²⁶⁷ *MR*, no. 37: “[...] Hoc sane non modo genuinam Ecclesiae particularis conscientiam corroborant, verum etiam unumquemque instimulabit ad reddenda ac petenda laeto animo servitia, ad cooperandi studium alendum, necnon ad humanam et ecclesiam communitatem, in cuius vitam insertus sit, quasi quamdam propriae vocationis patriam diligendam” (in *AAS*, 70 [1978], 494, in *CLD*, vol. 9, 325).

²⁶⁸ See *ibid.*, no. 48, in *AAS*, 70 (1978), 498, in *CLD*, vol. 9, 330.

²⁶⁹ *Ibid.*, no. 48: “[...] Superiores igitur operam suam impendant, ut modis et rythmis convenientibus hic dialogus ad effectum perducatur. Quod quidem fiduciam fovebit et aestimationem ac reciproca danda auxilia et altius problematum studium necnon mutuam experientiarum communicationem, unde evidentior fiat communis evangelicorum consiliorum profession” (in *AAS*, 70 [1978], 498, in *CLD*, vol. 9, 330).

and close coordination are to be accomplished under the direction of the diocesan bishop²⁷⁰ who is the pastor of a particular Church²⁷¹ and the chief coordinator of the apostolate²⁷².

3.1.4. Administration of Temporal Goods of a Religious Institute

The temporal goods of religious institutes and their administration are governed by canons 634-640 of Book II, Part III, Section I, Title II, Chapter II, Article 3, by canons 1290-1298 of Book V, and by norms of the proper law. As a general principle, the local ordinary has no power over the management of temporal goods of religious institutes since they are juridical persons exempt from the jurisdiction of the local ordinary. However, there are some aspects of administration of temporal goods by religious institutes which come under the authority of the local ordinary or ordinary, i.e., financial reports (see c. 637), alienation of temporal goods (see c. 638, §4), and pious foundations entrusted to a religious institute (see c. 1304).

3.1.4.1. Financial Reports – Canon 637

Canon 637 states:

The autonomous monasteries mentioned in can. 615 must render an account of their administration to the local ordinary once a year. Moreover, the local ordinary has the right to be informed about the financial reports of a religious house of diocesan right.²⁷³

²⁷⁰ See c. 680.

²⁷¹ See c. 383, §1,

²⁷² See HILL, “The Apostolate of Institute (cc. 673-683),” 221.

²⁷³ Canon 637: “Monasteria sui iuris, de quibus in can. 615, Ordinario loci rationem administrationis reddere debent semel in anno; loci Ordinario insuper ius esto cognoscendi de rationibus oeconomicis domus religiosae iuris dioecesanii.”

The second part of the canon addresses the right of the local ordinary to be informed about the financial affairs of a house or houses of a religious institute of diocesan right located in his territory. The goods of erected religious houses are administered in the name of the Church and under the supervision of the local ordinary. As stated in canon 1287, §1:

Both clerical and lay administrators of any ecclesiastical goods whatever which have not been legitimately exempted from the power of governance of the diocesan bishop are bound by their office to present an annual report to the local ordinary who is to present it for examination by the finance council; any contrary custom is reprobated.²⁷⁴

According to McDermott,²⁷⁵ the house mentioned in canon 637 would be a canonically erected house in accordance with canon 609. Such a house acquires public juridic personality by the law itself, and is “capable of acquiring, possessing, administering, and alienating temporal goods unless this capacity is excluded or restricted in the constitutions.”²⁷⁶ Commenting on this canon, Morrisey,²⁷⁷ Smith,²⁷⁸ and Williamson²⁷⁹ alike state that the canon speaks of the financial affairs of a house, not those of the entire institute.

²⁷⁴ Canon 1287, §1: “Reprobata contraria consuetudine, administratores tam clerici quam laici quorumvis bonorum ecclesiasticorum, quae ab Episcopi dioecesanii potestate regiminis non sint legitime subducta, singulis annis officio tenentur rationes Ordinario loci exhibendi, qui eas consilio a rebus oeconomicis examinandas committat.”

²⁷⁵ See MCDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 17.

²⁷⁶ Canon 634, §1: “Instituta, provinciae et domus, utpote personae iuridicae ipso iure, capaces sunt acquirendi, possidendi, administrandi et alienandi bona temporalia, nisi haec capacitas in constitutionibus excludatur vel coarctetur.”

²⁷⁷ See F.G. MORRISEY, Commentary in canon 637, in *Exegetical Comm*, vol. 2/2, 1679.

²⁷⁸ See SMITH, “The Governance of Institutes (cc. 607-640),” 801.

²⁷⁹ See E. WILLIAMSON, “Temporal Goods and Their Administration (cc. 634-640),” in *CLSGBI Comm*, 351.

The law does not mention how a financial report's content is to be formulated, and how often it is to be drafted, but leaves it to the mutual determination of the bishop and the superior.²⁸⁰ Hite suggests that a financial report would “normally include a statement of income and expenses for the year, a balance sheet, and a narrative report on important transactions and the financial condition”²⁸¹ of the religious house. Ordinarily, financial reports are annual, but they can be presented every six months. James McManus states that the local ordinary may “examine account books and ask to see all documents that will give him information” regarding the financial matter of the individual houses of the religious institutes of diocesan right in his diocese as often as he deems it necessary.²⁸² Smith stresses that “it should be done in such a manner as to accomplish the intent of the norm, i.e., the exercise of vigilance or special care, while still honoring the institute's internal autonomy.”²⁸³ The accountability to the local ordinary would concern the superior and others with financial responsibilities for the religious house.²⁸⁴

3.1.4.2. Alienation of Temporal Goods – Canon 638, §4

In the context of management of temporal goods of religious institutes, alienation may be defined as an act of transferring or conveying the ownership of a religious institute's property to another person or persons by which the patrimony of the institute is

²⁸⁰ See SMITH, “The Governance of Institutes (cc. 607-640),” 801.

²⁸¹ HITE, “The Governance of Institutes (cc. 617-640),” 486.

²⁸² See J.E. MCMANUS, *The Administration of Temporal Goods in Religious Institutes*, Canon Law Studies, no. 109, Washington, DC, The Catholic University of America Press, 1937, 162-163.

²⁸³ SMITH, “The Governance of Institutes (cc. 607-640),” 801.

²⁸⁴ See c. 636.

in some way endangered.²⁸⁵ This transfer or conveyance may be made by means of sale, gift, exchange or legacy.²⁸⁶

The alienation of a religious institute's property whose value exceeds the determined minimum amount requires a just cause²⁸⁷ and the written permission of the competent superior with the consent of his or her council. It also requires a written appraisal by experienced and wise experts.²⁸⁸ It would seem prudent for the superior to have financial professional help in making the decision.

For religious institutes of diocesan right, besides the written permission of the competent superior, the law also requires - for the validity of the alienation - the written consent of the local ordinary.²⁸⁹ For further clarification, is it the local ordinary of the place where the goods to be alienated are located or the local ordinary of the principal seat of the institute? Smith clarifies that the involvement of two local ordinaries is required, i.e., the written consent of the local ordinary of the principal seat and the *nihil obstat* of the diocesan

²⁸⁵ See MCDERMOTT, *Consecrated Life*, 73. See also F.G. MORRISEY, "The Alienation of Temporal Goods in Contemporary Practice," in *Studia canonica*, 29 (1995), 294.

²⁸⁶ See F.G. MORRISEY, "Conveyance of Ecclesiastical Goods," in *CLSA Proceedings*, 38 (1976), 123.

²⁸⁷ For instance, the property is vacant or no longer needed; there is urgent necessity or evident advantage; some reasons related to piety or charity; the need for money to finance apostolic works or some other grave pastoral reasons; or retirement needs of the members (see c. 1293 §1, 1^o; see also MCDERMOTT, *Consecrated Life*, 120).

²⁸⁸ McDermott has suggested that there be two appraisals (see MCDERMOTT, *Consecrated Life*, 80) "to be certain that the property is sold for a fair price and the institute is not cheated in the transaction, as different companies take different approaches in estimating the value of property" (ibid., 120). See also ID., "The Vigilance of the Diocesan or Eparchial Bishop," 19; cf. cc. 1293, §1, 2^o; 1294, §1).

²⁸⁹ See c. 638, §4. For the institutes of pontifical right, the consent of the local ordinary is no longer required. However, in practice, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life requires a *nihil obstat* letter from the local ordinary. See F.G. MORRISEY, Commentary on Canon 638, in *Exegetical Comm*, vol. 2/2, 1688; V. DE PAOLIS, "Temporal Goods of the Church in the New Code with Particular Reference to Institutes of Consecrated Life," in *The Jurist*, 43 (1983), 357.

bishop in whose diocese the property to be alienated is located.²⁹⁰ The latter requirement, according to McDermott, “is not stated in universal law, but is the praxis of CICLSAL not only for institutes of diocesan right, but also for institutes of pontifical right.”²⁹¹ The consent and the *nihil obstat* are also needed for significant loans, trusts, mortgages, or leases which may seriously threaten or jeopardize the temporal patrimony of the religious institute. These monetary transactions have the same requirements as alienation.²⁹²

3.1.4.3. Pious Foundations Entrusted to a Religious Institute – Canon 1304

Canon 1304, §1 states:

For a juridic person to be able to accept a foundation validly, the written permission of the ordinary is required. He is not to grant this permission before he has legitimately determined that the juridic person can satisfy both the new obligation to be undertaken and those already undertaken; most especially he is to be on guard so that the revenues completely respond to the attached obligations, according to the practice of each place or region.²⁹³

While this canon sets the requirements for accepting pious foundations by a juridic person,²⁹⁴ the *ius vigens* does not give a definition of pious foundations. Morrissey offers the following explanation of the notion of “pious foundation” (*pia fundatio*): “an

²⁹⁰ See SMITH, “The Governance of Institutes (cc. 607-640),” 804.

²⁹¹ MCDERMOTT, *Consecrated Life*, 80.

²⁹² See MCDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 19; see also DE PAOLIS, “Temporal Goods of the Church in the New Code with Particular Reference to Institutes of Consecrated Life,” 357.

²⁹³ Canon 1304, §1: “Ut fundatio a persona iuridica valide acceptari possit, requiritur licentia Ordinarii in scriptis data; qui eam ne praebeat, antequam legitime compererit personam iuridicam tum novo oneri suscipiendo, tum iam susceptis satisfacere posse; maximeque caveat ut redditus omnino respondeant oneribus adiunctis, secundum cuiusque loci vel regionis morem.”

²⁹⁴ Cf. c. 1303, §1.

arrangement whereby property, of whatever kind, is donated or willed to a juridical person for some religious or charitable purpose, on the understanding that the capital thus transferred be invested on a long-term basis and that the annual income accruing from that investment be devoted to the fulfilment of the precise purpose intended by the donor.”²⁹⁵ Along the same lines, Renken defines “pious foundation” as “temporal goods (an *endowment*) given perpetually or at least for a long period of time with the obligation to perform one or more pious causes in return for the revenue.”²⁹⁶

Canon 1303, §1 identifies two kinds of pious foundations: (1) autonomous pious foundation²⁹⁷ and (2) non-autonomous foundation.²⁹⁸ An autonomous pious foundation is comprised of temporal goods²⁹⁹ destined for one or more pious causes, set up as a juridic person, either public or private, by a competent ecclesiastical authority³⁰⁰ for an indefinite period of time.³⁰¹ A non-autonomous foundation, on the other hand, consists of temporal goods given *inter vivos* or *mortis causa* to an already existing public³⁰² juridic person with

²⁹⁵ F.G. MORRISEY, “Pious Dispositions in General and Pious Foundations (cc. 1299-1310),” in *CLSGBI Comm*, 741.

²⁹⁶ J. RENKEN, *Church Property: A Commentary on Canon Law Governing Temporal Goods in the United States and Canada*, Ottawa, Faculty of Canon Law, Saint Paul University, 2009, 298.

²⁹⁷ An autonomous pious foundation comes into being *only* by the written decree of competent authority (see R.T. KENNEDY, “Pious Wills in General and Pious Foundation [cc. 1299-1310],” in *CLSA Comm2*, 1520).

²⁹⁸ A non-autonomous foundation can be established even orally by competent authority (see KENNEDY, “Pious Wills in General and Pious Foundation [cc. 1299-1310],” 1520).

²⁹⁹ E.g., real property, investments, and money.

³⁰⁰ Can be an ordinary (see P. ZIELINSKI, “Pious Wills and Mass Stipends in Relation to Canons 1299-1310,” in *Studia canonica*, 19 [1985], 135).

³⁰¹ See c. 1303, §1, 1°. See also RENKEN, *Church Property*, 298; ZIELINSKI, “Pious Wills and Mass Stipends in Relation to Canons 1299-1310,” 135.

³⁰² It must be kept in mind that it cannot be a *private* juridic person.

a long time obligation of celebrating Masses and performing other specified ecclesiastical functions, or fulfilling other purposes mentioned in c. 114, §2, i.e., some works of piety, apostolate, or spiritual or temporal charity.

However, the current norm does not use the expression *in perpetuum* as in the previous Code (see *CIC/17*, c. 1544 §1);³⁰³ it says “for a long time” (*in diuturnum tempus*) (c. 1303, §1, 2°). In the 1977 Schema, the consultants acknowledged the modern economic reality which make impossible to endow a pious foundation with perpetual obligations, so the phrase *in perpetuum* was deleted.³⁰⁴ A question has been raised, then, concerning the phrase “for a long time” (*in diuturnum tempus*). Commenting on the duration of such a period, commentators have given different points of view, for instance, for George Vromant forty years is reasonable, while³⁰⁵ Jerome Hannan opts for ten to fifty years.³⁰⁶

Canon 1304, §1 clearly states that for a juridic person to be able to accept a foundation validly, the written permission of the ordinary is necessary. This requirement has its antecedent in canon 1546, §1 of 1917 Code:

³⁰³ Cf. *CIC/17*, c. 1544, §1: “By the name of pious foundation there are signified those temporal goods given in any way to some moral person in the Church with the obligation, in perpetuity or for a long time, to celebrate some Masses for the proceeds, or to perform some other identified ecclesiastical functions, or to product pious or charitable works” (nomine piarum foundationum significantur bona temporalia alicui personae morali in Ecclesia quoquo modo data, cum onere in perpetuum vel in diuturnum tempus ex redditibus annuis atiquas Missas celebrandi, vel alias praefinitas functiones ecclesiasticas explendi, aut nonnulla pietatis et caritatis opera peragendi).

³⁰⁴ See *Communicationes*, 9 (1977), 273.

³⁰⁵ See G. VROMANT, *De bonis Ecclesiae temporalibus ad usum preaesertim missionariorum et religiosorum*, ed. altera, aucta et emendata, Louvain, 1934, 362.

³⁰⁶ See J.D. HANNAN, *The Canon Law of Wills*, Canon Law Studies, no. 86, Washington, DC, The Catholic University of America Press, 1934, 453-454.

In order that foundations of this sort be accepted by a moral person, the consent of the local Ordinary is required given in writing, [though] he shall not give it before he has legitimately shown that the moral person is able to satisfy the new obligations to be taken up along with older ones already assumed; and he shall be especially cautious that the endowment covers all of the burdens attached to it according to the usage of the diocese.³⁰⁷

Comparing the 1917 Code, there is a notable change, namely, the competent authority to issue the permission. The previous Code required “the consent of the local ordinary” (*consensus Ordinarii loci*), while the current Code requires “the permission of the ordinary” (*licentia Ordinarii*). It is necessary to clarify who is the ordinary in the case of a religious institute to accept of a non-autonomous foundation mentioned in canon 1304, §1. Is it the ordinary of the place of the pious foundation (trustor) or the ordinary of the religious institute (trustee)? It can be concluded that the competent ordinary in a clerical institute of pontifical right and in a clerical society of apostolic life of pontifical right is its major superior and in other religious institutes (e.g., clerical institutes of diocesan right, and lay religious institutes of pontifical and diocesan right³⁰⁸) it is the local ordinary of an accepted foundation (see c. 1302, §3).

Canon 1304, §1 also emphasizes that before granting the permission to accept a pious foundation, the ordinary should carefully determine that “the juridic person can satisfy both the new obligation to be undertaken and those already undertaken”³⁰⁹ and can assume further burdens. The law requires so because the juridic person, having accepted

³⁰⁷ CIC/17, c. 1546 §1. “Ut huiusmodi foundationes a persona morali acceptari possint, requiritur consensus Ordinarii loci, in scriptis datus, qui eum ne praebeat, antequam legitime compererit personam moralem tum novo oneri suscipiendo, tum antiquis iam susceptis satisfacere posse; maximeque caveat ut redditus omnino respondeant oneribus adiunctis secundum cuiusque dioecesis morem.”

³⁰⁸ See RENKEN, *Church Property*, 309.

³⁰⁹ “[...] personam iuridicam tum novo oneri suscipiendo, tum iam susceptis satisfacere posse [...].”

the foundation, will assume the obligation to safeguard all goods donated or bequeathed as to “completely respond to the attached obligations, according to the practice of each place or region.”³¹⁰

Since a religious institute is a public juridic person by the law itself (see c. 634, §1), therefore, it can accept a pious foundation. All requirements of the law must be followed, that is, obtaining the permission of the ordinary and managing the revenue from the funds donated or bequeathed in accord with canons 1305-1310, namely, safeguarding that “money and movable goods assigned to an endowment [...] be deposited immediately in a safe place [...]”³¹¹ The funds should be invested cautiously and usefully as soon as possible, for the benefit of the foundation.³¹² It should also be kept in mind that such pious foundations are to be recorded in writing³¹³ so that “successive administrators of the public juridic person to which the foundation belongs will be aware of them.”³¹⁴ Zielinski suggests the following items to be included:

Such a written instrument would include the sum of the foundation and the correlative burdens; the day of acceptance and the name of the founder; the arrangement of the beneficial stipends; and of course, the most important *terminus ad quem*. In addition, a special document, or table (*tabella onerum*) should be drawn up, setting out clearly *all the obligations* arising from the pious foundation. This table does not state the capital sum, the name of the founder or the day of acceptance.³¹⁵

³¹⁰ Canon 1304, §1: “[...] omnino respondeant oneribus adiunctis, secundum cuiusque loci vel regionis morem.”

³¹¹ Canon 1305: “Pecunia et bona mobilia, dotationis nomine assignata, statim in loco tuto [...]”

³¹² See *ibid.*

³¹³ See c. 1306, §1.

³¹⁴ KENNEDY, “Pious Wills in General and Pious Foundation (cc. 1299-1310),” 1520.

³¹⁵ ZIELINSKI, “Pious Wills and Mass Stipends in Relation to Canons 1299-1310,” 140-141.

In addition, canon 1306, §2 requires two copies of the charter of the foundation; one is kept in the archive of the curia of the ordinary and the other is kept in the archive of the juridic person to which the foundation belongs.³¹⁶ Furthermore, a list of the obligations should be composed and displayed in an accessible place³¹⁷ in order that the obligations are not forgotten.³¹⁸

3.2. Authority of the Diocesan Bishop over Individual Religious

The law determines that the diocesan bishop of the diocese where the houses of the institute are located has certain authority over individual religious. To clarify these matters, this section will study the particular matters pertaining to religious life of individual member (see cc. 595, §2; c. 1078, §2, 1^o; 672; 285, §4; 679; 686, §1; 686, §3; 687; 688, §2; 691, §2; 700) and works of apostolate and charity performed by an individual member of an institute (see cc. 681-682; 812; 831, §1; 1265, §1; 1302).

3.2.1. Religious Life of a Particular Member

By virtue of the principle that “an institute of diocesan right remains under the special care of the diocesan bishop” (c. 594), the *ius vigens* gives every diocesan bishop the faculty to dispense from the constitutions, in particular cases (see c. 595, §2), as well as the authority to permit a religious to manage the goods of lay persons (see cc. 672; 285,

³¹⁶ See c. 1306, §2.

³¹⁷ Zielinski suggests that such a list should be affixed to a wall in the sacristy (see ZIELINSKI, “Pious Wills and Mass Stipends in Relation to Canons 1299-1310,” 141).

³¹⁸ See c. 1307, §1.

§4), prohibit a religious from residing in the diocese (see c. 679), extend an indult of exclaustation or grant it for more than three years (see c. 686, §1), confirm the indult of departure of a temporarily professed religious (see c. 688, §2), grant the indult of departure of a perpetual professed religious (see c. 691, §2), and confirm the decree of dismissal (see c. 700).

3.2.1.1. Dispensations from the Norms of the Constitutions – Canons 87; 595, §2

Dispensation is defined as a “relaxation of a merely ecclesiastical law in a particular case.”³¹⁹ A dispensation can be given only for the spiritual good of the faithful (see cc. 87, §1; 88)³²⁰ and for a just and reasonable cause (see cc. 90, §1; 595, §2).

The law gives the diocesan bishop in whose diocese the members of the institute live, the faculty to dispense, in particular cases, from the constitutions of a religious institute of diocesan right.³²¹ For the advantage of one or more religious, he can grant such dispensation also “without consulting the superior of the one requesting the dispensation, or even against the opinion of the superior.”³²² However, it is to be noted that this would not be a good practice. Although the law does not expressly require consultation, the diocesan bishop should respect the just autonomy of life and the authority of the superior of the institute. Such consultation would prevent a religious who enjoys a good relationship

³¹⁹ Canon 85: “Dispensatio, seu legis mere ecclesiasticae in casu particulari relaxatio [...]”

³²⁰ Cf. *LG*, no. 27, in *AAS*, 57 (1965), 32-33, *FLANNERY1*, 382-383.

³²¹ See c. 595, §2: “Episcopus dioecesanus potest dispensationes a constitutionibus concedere in casibus particularibus.” Cf. *CCEO*, c. 414, §1, 2°.

³²² GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 56.

with the bishop from undermining the authority of his/her superior through frequently seeking from the bishop dispensations in various matters. In addition, such consultation can prevent tensions between the diocesan bishop and the religious superior as well as tensions between the superior and the petitioning religious. It may also happen that the spiritual good of a religious might objectively require a dispensation even if his/her superiors oppose it for unjust or unreasonable motives. The bishop will evaluate the reasons and circumstances and make the decision. Indeed, regarding this matter, *Mutuae relationes* stress that the bishop should cultivate a good relationship with the superior and respect the discipline of the institute in granting such dispensations.³²³

Additionally, it should be noted that a dispensation can be given only for a just and reasonable cause (see cc. 90, §1; 595, §2). If there is no just and reasonable cause, the dispensation would be illicit and invalid, “unless it is given by the legislator himself or his superior” (c. 90). The current provision does not define just and reasonable cause. In his motu proprio on the dispensing power of bishops *Episcoporum muneribus*, no. 8, Pope Paul VI stated: “The spiritual good of the faithful is a legitimate cause for a dispensation.”³²⁴ However, “in a case of doubt concerning the sufficiency of the cause, a

³²³ See *MR*, nos. 45-46, in *AAS*, 70 (1978), 497-498, in *CLD*, vol. 9, 329.

³²⁴ PAUL VI, motu proprio *Episcoporum muneribus*, 15 June 1966, no. 8, in *AAS*, 58 (1966), 469, English translation in *CLD*, vol. 6, 397.

dispensation is granted validly and licitly.”³²⁵ Huels stresses that the doubt must be positive and based on objective reasons.³²⁶

3.2.1.2. Permission for Management of Lay Person’s Goods by a Member of the Institute – Canons 672; 285, §4

Canon 672 states:

Religious are bound by the prescripts of cann. 277, 285, 286, 287, and 289, and religious clerics additionally by the prescripts of can. 279, §2; in lay institutes of pontifical right, the proper major superior can grant the permission mentioned in can. 285, §4.³²⁷

Religious have some of the obligations of clerics listed in Book II, Part I, Title III, Chapter III of the Code of Canon Law.³²⁸ One of the prohibitions relates to undertaking “the management of goods belonging to lay persons or secular offices which entail an obligation of rendering accounts.”³²⁹ The rationale behind this norm seems to point to the need that the religious be fully committed to the obligations of common life and the apostolate of the institute and there be no danger of incurring possible liability for the religious institute.³³⁰ In case of necessity, i.e., managing the financial affairs of an elderly

³²⁵ Canon 90, §2: “Dispensatio in dubio de sufficientia causae valide et licite conceditur.”

³²⁶ See J.M. HUELS, “Ecclesiastical Laws [cc. 7-22],” in *CLSA Comm2*, 67.

³²⁷ Canon 672: “Religiosi adstringuntur praescriptis cann. 277, 285, 286, 287 et 289, et religiosi clerici insuper praescriptis can. 279, §2 in institutis laicalibus iuris pontificii, licentia de qua in can. 285, §4, concedi potest a proprio Superiore maiore.”

³²⁸ See cc. 277; 279, §2; 285; 286; 287; and 289.

³²⁹ Canon 285, §4: “[...] item a subscribendis syngraphis, quibus nempe obligatio solvendae pecuniae, nulla definita causa, suscipitur, abstineant.” Cf. *CIC/17*, c. 139, §3.

³³⁰ McDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 21.

or incapacitated parent or close relative, a religious may be granted permission to manage such affairs.

Canon 672 does not expressly stipulate the competent authority to grant the permission for religious in lay institutes of diocesan right. It is a *lacuna*. According to David O'Connor: "both the competent major superior and the local ordinary of the generalate need to grant permission."³³¹ He suggests further that the superior and the local ordinary of the principal seat should examine carefully in each case the amount of money involved, and the requirements of civil law before granting permission.³³²

3.2.1.3. Prohibition from Residing in the Diocese – Canon 679

Canon 679 states:

When a most grave cause demands it, a diocesan bishop can prohibit a member of a religious institute from residing in the diocese if his or her major superior, after having been informed, has neglected to make provision; moreover, the matter is to be referred immediately to the Holy See.³³³

This canon reflects canons 618, §2 and 619 of the 1917 Code, and the teaching of Pope Paul VI in his motu proprio *Pastorale munus*, no. 39 which stated the right of the diocesan bishop "to dismiss an individual religious from the diocese for an urgent, very

³³¹ D.F. O'CONNOR, "Obligations and Rights: Canons 662-672, 277, 285-287, 289, 279, §2," in J. HITE et al., *A Handbook on Canon 573-746*, Collegeville, MN, Liturgical Press, 1985, 192.

³³² See *ibid*.

³³³ Canon 679: "Episcopus dioecesanus, urgente gravissima causa, sodali instituti religiosi prohibere potest quominus in dioecesi commoretur, si eius Superior maior monitus prospicere neglexerit, re tamen ad Sanctam Sedem statim delata."

serious reason, if the major superior, after having been notified, fails to take proper measures. However, the matter must be immediately referred to the Apostolic See.”³³⁴

Canon 679 expressly determines the authority of a diocesan bishop³³⁵ to prohibit a religious,³³⁶ whether a man or a woman, a cleric or a lay religious, member of a religious institute of pontifical or of diocesan right, from residing in his diocese. This provision expresses the ordinary, proper, and immediate power which a diocesan bishop possesses in exercising his pastoral function in the diocese entrusted to him (see c. 381, §1).

It should be kept in mind that the bishop can only do so when “a most grave cause demands it” (*urgente gravissima causa*).³³⁷ A “most grave cause” (*gravissima causa*) must be strictly interpreted since it is a restriction of the free exercise of rights.³³⁸ The canon, however, does not list such “most grave causes.” Remarkably, the commentators bring out some examples, like scandalous words, actions, attitude, or behavior causing considerable harm to the community or to the Christian faithful entrusted to the bishop’s care, sexual abuse of minors, teaching of doctrines condemned by the magisterium of the Church,

³³⁴ PAUL VI, motu proprio *Pastorale munus*, 30 November 1963 (=PM), no. 39: “Dimittendi e dioecesi, urgente gravissima causa, sodales singulos religiosos, si eorum Superior maior monitus prospicere neglexerit, re tamen ad Apostolicam Sedem statim delata” (in AAS, 56 [1964], 11, in CLD, vol. 6, 376).

³³⁵ Canon 679 expressly stipulates that this is a prerogative solely of the diocesan bishop, so the vicars general or episcopal vicars are excluded, except by special mandate (see c. 134, §3).

³³⁶ This provision is also applied to members of societies of apostolic life. However, it is not applied to members of secular institutes because they are ordinarily incardinated in a diocese (see cc. 266, §3; 711; 715).

³³⁷ Canon 679.

³³⁸ See c. 18. See also K.J. LAVERONE, “Can a Diocesan Bishop Prohibit a Religious from Residing in His Diocese?” in A.J. ESPELAGE [ed.], *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2004, 189; R. MCDERMOTT, “Ecclesiastical Authority and Religious Autonomy: Canon 679 under Glass,” in *Studia canonica*, 38 (2004), 463; A.J. ESPELAGE, “Canon 679 – Expulsion of Accused Religious from Diocese by Bishop,” in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2005, 190.

public adherence to ideologies infected by materialism or atheism, etc.³³⁹ Even though the canon does not expressly require an investigation by the bishop to determine the *gravissima causa*, nevertheless, since it relates to the right to a good reputation of the religious and the religious institute,³⁴⁰ a thorough and careful investigation regarding the facts would be justified.³⁴¹ Likewise, due to the demands of charity, canonical equity, and the salvation of souls,³⁴² an appropriate solution should be considered, that is, before imposing the prohibition, the bishop should give, if possible, appropriate warning to the superior who neglected to act. If, after a reasonable period of time, the major superior failed to act, the bishop can issue a decree deciding the prohibition. In such a case, the diocesan bishop must immediately notify to the Holy See (see c. 679). It should be noted that the religious and/or the major superior may have recourse to CICLSAL against the decree of the diocesan bishop perceived to be unjust.³⁴³

³³⁹ See MCDERMOTT, “Ecclesiastical Authority and Religious Autonomy: Canon 679 under Glass,” 463; see also D.J. ANDRÉS, *Il diritto dei religiosi: commento al Codices versione della seconda edizione spagnola*, Rome, Editrice Commentarium pro Religiosis, 1984, 438-439.

³⁴⁰ See c. 220; see also MCDERMOTT, “The Apostolate of Institutes (cc. 673-683),” 847.

³⁴¹ Cf. c. 1717, §1.

³⁴² Cf. c. 1752.

³⁴³ The recourse can be submitted directly to the hierarchical superior or indirectly to the author of the decree who must transmit it immediately (*statim*) to the competent authority (see c. 1737, §1). It must be submitted in writing (see c. 1734, §1). Before lodging recourse to CICLSAL, the religious and/or the major superior are to request the revocation or amendment of the decree (see c. 1734) within the peremptory period of ten useful days from legitimate notification (see c. 1734, §2). If the bishop amends the first decree in the way that does not satisfy the recurring parties, or rejects the petition, or does not act within 30 days (see c. 1735), the religious and/or the major superior may have hierarchical recourse to CICLSAL within the peremptory time limit of fifteen useful days (see 1737, §2).

Although the diocesan bishop can prohibit a religious from residing in his diocese, he does not have the authority to order the religious to move to a specific place/religious house since that authority is reserved to the religious' major superiors (see c. 671).³⁴⁴

3.2.1.4. Separation of a Member from the Institute

For religious institutes of diocesan right, the *ius vigens* gives the diocesan bishop of the diocese where the house to which the religious is assigned, the authority to grant or to extend an indult of exclaustation for more than three years to a member with perpetual vows (see c. 686, §1),³⁴⁵ to impose exclaustation (see c. 686, §3),³⁴⁶ to confirm the indult of departure of a temporarily professed member, for the validity of the act (see c. 688, §2), to grant an indult of departure for a perpetually professed religious, requested through the supreme moderator of the institute (see c. 691, §2),³⁴⁷ and to confirm of a decree of dismissal of a member, for the validity of the act (see c. 700). Besides that, the diocesan bishop also has the obligation of care and vigilance over an exclaustated member (see c. 687).

³⁴⁴ Regarding the application of the prohibition from residing in a diocese, Velasio de Paolis provides a further commentary: "Specifically, whether a religious resides or does not reside in the religious house of his institute depends on the competent religious superior, not on the bishop. Nevertheless, the presence of a religious in the diocese can create grave problems, if he does not follow ecclesiastical discipline or the universal and particular law. [...] The bishop can bring the matter to the religious' major superior, who should resolve the matter" (V. DE PAOLIS, Commentary on Canon 679, in *Exegetical Comm*, vol. 2/2, 1819). See also MCDERMOTT, "Ecclesiastical Authority and Religious Autonomy: Canon 679 under Glass," 472-473.

³⁴⁵ Cf. *CCEO*, c. 548, §1.

³⁴⁶ Cf. *ibid*.

³⁴⁷ Cf. *CCEO*, c. 549, §1.

3.2.1.4.1. Extension of Exclaustration – Canon 686, §1

Canon 686, §1 states:

With the consent of the council, the supreme moderator for a grave cause can grant an indult of exclaustration to a member professed by perpetual vows, but not for more than three years, and if it concerns a cleric, with the prior consent of the ordinary of the place in which he must reside. To extend an indult or to grant it for more than three years is reserved to the Holy See, or to the diocesan bishop if it concerns institutes of diocesan right.³⁴⁸

The canon clearly states that the supreme moderator³⁴⁹ with the consent of the council³⁵⁰ can grant an indult of exclaustration to a perpetually professed member³⁵¹ who requests it, but not for more than three years.³⁵² If it concerns a cleric, an indult of

³⁴⁸ Canon 686, §1: “Supremus Moderator, de consensu sui consilii, sodali a votis perpetuis professo, gravi de causa concedere potest indultum exclaustrationis, non tamen ultra triennium, praevio consensu Ordinarii loci in quo commorari debet, si agitur de clerico. Indultum prorogare vel illud ultra triennium concedere Sanctae Sedi vel, si de institutis iuris dioecisani agitur, Episcopo dioecesano reservatur.”

³⁴⁹ The term supreme moderator refers to the highest superior of an institute who governs the entire institute, i.e., has power over all the provinces, houses, and members (see c. 622). Canonically, supreme moderators are always major superiors, since major superiors are those who govern an entire institute, a province of an institute or part equivalent to a province, or an autonomous house (see c. 620).

³⁵⁰ In order to obtain consent the council, the superior must convoke all members of the council according to the norm of canon 166 and must obtain an absolute majority vote of those present (see c. 127, §1). When consent is required, the superior is not allowed to cast a vote with the council and cannot break a tie (see PONTIFICAL COMMISSION FOR THE AUTHENTIC INTERPRETATION OF THE CODE OF CANON LAW, authentic interpretation of c. 127 §1, 14 May 1985, in AAS, 77 [1985], 771, in CLD, vol. 11, 16; see also E. McDONOUGH, “Exclaustration: Canonical Categories and Current Practice,” in *The Jurist*, 49 [1989], 582). In the case of dismissal of a member, the law requires in addition that the council be composed of at least four members (see c. 699, §1).

³⁵¹ Members professed by perpetual vows are those who have fulfilled the requirements for temporary profession and have made perpetual vows in accord with canons 657-658.

³⁵² McDermott states that exclaustration “can be granted for three years, two years and one year, vice versa, or for one year and renewed annually.” She also asserts that the period of three years “seems a fair amount of time for one to come to a decision regarding his or her vocation” (MCDERMOTT, “Separation of Members from the Institute [cc. 684-704],” 515). See also ID., “The Vigilance of the Diocesan or Eparchial Bishop,” 23.

exclaustration requires the prior consent of the ordinary of the place where he intends to reside.³⁵³

The law foresees indults of exclaustration granted only to perpetually professed members; such indults are not intended for those in temporary vows, since the period of temporary vows constitutes a part of the formation process in which the religious and the institute must discern the individual's capability to make perpetual profession. If the indult of exclaustration concerns a cleric, the indult requires the prior consent of the local ordinary of the place in which he must reside.³⁵⁴ However, McDermott asserts that though canon 686 refers only to exclaustration for religious in perpetual vows, it does not mean that the law prohibits religious in temporal vows from requesting exclaustration.³⁵⁵

The religious should submit a written request to the supreme moderator: “(1) a brief *curriculum vitae*, (2) reasons for the request, (3) what has been done so far to resolve difficulties, and (4) the desired length of exclaustration. If the religious is a cleric, indication of consent from the ordinary of the place where he will reside should be included in the request.”³⁵⁶ If the institute is large, with numerous provinces, the religious can submit

³⁵³ If this consent is not obtained, the granted indult is not valid (see c. 127, §2, 1°).

³⁵⁴ See cc. 686, §1; 657, §1; see also McDONOUGH, “Exclaustration: Canonical Categories and Current Practice,” 578-579; ID., “Separation of Members from the Institute: Canons 684-709” in J. HITE, et al., *A Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, 236.

³⁵⁵ See R. McDERMOTT, “Separation of Members from the Institute (cc. 684-704), in *CLSA Comm1*, 514-515.

³⁵⁶ McDONOUGH, “Exclaustration: Canonical Categories and Current Practice,” 598; see also ID., “Separation of Members from the Institute: Canons 684-709,” 234.

a written request to the provincial superior who will review it with the council, and then pass it, with his or her own opinion and that of the council, to the supreme moderator.

The indult is granted only for “a grave cause” (*gravi de causa*).³⁵⁷ It is not easy to quantify the “grave cause.” However, the commentators suggest several reasons for exclaustation, such as: serious emotional problems, vocation crisis, grave difficulties in communal life, serious psychological needs, abuse suffered in childhood, etc.³⁵⁸ It should be noted that the condition of “grave cause” is not a matter for validity, but for liceity only.³⁵⁹

For the religious institutes of diocesan right, the competent authority to extend an indult or to grant it for more than three years is the diocesan bishop.³⁶⁰ Since canon 686, §1 expressly specifies the diocesan bishop, the vicars general and episcopal vicars are excluded unless they receive special mandate from the bishop (cf. c. 134, §3).

The canon does not determine which diocesan bishop is competent: of the principal seat of the institute or of the house to which the religious is assigned. Holland clarifies in her commentary that this is “the bishop within whose jurisdiction the religious is living at the time of the petition.”³⁶¹ Francisco Ramos concurs with Holland; he infers that: “it is the

³⁵⁷ See c. 686, §1.

³⁵⁸ See MCDERMOTT, “Separation of Members from the Institute (cc. 684-704),” 514; see also F.J. RAMOS, Commentary on Canons 686-687, in *Exegetical Comm*, vol. 2/2, 1841.

³⁵⁹ See MCDONOUGH, “Separation of Members from the Institute: Canons 684-709,” 231.

³⁶⁰ See c. 686, §1.

³⁶¹ S.L. HOLLAND, “Separation of Members from the Institute (cc. 684-704),” in *CLSA Comm2*, 856.

bishop in whose diocese contains the house to which the person is assigned or attached.”³⁶² Patrick Shea agrees with Holland and Ramos, while offering further clarifications: “By analogy with canon 691, §2, in which the bishop of the house of assignment is competent to grant an indult of secularization for a member of an institute of diocesan right, it seems to follow that a similar question regarding exclaustation be decided the same way.”³⁶³

It should be noted that while the religious has a right to request an indult of exclaustation, he or she does not have the right to be granted such indult since an indult of exclaustation is a favor,³⁶⁴ which is granted by the competent authority when the circumstances warrant it.³⁶⁵ The indult of exclaustation takes effect at the time it is communicated to the religious, and the institute will be responsible for notifying the diocesan bishop of the status of the exclaustated religious.³⁶⁶

During the time of exclaustation, the exclaustated religious remains a member of the institute and retains all the rights of a religious, except for active and passive voice. He or she is freed from the obligations which cannot be reconciled with his or her new condition, i.e., life in common, the vows of obedience and poverty.³⁶⁷ However, the vow

³⁶² RAMOS, Commentary on Canons 686-687, 1840-1841.

³⁶³ P.T. SHEA, *Exclaustation of Religious in the New Code: An Analysis of Canons 686-687*, JCL thesis, Washington, DC, The Catholic University of America, 1988, 65.

³⁶⁴ See c. 76, §1.

³⁶⁵ See MCDONOUGH, “Exclaustation: Canonical Categories and Current Practice,” 579.

³⁶⁶ See MCDONOUGH, “Separation of Members from the Institute: Canons 684-709,” 235.

³⁶⁷ See c. 687. McDonough emphasizes: “because canon 687 is so general and because, in practice, both superiors and exclaustated religious often seem not to understand their respective rights and obligations, all of these areas (as well as others) should be mentioned specifically in some way in the exclaustation indult” (MCDONOUGH, “Exclaustation: Canonical Categories and Current Practice,” 602).

of chastity remains completely intact.³⁶⁸ David Hynous states that “no faculty can be granted to test out the vow of chastity.”³⁶⁹ The exclaustated religious remain dependent upon and under care of both his or her superiors and the local ordinary of the place wherein he or she resides.³⁷⁰

The exclaustated religious may wear the habit of the institute *nisi* the indult indicates otherwise.³⁷¹ Other conditions are to be specified in the proper law, e.g., the responsibility of the exclaustated member for debts and financial transactions, the question of safeguarding the indemnity of the institute for criminal behaviors of the exclaustated member, the obligation to report to the supreme moderator/provincial superior regarding financial status or change of address, the permission to go to foreign countries, etc.

With regard to the return to the institute prior to the time provided for in the indult of exclaustation, there are various opinions among canonists. McDonough and McDermott state that the exclaustated religious is free to return at any time to the institute after communicating his or her intention to the supreme moderator who granted the indult

³⁶⁸ See McDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 23.

³⁶⁹ D.M. HYNIOUS, “Canon 686: The Right of Religious to Exclaustation,” in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1984-1993*, Washington, DC, CLSA, 1993, 198.

³⁷⁰ Canon 687 adds a new obligation to the superiors’ tasks: to care of their exclaustated members; this was not included in the 1917 Code (see A. FULWEILER, “Degrees of Voluntary Separation and Congregational Responsibility,” in *CLSA Proceedings*, 44 [1984], 195; see also S. HOLLAND, “Select Questions in Religious Law: Admission, Separation, Approbation,” in *CLSA Proceedings*, 44 [1984], 138).

³⁷¹ If the supreme moderator and the council judge that it would be disadvantageous to the religious to wear the habit of the institute, this must be expressly determine in given indult or specific request should be made in the decree of imposed exclaustation (see McDONOUGH, “Exclaustation: Canonical Categories and Current Practice,” 603-604).

or to his or her successor in office.³⁷² However, Hill asserts that the permission of the supreme moderator who granted the indult of exclaustation is required.³⁷³ Likewise, in cases that the diocesan bishop granted the indult of exclaustation or extended it, the religious is to obtain the permission of the diocesan bishop or his successor in office. In such cases, the supreme moderator/diocesan bishop should require the religious to renounce the indult.³⁷⁴ However, the indult of exclaustation only ceases when the competent authority who granted exclaustation or extended it has accepted the renunciation.³⁷⁵

If an exclaustated religious refuses to return to the institute at the expiration of the time of exclaustation, the competent superior should solicitously seek out to the religious to help him or her to return and persevere in the common life and other obligations of the religious life.³⁷⁶ If the religious has no intention of returning, the competent superior can initiate the process for imposed exclaustation according to canon 686, §3 or for dismissal, in accordance with canons 697-699.

The so-called “qualified exclaustation” (*exclaustatio qualificata*) which is not mentioned in the Code though practiced by the Sacred Congregation of Religious from 1953, is used as a temporary remedy granted occasionally to clerics to help them overcome

³⁷² See McDONOUGH, “Exclaustation: Canonical Categories and Current Practice,” 579-580. See also McDERMOTT, “Separation of Members from the Institute (cc. 684-704),” 515.

³⁷³ See R. HILL, “The Troubling Religious,” in *Review for Religious*, 48 (1989), 461.

³⁷⁴ See c. 80, §2.

³⁷⁵ See c. 80, §1.

³⁷⁶ See c. 665, §2. See also cc. 668, §3; 671; 672; 669.

a crisis period in their priestly or religious life.³⁷⁷ As the thesis concentrates on lay religious institutes, this type of exclaustation is not considered here in detail.

3.2.1.4.2. Imposed Exclaustation – Canon 686, §3

Imposed exclaustation³⁷⁸ is requested from the competent authority by the supreme moderator with the consent of his or her council.³⁷⁹ Imposed exclaustation requires grave causes (*gravi de causa*). These grave reasons can be “serious disruptions in the common life of the institute, often violating the rights of other members.”³⁸⁰

The competent authority to impose exclaustation on a religious member of a religious institute of diocesan right is the diocesan bishop.³⁸¹ Canon 686, §3, however, does not expressly specify which diocesan bishop is competent. However, commentators clarify that the competent authority is the bishop in whose diocese the religious house to which the religious is assigned or attached at the time of request is located.³⁸² Exclaustation may

³⁷⁷ THE SACRED CONGREGATION OF RELIGIOUS, Rescript on Qualified Exclaustation for Priest Religious Who Asks for Reduction to the Lay State (private), n.d., Formula, in *CLD*, vol. 4, 240-242.

³⁷⁸ Imposed exclaustation was not mentioned in the former Code.

³⁷⁹ Canon 686, §3 reads as follows: “At the petition of the supreme moderator with the consent of the council, exclaustation can be imposed by the Holy See on a member of an institute of pontifical right, or by a diocesan bishop on a member of an institute of diocesan right, for grave causes, with equity and charity observed.”

³⁸⁰ MCDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 24.

³⁸¹ Since canon 686, §1 and §3 expressly specify the diocesan bishop only, the vicars general and episcopal vicars are excluded, except by special mandate in virtue of c. 134, §3. The supreme moderator submits to the diocesan bishop the following information: “1) request of the supreme moderator with the consent of the council; 2) a brief of the efforts made to assist the religious; 3) causes for requesting the exclaustation; 4) the response of the religious to the warning; 5) the institute’s intention in observing equity and charity for the religious” (HOLLAND, “Separation of Members from the Institute [cc. 684-704],” 857). See also ID., “Separation of Members from the Institute: Canon 684-709,” 235.

³⁸² See HOLLAND, “Separation of Members from the Institute (cc. 684-704),” 856; see also RAMOS, Commentary on Canons 686-687, 1840-1841.

be imposed for a definite or indefinite period of time,³⁸³ through a singular decree or precept.³⁸⁴ The exclaustated religious is not free to return to the institute without a decree of revocation from the diocesan bishop who issued the decree.³⁸⁵ However, the religious is free to return to his or her institute, if he or she cannot manage for himself or herself in illness or advanced age.³⁸⁶ The religious on whom exclaustation was imposed may not wear the habit of the institute *nisi* the indult indicates otherwise. He or she lacks active and passive voice, but remains dependent on his or her superior and the ordinary of the place where he or she resides (see c. 678).

The religious on whom exclaustation had been imposed has the right of recourse to CICLSAL if he or she thinks his or her rights are being violated.³⁸⁷ The recourse would not have a suspensive effect.³⁸⁸

3.2.1.4.3. Care for and Vigilance over an Exclaustated Member – Canon 687

Canon 687 expressly defines that the exclaustated religious, whether under voluntary or imposed exclaustation, are dependent upon and under the care by both their competent superiors and the local ordinary of the place of residence, especially if the

³⁸³ See HOLLAND, “Separation of Members from the Institute (cc. 684-704),” 857.

³⁸⁴ See cc. 48-58; see also McDONOUGH, “Exclaustation: Canonical Categories and Current Practice,” 579.

³⁸⁵ See McDERMOTT, “Separation of Members from the Institute (cc. 684-704),” 515; see also HOLLAND, “Separation of Members from the Institute (cc. 684-704),” 857.

³⁸⁶ See McDERMOTT, *Consecrated Life*, 183.

³⁸⁷ See footnote, no. 343.

³⁸⁸ See McDONOUGH, “Separation of Members from the Institute: Canons 684-709,” 237.

member is a cleric. From the canonical point of view, the exclaustated religious are still members of the institute. Therefore, the superiors are responsible not only for assisting effectively and appropriately the exclaustated religious if he or she cannot afford a decent living, but also, in the spirit of canons 619 and 670, they are to care for their spiritual, moral, and social welfare. For financial assistance, McDonough highlights the following:

[...] financial assistance should be given to the exclaustated religious according to mutually agreeable conditions which are incorporated in a contract that accompanies the exclaustation and is specifically mentioned in it. For imposed exclaustation, [...] any proposed financial assistance should be included in the request of the supreme moderator and should then be specified contractually when the exclaustation is communicated. For problematic situations in imposed exclaustation when the religious may be either uncommunicative, uncooperative, or irresponsible (or all of the above), it is often good practice to require regular financial accountability before ongoing additional maintenance funds are provided by the institute. While fulfilling the genuine rights of the exclaustated religious in regard to housing, health care, and the like, the institute should attempt to avoid unnecessary financial liability by being very clear on the specific limits within which the religious may contract debts for which the institute will be responsible (such as purchasing major items, use of charge accounts, etc.).³⁸⁹

The exclaustated religious are also under the care of the local ordinary of the place of residence in matters mentioned in canon 687. Therefore, the competent superior is to inform the local ordinary about the presence of the exclaustated religious in his diocese. In turn, the local ordinary should inform the competent superior if the religious has moved

³⁸⁹ McDONOUGH, “Exclaustation: Canonical Categories and Current Practice,” 603. Holland adds that “in helping the religious get settled, the institute should not provide a community-owned car or allow the continued use of congregational credit cards” (HOLLAND, “Separation of Members from the Institute [cc. 684-704],” 857).

from his diocese³⁹⁰ or the religious' behavior caused scandal or other considerable harm to the Christian faithful.

3.2.1.4.4. Departure of a Temporarily Professed Member – Canon 688, §2

Canon 688, §2 states:

During the time of temporary profession, a person who asks to leave the institute for a grave cause can obtain an indult of departure from the supreme moderator with the consent of the council in an institute of pontifical right. In institutes of diocesan right and in the monasteries mentioned in can. 615, however, the bishop of the house of assignment must confirm the indult for it to be valid.³⁹¹

For a grave cause (*gravi de causa*), the law allows a religious to request an indult of departure from his or her religious institute during the period of temporal vows. The grave cause would be evaluated and determined by the supreme moderator and the council. It could be, among others, that the religious believes that he or she is unsuitable for religious life, has extreme difficulty in living the life in common, or fails to adapt to the works of the institute.³⁹² If a religious decides to leave the institute, he or she must submit a request in writing to the supreme moderator, presenting the causes for the request.³⁹³ The

³⁹⁰ See MCDONOUGH, "Exclaustration: Canonical Categories and Current Practice," 603; see also HOLLAND, "Separation of Members from the Institute (cc. 684-704)," 857; MCDONOUGH, "Exclaustration: Canonical Categories and Current Practice," 604.

³⁹¹ Canon 688, §2: "Qui perdurante professione temporaria, gravi de causa, petit ut institutum derelinquat, indultum discedendi consequi potest in instituto iuris pontificii a supremo Moderatore de consensu sui consilii; in institutis autem iuris dioecesiani et in monasteriis, de quibus in can. 615, indultum, ut valeat, confirmari debet ab Episcopo domus assignationis."

³⁹² See MCDERMOTT, "Separation of Members from the Institute (cc. 684-704), 516; RAMOS, Commentary on Canons 688-689, 1849. See also E. WILLIAMSON, "The Separation of Members from the Institute (cc. 684-704)," in *CLSGBI Comm*, 386.

³⁹³ See WILLIAMSON, "The Separation of Members from the Institute (cc. 684-704)," 386.

competent authority to grant an indult for a religious in temporary vows is the supreme moderator of the institute with the consent of the council. The indult must be issued in writing.³⁹⁴

For the religious institutes of diocesan right, however, the indult is not valid or effective until it is confirmed by the bishop of the diocese of assignment.³⁹⁵ The law specifies the bishop of the house of assignment as the competent ecclesiastical authority in this case. Moreover, McDermott remarks that, according the norm of canon 385, the role of the diocesan bishop is to foster and safeguard the vocation of religious. In order to assure that the religious petitioned the indult of departure freely and was not coerced by the superior, the bishop or his delegate should interview the religious before confirming the indult to depart the institute.³⁹⁶

According to canon 692, the indult takes effect with the moment when the religious is notified and accepts it. The indult of departure “entails by the law itself dispensation from the vows and from all the obligations arising from profession.”³⁹⁷ However, the petitioner has the right to reject the indult upon being notified. If the religious rejects it, the indult becomes null.³⁹⁸

³⁹⁴ See c. 37.

³⁹⁵ This confirmation is also required for religious of monasteries mentioned in canon 615; for the pontifical institutes, the indult does not need to be confirmed by the Holy See (see c. 688, §2).

³⁹⁶ See MCDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 26.

³⁹⁷ Canon 692: “[...] ipso iure secumfert dispensationem a votis necnon ab omnibus obligationibus ex professione ortis.”

³⁹⁸ See *ibid.* See also RAMOS, Commentary on Canons 688-689, 1849.

3.2.1.4.5. Departure of a Perpetually Professed Member – Canon 691, §2

Canon 691 states:

§1. A perpetually professed religious is not to request an indult of departure from an institute except for the gravest of causes considered before the Lord. The religious is to present a petition to the supreme moderator of the institute who is to transmit it along with a personal opinion and the opinion of the council to the competent authority.

§2. In institutes of pontifical right, an indult of this type is reserved to the Apostolic See. In institutes of diocesan right, however, the bishop of the diocese in which the house of assignment is situated can also grant it.³⁹⁹

The canon clearly indicates the competent authority to grant an indult of departure; for a perpetually professed religious in a religious institute of diocesan right, it is the bishop of the diocese of the house to which the religious is assigned.⁴⁰⁰ Since the canon states “bishop,” a vicar general and an episcopal vicar cannot grant the indult.⁴⁰¹

Though granting of the indult is a prerogative of the diocesan bishop, the petitioner must submit his or her written request to the supreme moderator of the institute who will review it with the council, and then pass it, with his or her own opinion and that of the

³⁹⁹ Canon 691: “§1. Professus a votis perpetuis indultum discedendi ab instituto ne petat, nisi ob gravissimas causas coram Domino perpensas; petitionem suam deferat supremo instituti Moderatori, qui eam una cum voto suo suique consilii auctoritati competenti transmittat. §2. Huiusmodi indultum in institutis iuris pontificii Sedi Apostolicae reservatur; in institutis vero iuris dioecesani, id etiam Episcopus dioecesis, in qua domus assignationis sita est, concedere potest.”

⁴⁰⁰ The 1917 Code did not specify which bishop could grant such an indult (see *CIC/17*, c. 638).

⁴⁰¹ See WILLIAMSON, “The Separation of Members from the Institute (cc. 684-704),” 388.

council,⁴⁰² to the bishop of the house of assignment.⁴⁰³ It is important to note that the request is to be made only for the gravest of causes (*ob gravissimas causas*). The gravest of causes could be: a genuine inability to observe the obligations of religious life such as the evangelical counsels or community life, a vocation to the priesthood in a lay institute,⁴⁰⁴ “grave familial obligations resulting from sickness or death which cannot be adequately responded to within the institute, the life-style of the member [...] no longer congruent with the nature and end of the institute,”⁴⁰⁵ falling in love and wanting to get married, pregnancy, etc. Before requesting an indult of departure, the religious must sincerely consider the decision before the Lord,⁴⁰⁶ since the obligation to live the vows is a serious obligation before God and the community of the faithful, as stated in canon 654:

By religious profession, members assume the observance of the three evangelical counsels by public vow, are consecrated to God through the ministry of the Church, and are incorporated into the institute with the rights and duties defined by law.⁴⁰⁷

It should be kept in mind that the bishop is free to decide whether or not to grant the indult based on the gravity of the matter.⁴⁰⁸ If a religious member is a cleric, whether

⁴⁰² In communicating the petition, “the superior should also include a brief curriculum vitae of the religious, indicating dates of birth, entry, and profession as well as major apostolic activities and periods of formal education. If there have been periods of absence or of exclaustation, they should also be noted” (HOLLAND, “Separation of Members from the Institute [cc. 684-704],” 862).

⁴⁰³ See c. 691, §1.

⁴⁰⁴ See WILLIAMSON, “The Separation of Members from the Institute (cc. 684-704),” 388.

⁴⁰⁵ MCDERMOTT, “Separation of Members from the Institute (cc. 684-704),” 517.

⁴⁰⁶ See c. 691, §1.

⁴⁰⁷ Canon 654: “Professione religiosa sodales tria consilia evangelica observanda voto publico assumunt, Deo per Ecclesiae ministerium consecrantur et instituto incorporantur cum iuribus et officiis iure definitis.”

⁴⁰⁸ See GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 65.

priest or deacon, an indult of departure from the religious institute is not granted before a bishop accepts his incardination in the diocese or at least receives him experimentally (see c. 693).

The indult takes effect at the time the religious is notified; all rights and obligations and the vows arising from profession are dispensed *ipso facto*, unless the indult has been rejected by the religious in the act of notification (see c. 692): then the indult becomes null.⁴⁰⁹ At departure, “the will and cession of administration documents and dowry (if any) are returned to the person departing.”⁴¹⁰

3.2.1.4.6. Confirmation of a Decree of Dismissal – Canon 700

Canon 700 states:

A decree of dismissal does not have effect unless it has been confirmed by the Holy See, to which the decree and all the acts must be transmitted; if it concerns an institute of diocesan right, confirmation belongs to the bishop of the diocese where the house to which the religious has been attached is situated. To be valid, however, the decree must indicate the right which the dismissed possesses to make recourse to the competent authority within ten days from receiving notification. The recourse has suspensive effect.⁴¹¹

⁴⁰⁹ See RAMOS, Commentary on Canons 688-689, 1849.

⁴¹⁰ McDONOUGH, “Separation of Members from the Institute: Canons 684-709,” 238.

⁴¹¹ Canon 700: “Decretum dimissionis vim non habet, nisi a Sancta Sede confirmatum fuerit, cui decretum et acta omnia transmittenda sunt; si agatur de instituto iuris dioecesis, confirmatio spectat ad Episcopum dioecesis ubi sita est domus, cui religiosus adscriptus est. Decretum vero, ut valeat, indicare debet ius, quo dimissus gaudet, recurrendi intra decem dies a recepta notificatione ad auctoritatem competentem. Recursus effectum habet suspensivum.”

The law provides that the supreme moderator of an institute of diocesan right, acting collegially with his/her council can issue a decree of dismissal of a member.⁴¹² However, the decree is not effective until confirmed by the bishop in whose diocese is located the house to which the dismissed religious was assigned. His confirmation gives the decree legal force.

Regarding the confirmation of the decree of dismissal, the commentators suggest that after receiving the decree of dismissal and other useful documents related to the case from the supreme moderator,⁴¹³ the bishop should carefully examine all the merits of the case, the proofs, the procedures followed, and the decision of the religious superior general and the council. It is his responsibility to make certain that the rights of the religious are respected. For the validity, canon 700 clearly says: “The decree must indicate the right which the dismissed possesses to make recourse to the competent authority within ten days from receiving notification [...]”⁴¹⁴ The law recognizes the right of the religious being dismissed to have recourse to CICLSAL for whatever just motive, if he or she feels injured by the decree.

⁴¹² Dismissal can be applied to both religious in perpetual profession and religious in temporal profession. However, the latter can be dismissed for causes of lesser gravity determined by the proper law of each institute. See c. 696, §2; see also MCDERMOTT, “The Vigilance of the Diocesan or Eparchial Bishop,” 29.

⁴¹³ The supreme moderator must submit to the bishop of the diocese in which the house to which the dismissed religious was assigned is located, the following items: a brief biography of the religious being dismissed, any information about absences from the religious house, indults of exclaustation or imposed exclaustation, proofs regarding repeated faults or crimes of the religious, a statement made by the superiors in effort to seek out the religious, copies of two canonical warning letters, proofs that the admonitions were duly received, the result of the vote of the supreme moderator with the council, the decree of dismissal (see F.G. MORRISEY, Commentary on Canon 700, in *Exegetical Comm*, vol. 2/2, 1880).

⁴¹⁴ Canon 700: “[...] Decretum vero, ut valeat, indicare debet ius, quo dimissus gaudet, recurrenti intra decem dies a recepta notificatione ad auctoritatem competentem [...]”

Recourse against the decree of dismissal has suspensive effect (see c. 700). The religious remains a member of the institute and retains all rights and obligations of a religious, *nisi* the rights and obligations have been restricted or lost in some other manner indicated in general or proper law. Nevertheless, if the religious does not lodge recourse, or if recourse has been legitimately and finally rejected or the decree of dismissal upheld by competent ecclesiastical authority, the confirmed decree of dismissal takes effect, with the consequences determined by canon 701: the vows, rights and obligations of the religious derived from profession cease *ipso facto* and, if the member is a cleric, he cannot exercise sacred orders until a bishop receives him into the diocese and permits him to exercise sacred orders.⁴¹⁵

The motu proprio *Communis vita*⁴¹⁶ of Pope Francis, issued on 19 March 2019, and in effect from 10 April 2019, introduced an *ipso facto* dismissal of religious who have been illegitimately absent from their religious house for 12 consecutive months and their place of residence is unknown.⁴¹⁷ The revised canon 694 reads:

⁴¹⁵ See c. 701.

⁴¹⁶ FRANCIS, motu proprio *Communis vita*, 19 March 2019 (=CV), English translation http://w2.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190319_communis-vita.html (10 July 2019). On 8 September 2019, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life issued Circular Letter on the Apostolic Letter Motu Proprio *Communis vita* to clarify the conditions for dismissal. See the official English translation in D. MILLER, P. COONEY, and M.A. SOUCKAR (eds.), *Roman Replies and CLSA Advisory Opinions 2020*, Washington, DC, Canon Law Society of America, 2020, 24-27.

⁴¹⁷ The circular letter of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life of 8 September 2019 points to the proper understanding of the necessary conditions: “[...] *Communis vita* which modified can. 694 of the Code of Canon Law addresses the questionable aspect of distancing oneself from community, an essential element of religious identity. A third reason for ipso facto dismissal from a religious Institute has been added to §1 of can. 694: a protracted illegitimate absence from a religious house, for twelve uninterrupted months in accord with can. 665 §2, *together with the inability of*

§1. A religious must be held as dismissed *ipso facto* from an institute who: 1) has defected notoriously from the Catholic faith; 2) has contracted marriage or attempted it, even only civilly; 3) has been illegitimately absent from the religious house, pursuant to can. 665 §2, for 12 consecutive months, taking into account that the location of the religious himself or herself is unknown.

§2. In such cases the Major Superior, with his or her Council and without hesitation, having gathered the evidence, must issue the statement of the case so that the dismissal may be juridically constituted.

§3. In the case envisaged by §1 n. 3, in order to be juridically constituted, this statement must be confirmed by the Holy See; for institutes of diocesan right the confirmation rests with the Bishop of the principal seat.⁴¹⁸

In such a case, the superior of the institute must gather evidence of facts and issue a declaration of dismissal. In order for this dismissal to have legal effect, the declaration of the fact must be confirmed by the Apostolic See for religious institutes of pontifical right; or by the bishop of the principal seat, for religious institutes of diocesan right (see revised c. 694, §3).

According to the author of this thesis, Pope Francis added the case of *ipso facto* dismissal of a religious who has been illegitimately absent from the religious house for 12 consecutive months and whose whereabouts is unknown to stress the importance of common life that individual religious must observe and preserve (see cc. 607, §2; 665, §1). Additionally, this new norm also helps superiors for whom not only the process of

contacting the religious” [emphasis added] (in MILLER, COONEY, and SOUCKAR (eds.), *Roman Replies and CLSA Advisory Opinions 2020*, 24).

⁴¹⁸ Canon 694: “§1. Ipso facto dimissus ab instituto habendus est sodalis qui: 1) a fide catholica notorie defecerit; 2) matrimonium contraxerit vel, etiam civiliter tantum, attentaverit; 3) a domo religiosa illegitime absens fuerit, secundum can. 665 § 2, duodecim continuos menses, prae oculis habita eiusdem sodalist irreperibilitate. §2. His in casibus Superior maior cum suo consilio, nulla mora interposita, collectis probationibus, declarationem facti emittat, ut iuridice constet de dimissione. §3. In casu de quo in § 1 n. 3, talis declaratio ut iuridice constet, a Sancta Sede confirmari debet; quod ad instituta iuris dioecesani attinet, confirmatio ad principis Sedis Episcopum spectat” (CV, in *Roman Replies and CLSA Advisory Opinions 2020*, 25-26).

dismissal for causes provided in canon 696 is available but also a declaration of dismissal of a religious illegitimately absent from the religious house and with whom no contact can be established for the purposes of conducting the regular canonical process. It should be noted that this new norm does not excuse superiors from their duty to foster community life in common with the other members (see c. 619), to show patience and compassion to the illegitimately absent religious (see c. 619), and to seek their return and perseverance in their vocation (see c. 665 §2).

It is noteworthy that the competent authority to declare the *ipso facto* dismissal is the “major superior” (*superior maior*) (supreme moderator or/and provincial superior), while the authority to issue the decree of dismissal in accordance with canon 699, §1 is the “supreme moderator” (*supremus moderator*). Concerning the competent authority to confirm the declaration of an *ipso facto* dismissal for religious institutes of diocesan right, the revised canon 694, §3 specifies that the statement of the superior is not juridically constituted until it is confirmed by the diocesan bishop of the principal seat, while canon 700 determines that the decree of dismissal is not effective until confirmed by the diocesan bishop of the diocese in which the dismissed religious was assigned.

3.2.2. Works of Apostolate and Charity of an Individual Member

The *ius vigens* addresses various types of works of apostolate and charity that may be exercised by religious; all those activities, be it missionary, catechetical, charitable, educational are to be accomplished under the direction of the bishop who has general

pastoral responsibility for and oversight of all the faithful, religious, and clergy in his diocese (see cc. 383, §1; 386, §1; 387).

3.2.2.1. Conferring an Ecclesiastical Office on a Religious – Canons 681 and 682

Canon 681, §1 addresses the works that the diocesan bishop entrusts to religious while canon 682, §1 refers to the conferral of ecclesiastical offices in the diocese upon religious. The religious are appointed to ecclesiastical offices by diocesan bishops on the presentation by the competent superiors or at least with their assent.⁴¹⁹ Non-ordained religious can be appointed to offices and functions for which they are found suitable and which they are able to exercise according to the precepts of the law. Among the offices open to non-ordained, one finds the following: expert and advisor of the pastors of the Church (see c. 228, §2), teacher of the sacred sciences (see c. 229, §3), chancellor of the diocesan curia (see c. 482, § 1), vice-chancellor (see c. 482, §2), notary (see cc. 482 §3; 483, §1),⁴²⁰ financial officer (see c. 494, §1), member of the diocesan finance council (see 492, §1), member of the diocesan pastoral council (see c. 512), pastoral coordinator (see c. 517, §2),⁴²¹ catechist (c. 785), teacher of religion (c. 805), director of a Catholic school (see c. 806, §2), censor (c. 830, §1), administrator of an ecclesiastical juridic person (see c. 1279, §2), judge in collegiate tribunal (see c. 1421, §2), assessor (see c. 1424), auditor

⁴¹⁹ Cf. *MR*, no. 58, in *AAS*, 70 (1978), 502-503, in *CLD*, vol. 9, 335-336.

⁴²⁰ It should be noted that in cases where the reputation of a priest can be called into question, the notary must be a priest (see c. 483, §2).

⁴²¹ Canon 517, §2 permits a bishop to entrust the participation in the exercise of pastoral care of a parish without a resident pastor to a non-ordained, under the supervision of the priest moderator. However, the offices of parish priest (see c. 519) and parish administrator (see c. 539) are reserved for priests (*sacerdotes*).

(see c. 1428, §2), defender of the bond and promoter of justice (see c. 1435), advocate and procurator (see c. 1483), expert in the tribunal (see c. 1574).

The works entrusted by the diocesan bishop to religious are subject to the authority and direction of diocesan bishop (see c. 681, §1). However, it should be kept in mind that when performing external works, religious are still under obedience to their proper superiors, and they are obliged to be faithful to the discipline of the institute (see c. 678, §2). Canon 681, §2 addresses the need of a suitable agreement between the diocesan bishop and the competent religious superior.⁴²² The agreement must be in writing and expressly and accurately specify: (1) the work to be accomplished, (2) the religious to be assigned to it,⁴²³ and (3) financial arrangements, e.g., stipend or salary, housing payment, travel and transportation, equipment and furnishings, health insurance and retirement benefits, continuing education, sabbatical provisions, etc. It should be noted that the phrase: “among other things” (*inter alia*) used in canon 681, §2 is to be understood as besides the three

⁴²² Cf. *ES I*, no. 30, in AAS, 58 (1966), 771, *FLANNERY I*, 606; *MR*, nos. 57-58, in AAS, 70 (1978), 502-503, in *CLD*, vol. 9, 334-336.

⁴²³ Canon 163 indicates that the suitability of the candidate is to be judged and determined by the diocesan bishop. According to universal law, some offices require the candidate to be a priest (*sacerdos*), e.g., diocesan administrator (see c. 425, §1); moderator of diocesan curia (see c. 473, §2); vicar general (see c. 478, §1); episcopal vicars (see c. 478, §1); pastor (parish priest) (see c. 521, §1); parochial administrator (see c. 539); members of the team to which the pastoral care of a parish was entrusted *in solidum* (see c. 542, 1^o); parochial vicar (see c. 546); rector of a church (see c. 556); chaplain (see c. 564); judicial vicar (see c. 1420, §4); adjutant judicial vicar (see c. 1420, §4); notary with regard to cases in which the reputation of a priest can be called into question (see c. 483, §2). Some offices require “good character,” e.g., vicar general (see c. 478, §1); episcopal vicars (see c. 478, §1); chancellor (see c. 483, §2); notary (see c. 483, §2); members of financial council (see c. 492, §1); financial officer (see c. 494, §1); priests on the team to which the pastoral care of a parish was entrusted *in solidum* (see c. 542, 1^o); judicial vicar (see c. 1420, §4); adjutant judicial vicar (see c. 1420, §4); judge (see c. 1421, §3); auditor (see c. 1428, §2); promoter of justice (see c. 1435); defender of the bond (see c. 1435). Some offices require that the candidate have a doctorate or at least licentiate in canon law, e.g., judicial vicar (see c. 1420, §4); adjutant judicial vicar (see c. 1420, §4); judge (see c. 1421, §3); promoter of justice (see c. 1435); defender of the bond (see c. 1435). For vicar general and episcopal vicar, the universal law requires a doctorate or at least licentiate in canon law or theology or at least true expertise in these disciplines (see c. 478, §1).

items mentioned above some other issues should be considered, e.g., hours of service, holidays, vacations, annual retreat, etc. should be spelled out in the contract if deemed necessary by both parties in order to avoid misunderstandings, doubts, and disputes which might arise in the future.⁴²⁴ Hill offers his advice that “a contract should not be entered into in perpetuity, but should be subject to periodic review, providing for the right of either party to terminate it for stated causes and with timely notice.”⁴²⁵ Strictly speaking, this agreement (*conventio scripta*), even though referred often to as “contract” is not a legal contract (*contractus*) mentioned in canon 1290⁴²⁶ since it does not create rights and obligations in civil law.⁴²⁷ Therefore, if one party is not satisfied with the other party’s conduct, both parties can enter into a mutual dialogue to renegotiate or cancel the agreement or when the agreement terminates, the parties can refuse to renew it.⁴²⁸

The religious appointed by the diocesan bishop to an office in his diocese can be removed by either the bishop or the competent religious superior after having informed the other authority (see c. 682, §2). Canon 682, §2 does not mention reasons for removal, it only states that the religious can be removed at the discretion of the bishop or of the religious superior. Regarding the cause of removal from an office, canon 193, §3 requires

⁴²⁴ See HILL, “The Apostolate of Institute (cc. 673-683),” 212. See also GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 62; MCDERMOTT, *Consecrated Life*, 162-163.

⁴²⁵ HILL, “The Apostolate of Institute (cc. 673-683),” 213.

⁴²⁶ Canon 1290 reads: “The general and particular provisions which the civil law in a territory has established for contracts and their disposition are to be observed with the same effects in canon law insofar as the matters are subject to the power of governance of the Church unless the provisions are contrary to divine law or canon law provides otherwise, and without prejudice to the prescript of can. 1547.”

⁴²⁷ See GHIRLANDA, “Relations between Religious Institutes and Diocesan Bishops,” 61.

⁴²⁸ See *ibid.*

a just cause.⁴²⁹ For unjust removal from an office entrusted by the diocesan bishop, the religious may have recourse to the competent dicastery of the Holy See.⁴³⁰

3.2.2.2. Granting the Mandate to Teach Theological Subjects in Institutes of Higher Studies – Canon 812

Canon 812 states:

Those who teach theological disciplines in any institutes of higher studies whatsoever must have a mandate from the competent ecclesiastical authority.⁴³¹

The canon establishes a requirement of a mandate for those who teach theological disciplines in any institute of higher studies. This requirement is completely new in the current legislation; there is no corresponding norm in the 1917 Code or in the teaching of the Second Vatican Council.⁴³² This discipline is based on the Apostolic Constitution on Ecclesiastical Universities and Faculties *Sapientia Christiana*, art. 27, no. 1 which requires that “those who teach disciplines concerning faith or morals must receive, after making their profession of faith, a canonical mission from the Chancellor or his delegate [...]”.⁴³³ However, there is a minor wording change in the 1983 Code, that is, using the term

⁴²⁹ *ES I*, no. 32 required a grave cause for removal, in *AAS*, 58 (1966), 771, *FLANNERY1*, 606.

⁴³⁰ See *ES I*, no. 32, in *AAS*, 58 (1966), 771, *FLANNERY1*, 606. Cf. *MR*, no. 58, in *AAS*, 70 (1978), 502-503, in *CLD*, vol. 9, 335-336. See also footnote, no. 343.

⁴³¹ Canon 812: “Qui in studiorum superiorum institutis quibuslibet disciplinas tradunt theologicas, auctoritatis ecclesiasticae competentis mandatum habeant oportet.”

⁴³² See J.A. CORIDEN, “Catholic Universities and Other Institutes of Higher Studies (cc. 807-814),” in *CLSA Comm1*, 475.

⁴³³ JOHN PAUL II, Apostolic Constitution on Ecclesiastical Universities and Faculties *Sapientia Christiana*, 15 April 1979 (=Sch), art. 27, no. 1: “Missionem canonicam a Magno Cancellario, vel ab eius

“mandate” (*mandatum*) (c. 812) instead of “canonical mission” (*missio canonica*) as in *Sapientia Christiana*.⁴³⁴ Additionally, in his Apostolic Constitution on Ecclesiastical Universities and Faculties *Veritatis gaudium* (2018), art. 27.1, Pope Francis requires that “those who teach disciplines concerning faith or morals must receive, after making their profession of faith, a canonical mission from the Chancellor or his delegate, for they do not teach on their own authority but by virtue of the mission they have received from the Church. The other teachers must receive permission to teach from the Chancellor or his delegate.”⁴³⁵

The term “mandate” is also used in the apostolic constitution *Ex corde Ecclesiae* of Pope John Paul II:

[I]n ways appropriate to the different academic disciplines, all Catholic teachers are to be faithful to, and all other teachers are to respect, Catholic doctrine and morals in their research and teaching. In particular, Catholic theologians, aware that they fulfil a mandate received from the Church, are to be faithful to the magisterium of the church as the authentic interpreter of Sacred Scripture and Sacred Tradition.⁴³⁶

delegato, accipere debent, professione fidei peracta, qui disciplinas ad fidem vel mores spectantes docent [...],” in AAS, 71 (1979), 483, in *CLD*, vol. 12, 530.

⁴³⁴ See *ibid*.

⁴³⁵ FRANCIS, Apostolic Constitution on Ecclesiastical Universities and Faculties *Veritatis gaudium*, 29 January 2018, art. 27.1: “Missionem canonicam a Magno Cancellario, vel ab eius delegato, accipere debent, professione fidei peracta, qui disciplinas ad fidem et mores spectantes docent; non enim propria auctoritate docent, sed vi missionis ab Ecclesia acceptae. Ceteri vero docentes a Magno Cancellario, vel ab eius delegato, licentiam docendi accipere debent” (English translation in <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2018/01/29/180129c.html> [September 2019]).

⁴³⁶ JOHN PAUL II, Apostolic Constitution on Catholic Universities *Ex corde Ecclesiae*, 15 August 1990, Pars altera, Normae generales, art. 4, no. 3: “Modis, diversis academicis disciplinis congruentibus, omnibus catholicis docentibus fideliter accipiendae sunt, ceterisque omnibus docentibus observandae, doctrina et de norum disciplina catholica, tum in pervestigando tum in instituendo. In primis theologi catholici, conscii se Ecclesiae persequi mandatum, fideles sint erga Ecclesiae Magisterium, uti Sacrarum Litterarum et Sacrae Traditionis interpretem authenticum” (in AAS, 82 [1990], 1505, in *Origins*, 20 [1990-1991], 274).

According to Coriden, the mandate in c. 812 is “simply a recognition that the person is properly engaged in teaching the theological discipline.”⁴³⁷ Euart explains further that “mandate” to teach “[...] refers to those apostolic activities which remain activities proper to the laity in virtue of baptism, but which, at times, are joined more closely to the apostolic responsibility of the bishop. When acting pursuant to a mandate, a lay person acts, it would seem, on his or her own and in communion with the bishop, but not in the name of the bishop or the Church hierarchy.”⁴³⁸

Canon 812 determines that the mandate to teach is granted by the competent ecclesiastical authority. It should be clarified here who the competent ecclesiastical authority is: the diocesan bishop, ordinary, or local ordinary? Canon 812 does not expressly define it, but canon 805 explicitly determines that the local ordinary has the right to appoint or approve teachers of religion. Canon 804, §2 gives the local ordinary the right and defines his obligation to ensure that those “who are designated teachers of religious instruction in schools, even in non-Catholic ones” are outstanding in correct doctrine, witness of a Christian life, and teaching skill. Commenting on the competency in granting a mandate to teach, Edmund Daly concludes that the local ordinary has this authority.⁴³⁹ James Coriden supports this understanding of the canon by stating:

[...] The Apostolic See and the local diocesan bishop are surely capable of granting the mandate to teach theology. Probably the other ordinaries listed in canon 134 could also do so, and it might be argued that the major religious superiors of clerical communities which

⁴³⁷ J.A. CORRIDEN, “Catholic Education (cc. 793-821),” in *CLSA Comm1*, 576.

⁴³⁸ S.A. EUART, “Catholic Education (cc. 793-821),” in *CLSA Comm2*, 968.

⁴³⁹ See E.F. DALY, “The Needed Mandate to Teach,” in *CLSA Proceedings*, 46 (1984), 120.

own and operate Catholic colleges could give mandates for their own members teaching in their own institutions. The episcopal conference is probably not included.⁴⁴⁰

For religious, the important issue is who is the competent authority to grant a mandate to teach theological disciplines in the manner of canon 812? Is this the local ordinary of the house to which the religious is assigned or the local ordinary of the principal seat of an institute of diocesan right or the ordinary of the place where the school is situated? It appears that it must be the ordinary of the place where the school is situated since this ordinary has the right to appoint or approve teachers of religion (see c. 805), to oversee of the qualities of teachers in religion (see c. 804, §2), to regulate and to watch over Catholic religious instruction and education (see c. 804, §1), and to inspect the catholic schools situated in his territory (see c. 806, §1). More importantly, it should be kept in mind that before requesting the mandate from the competent ordinary, the religious must obtain the permission of his or her competent superior.

3.2.2.3. Permission for Publishing on Matters of Faith and Morals – Canons 823-824; 826-827; 831, §1

All those who publish writings dealing with question of faith and morals are bound to respect c. 823, §1 which states the duty of the pastors of the Church to watch over and preserve the integrity of the truths of faith and morals. Consequently, prior to their publication, these writings are to be submitted to the judgment of the pastors. Moreover,

⁴⁴⁰ CORIDEN, “Catholic Universities and Other Institutes of Higher Studies (cc. 807-814),” 576. See also DALY, “The Needed Mandate to Teach,” 120.

canon 831, §2 allows the conference of bishops “[...] to establish norms concerning the requirements for clerics and members of religious institutes to take part on radio or television in dealing with questions of Catholic doctrine or morals.” However, in the present situation of proliferation of instruments of social communication, i.e., internet, Facebook, Twitter, Instagram, etc., the question of publishing on religion and morals takes on a new importance.⁴⁴¹

The approval of the local ordinary is required for publishing books of prayers for public or private use by the faithful (see c. 826, §3), “catechisms and other writings pertaining to catechetical instruction or their translations” (c. 827, §1) and “books which regard questions pertaining to sacred scripture, theology, canon law, ecclesiastical history, and religious or moral disciplines” if they are “used as texts on which instruction is based in elementary, middle, or higher schools” (c. 827, §2). It is also recommended that such books even though not used as texts of instruction and other writings on religion and morals be submitted to the judgment of the local ordinary (c. 827, §3).

⁴⁴¹ For a discussion of those new possibilities, cf. M.A. NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties: Towards a Possible Diocesan Protocol for Ministers of the Divine Word in the Online Environment,” in *The Canonist*, 10 (2019), 87-126.

Canon 824 §1⁴⁴² determines that the competent ecclesiastical authority to grant permission and/or approval is the local ordinary of the author⁴⁴³ or the local ordinary of the place where the work is to be published.⁴⁴⁴

Additionally, due to the importance of this matter, members of religious institutes (whether clerical or lay institute, whether of pontifical or diocesan right), before seeking the permission or approval from the local ordinary to publish writings and/or to use of instruments of social communication dealing with questions of religion and morals, need to obtain permission from their major superior according to the norm of the constitutions (c. 832).

⁴⁴² Canon 824 reads: “§1. Unless it is established otherwise, the local ordinary whose permission or approval to publish books must be sought according to the canons of this title is the proper local ordinary of the author or the ordinary of the place where the books are published. §2. Those things established regarding books in the canons of this title must be applied to any writings whatsoever which are destined for public distribution, unless it is otherwise evident.” Cf. CONGREGATION FOR THE DOCTRINE OF THE FAITH, Instruction on Some Aspects of the Use of the Instruments of Social Communication in Promoting the Doctrine of the Faith, no. 11.1, in *Communicationes*, 24 (1992), 24, in *Origins*, 22 (1992), 95.

⁴⁴³ The local ordinary of the author is determined by the author’s domicile or quasi-domicile (see cc. 102-107; cf. *CCEO*, c. 646-650). It should be noted that the author of a written work may be an individual religious, a religious institute, etc. “If an author has more than one domicile or quasi-domicile, the local ordinary or hierarch of each place is competent to grant the request, although only one local ordinary or hierarch is required to grant the authorization” (THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS [USCCB], *The Permission to Publish: A Resource for Diocesan and Eparchial Bishops on the Approvals Needed to Publish Various Kinds of Written Works*, Washington, DC, USCCB Publishing, 2004, 8).

⁴⁴⁴ The Committee on Doctrine of United States Conference of Catholic Bishops clarifies that: “The local ordinary or hierarch of the place of publication refers to the ordinary or hierarch of the place where the publisher is located. It does not refer to where the text was printed, if this place is different from where the publishing office is located [...]. If a publishing house holds offices in more than one place, the local ordinary or hierarch of each is competent to review the writing for the purpose of granting the requisite authorization, although the authorization of only one local ordinary or hierarch is required. It is not required that the publishing house be itself under Catholic auspices, as long as the local ordinary’s or hierarch’s competence is established in some other way, i.e., due to the nature of the writing or the Catholic identity and domicile of the author” (*The Permission to Publish*, 8-9).

Canon 831, §1 refers specifically to clerics and members of religious institutes

when it states:

Except for a just and reasonable cause, the Christian faithful are not to write anything for newspapers, magazines, or periodicals which are accustomed to attack openly the Catholic religion or good morals; clerics and members of religious institutes, however, are to do so only with the permission of the local ordinary.⁴⁴⁵

This provision comes directly from the decree of the Congregation for the Doctrine of the Faith *Ecclesiae pastorum*, art. 5.2: “In dailies, papers or periodicals which are accustomed to attack the Catholic religion or morality, the faithful may not write, unless for a just and reasonable cause; clerics and members of Institutes of perfection (may write) only with the approval of the local Ordinary.”⁴⁴⁶ The provision of canon 812 is also a modification of canon 1386, §2 of the 1917 Code which stated: “Neither shall laity, unless persuaded by just and reasonable cause approved by the local Ordinary, write for newspapers, pamphlets, or periodical literature that is accustomed to attacking the Catholic religion or good morals.”⁴⁴⁷

For members of religious institutes, whether of pontifical or diocesan right, the permission of the local ordinary is therefore required for writing in newspapers, magazines,

⁴⁴⁵ Canon 831, §1: “In diariis, libellis aut foliis periodicis quae religionem catholicam aut bonos mores manifesto impetere solent, ne quidpiam conscribant christifideles, nisi iusta et rationabili de causa; clerici autem et institutorum religiosorum sodales, tantummodo de licentia loci Ordinarii.”

⁴⁴⁶ CONGREGATION FOR THE DOCTRINE OF THE FAITH, Decree regarding the Censorship of Books by Pastors of the Church *Ecclesiae pastorum*, 19 March 1975, art. 5.2, in AAS, 67 (1975), 283, English translation in *L'Osservatore Romano*, English edition, 24 April 1975, 4.

⁴⁴⁷ *CIC/17*, c. 1386, §2: “In diariis vero, foliis vel libellis periodicis qui religionem catholicam aut bonos mores impetere solent, nec laici catholici quidpiam conscribant, nisi iusta ac rationabili causa suadente, ab Ordinario loci probata.”

or periodicals which are accustomed to attack openly the Catholic religion or good morals.⁴⁴⁸

Those who “[...] in a public show or speech, in published writing, or in other uses of the instruments of social communication utter blasphemy, gravely injure good morals, express insults, or excite hatred or contempt against religion or the Church” are subject to a just penalty according to the gravity of the matter (see c. 1369, cf. c. 1371).

3.2.2.4. Begging for Pious Purposes – Canon 1265, §1

Canon 1265, §1 states:

Without prejudice to the right of religious mendicants, any private person, whether physical or juridic, is forbidden to beg for alms for any pious or ecclesiastical institute or purpose without the written permission of that person’s own ordinary and of the local ordinary.⁴⁴⁹

The canon determines that any private person, whether physical or juridic who wish to *beg for alms*⁴⁵⁰ for any pious ecclesiastical institute or purpose, is forbidden to do so unless he or she obtained prior written permission from his or her own ordinary and the local ordinary of the place where the begging is to take place. Canon 1265, §1 is based on

⁴⁴⁸ See c. 831, §1; cf. CONGREGATION FOR THE DOCTRINE OF THE FAITH, Instruction on Some Aspects of the Use of the Instruments of Social Communication in Promoting the Doctrine of the Faith, no. 13, in *Communicationes*, 24 (1992), 25, English translation in *Origins*, 22 (1992), 95.

⁴⁴⁹ Canon 1265, §1: “Salvo iure religiosorum mendicantium, vetatur persona quaevis privata, sive physica sive iuridica, sine proprii Ordinarii et Ordinarii loci licentia, in scriptis data, stipem cogere pro quolibet pio aut ecclesiastico instituto vel fine.” Cf. *CCEO*, c. 1015. It should be noted that the Eastern Code forbids any person, physical or juridic, from collecting alms without the *permission* of the authority they are subject to and the written *consent* of the hierarch of the place where the alms are collected.

⁴⁵⁰ Renken explains that this phrase “means to go indiscriminately from door to door to seek alms for some pious purpose” (RENKEN, *Church Property*, 122).

canon 1503 of the 1917 Code which stated: “With due regard for the prescription of canons 621-624, it is forbidden that private persons, whether clerics or laity, collect [donations] for any pious or ecclesiastical institute or purpose without the permission of the Apostolic See or of their own Ordinary and the Ordinary of the place [where the collection occurs], given in writing.”⁴⁵¹ Canon 1265, §1 reflects the discipline of *Ecclesiae Sanctae I*, no. 27.2: “Religious shall not proceed to invite financial assistance by public subscription without the consent of the local ordinaries where the subscriptions are collected.”⁴⁵²

It also should be taken into consideration what kind of begging requires the permission in the sense of canon 1265, §1. Based on the provisions of the previous law, the commentators point out the distinction between oral and written forms of begging. Robert Kennedy refers to their opinions and states that the form of “person-to-person begging (as in door-to-door solicitation) was within the intended scope of the law”⁴⁵³ since that would “involve identifying potential donors and calling upon them in person (not through letters) for financial assistance.”⁴⁵⁴ However, other forms, e.g., begging letters,⁴⁵⁵

⁴⁵¹ *CIC/17*, c. 1503: “Salvis praescriptis can. 621-624, vetantur private tam clerici quam laici sine Sedis Apostolicae aut proprii Ordinarii et Ordinarii loci licentia, in scriptis data, stipem cogere pro quolibet pio aut ecclesiastico instituto vel fine.”

⁴⁵² *ES I*, no. 27, 2. “Item, ad subsidia ope subscriptionis publicae colligenda ne procedant Religiosi sine consensu Ordinariorum locorum ubi illa subsidia colliguntur” in *AAS*, 58 (1966), 770, *FLANNERY I*, 605.

⁴⁵³ *Ibid.* Cf. BOUSCAREN, T.L., A.C. ELLIS, and F.N. KORTH, *Canon Law: A Text and Commentary*, 786.

⁴⁵⁴ RENKEN, *Church Property*, 122.

⁴⁵⁵ Bouscaren, Ellis, and Korth commented on canon 1503 of 1917 Code: “[...] strictly speaking, begging letters do not come under the law, since in such begging there is no personal, oral request for alms. Custom, which is the best interpreter of law (c. 29), allows them. Besides, there is less danger of abuse and embarrassment in a letter requesting alms than there is in a personal request for them. One can always toss letters into the wastebasket. If the receiver of a circular letter, which describes the usefulness of a certain good work that is being promoted, decides to send alms, his gift is considered to be a free-will offering” (*Canon Law: A Text and Commentary*, 786).

seeking for funds by mail or advertising,⁴⁵⁶ begging a few friends, relatives, acquaintances, or the like⁴⁵⁷ does not fall under the prohibition of this canon.⁴⁵⁸

In the strict sense, canon 1265, §1 forbids only private juridical persons and individuals, but it does not forbid the public juridic persons from begging for alms as the previous Code did for religious institutes.⁴⁵⁹ However, in reality, diocesan laws require that the public persons, i.e., parishes, religious institutes, religious houses, and other public juridic persons who wish to seek alms obtain the permission of the ordinary of the place in which the institute or the house is located and the ordinary in whose territory begging is to take place.

3.2.2.5. Pious Trusts – Canon 1302

Canon 1302 specifies that as soon as a person, whether a cleric, religious, or a laity has received goods under a bequest or a trust from the donor for a pious cause, whether

⁴⁵⁶ See J.J. MYERS, “The Acquisition of Goods (cc. 1259-1272),” in *CLSA Comm1*, 867.

⁴⁵⁷ See KENNEDY, “The Acquisition of Goods (cc. 1259-1272),” 1467.

⁴⁵⁸ See MYERS, “The Acquisition of Goods (cc. 1259-1272),” 867; see also KENNEDY, “The Acquisition of Goods (cc. 1259-1272),” 1467.

⁴⁵⁹ The previous Code explicitly determined that all religious from institutes of pontifical right are forbidden to seek alms without a special privilege from the Apostolic See and the written permission of the local ordinary (see *CIC/17*, c. 622, §1). Religious from institutes of diocesan right could seek alms only with the permission of the ordinary of the place in which their house was located and of the ordinary in whose territory they wished to beg (see *CIC/17*, c. 622, §2). In addition, canon 622, §3 demanded that the local ordinaries do not grant easily these permissions, especially in places where there are mendicants’ houses (e.g., the Friars Minors, Capuchins, Augustinians, Carmelites, etc.), *nisi* they are really in need with regard to their livelihood and mission. The 1977 Schema had permitted all members of institutes of consecrated life to beg for alms. This norm, however, was not retained by the coetus *De bonis Ecclesiae temporalibus*, stipulating that the permission to beg for alms concerns only mendicants (see *Communicationes*, 12 [1980], 401).

*inter vivos*⁴⁶⁰ or by reason of a last will and testament,⁴⁶¹ he or she must inform the ordinary of the trust and indicate to him all its movable⁴⁶² and immovable goods,⁴⁶³ with the obligations attached to them⁴⁶⁴ since the ordinary has the obligation to demand that goods held in trust are safeguarded and to exercise vigilance over the fulfillment of the trust⁴⁶⁵.

In addition, the canon notes that in case the donor has expressly and entirely forbidden the involvement of the ordinary, the person is not to accept the trust (see c. 1302, §1). This provision is based on canon 1516, §1 of the 1917 Code which stated: “A cleric or religious who accepts a trust [consisting of] goods for a pious cause, whether by a living act or by a will, must inform the Ordinary of his entrustment and indicate all of the goods, whether mobile or immobile, that have burdens attached in this regard; but if the donor expressly and entirely prohibits [this notification, the cleric] shall not accept the trust.”⁴⁶⁶ While the previous Code referred only to clerics and religious, the current Code imposes this obligation on anyone.

⁴⁶⁰ *Inter vivos* refers to the “transfer of ownership while the donor remains alive” (RENKEN, *Church Property*, 297).

⁴⁶¹ Testament is “the disposition of one’s goods at the moment of death” (ibid., 64).

⁴⁶² Movable goods are “corporeal goods which can be transferred from place to place (e.g., merchandise, livestock, automobiles)” (ibid., 23).

⁴⁶³ Immovable goods are “corporeal goods which cannot be transferred from place to place naturally (e.g., land, buildings)” (ibid., 23).

⁴⁶⁴ See c. 1302, §1.

⁴⁶⁵ See c. 1302, §2; cf. *CIC/17*, c. 1516, §2.

⁴⁶⁶ *CIC/17*, c. 1516, §1: “Clericus vel religiosus qui bona ad pias causas sive per actum inter vivos, sive ex testamento fiduciarie accepit, debet de sua fiducia Ordinarium certiores reddere, eique omnia istiusmodi bona seu mobilia seu immobilia cum oneribus adiunctis indicare; quod si donator id expresse et omnino prohibuerit, fiduciam ne acceptet.”

It is important to clarify here which ordinary will fulfill the responsibility of supervision of the trust, the ordinary of the donor or the ordinary of the trustee? In the context of canon 1302, §1, the term “ordinary” means the ordinary of the trustee, not of the donor. However, if the goods have been entrusted to a member of a religious institute (see c. 607, §2) or of society of apostolic life (see c. 731, §1), “whenever the temporal goods which form the *corpus* of the trust are to be used for the benefit of a diocese or other place or for its inhabitants or pious causes,”⁴⁶⁷ the competent ordinary is the local ordinary. If the gifts or bequests are made for the benefit of the religious institute itself or for its general works, e.g., hospital, nursing home, retreat center, education, formation and training religious, etc., the competent ordinary in a clerical institute of pontifical right and in clerical societies of apostolic life of pontifical right is the major superior and in other religious institutes is the proper local ordinary of a given religious (see c. 1302, §3).

Furthermore, Kennedy brings out practical cases concerning a doubt as to the proper beneficiary, that is whether the trust aims primarily to benefit an apostolic work within a particular diocese or rather to benefit the members of a religious institute or a society of apostolic life who are engaged in that work.⁴⁶⁸ In such cases, he suggests that involved ordinaries collaboratively take responsibility for the supervision of the trust.⁴⁶⁹

⁴⁶⁷ KENNEDY, “Pious Wills in General and Pious Foundations (cc. 1299-1310),” 1515.

⁴⁶⁸ See KENNEDY, “Pious Wills in General and Pious Foundations (cc. 1299-1310),” 1515.

⁴⁶⁹ See *ibid.*

CONCLUSION

The chapter addressed the authority of the diocesan bishop regarding the subjection of the religious institute of diocesan right to his special care as per canon 594 of the 1983 Code of Canon Law, particularly in matters pertaining to either the institute or an individual member and which exceed the competence of internal authorities of the religious institute. The analysis showed that the norms on the relationship between religious institutes of diocesan right and the diocesan bishop express the spirit of *communio* of the Church.

The chapter demonstrated that the *ius vigens* recognizes the authority of the diocesan bishop over all apostolic works performed by religious institutes (see cc. 681-682; 812; 831, §1; 1265, §1; 1302) and individual religious (see cc. 675-677; 678; 680-682; 683, §1), while respecting and protecting various charisms of institutes, particularly by recognizing their just autonomy of life, especially of government. On the other hand, the norms of law provide for certain reciprocity: the diocesan bishop acknowledging the legitimate authority of superiors in the internal life of the institute, including the assignment of religious in the apostolate, contributes to the enrichment of ecclesial communion and the promotion of the mission of the Church in service of the portion of the people of God entrusted to him. It can also be said that the detailed treatment of the subject matter in the chapter pointed indirectly to the truly vast extent of the contribution of members of religious institutes to the life of particular Churches. As religious institutes of diocesan right are anchored in a given diocese or several of them, their relationship with the diocesan community is concrete and potentially beneficial for both parties.

Besides the authority in matters pertaining to the institute, by virtue of the special care of the diocesan bishop for religious institutes of diocesan right, the diocesan bishop has also specific prerogatives and exercises vigilance in matters pertaining to religious life of individual members. Again, his efforts to inspire the religious to observe faithfully the discipline of their institute and fulfill faithfully the obligations of their vocation, bring concrete spiritual profits not only to members of the institute but also to the local Church.

In logical order, the next chapter will examine the provisions of the proper law of the Congregation of the Dominican Sisters of Saint Rose of Lima regarding the internal authority of the Congregation and the authority of the diocesan bishop.

CHAPTER FOUR

THE PROVISIONS OF THE PROPER LAW OF THE CONGREGATION OF THE DOMINICAN SISTERS OF SAINT ROSE OF LIMA REGARDING THE INTERNAL AUTHORITY OF THE INSTITUTE AND THE AUTHORITY OF THE DIOCESAN BISHOP

INTRODUCTION

The Congregation of the Dominican Sisters of Saint Rose of Lima (CDSSRL) is a lay religious congregation of diocesan right, erected on 1 January 1973 by the diocesan bishop of Sài Gòn Archdiocese, Paul Văn Bình Nguyễn.¹ The Congregation

¹ P.V.B. NGUYỄN, Decree of Erection of the Congregation of the Dominican Sisters of Saint Rose of Lima, 1 January 1973, in the Congregation's archives. In 1676, the Filipino Dominican Friars evangelized the North of Vietnam. From that time, there were virgins from the dioceses of Thái Bình, Hải Phòng, Bắc Ninh, and Lạng Sơn gathered by those Friars and living in common as a private association with the name "Dominican Nhà Phước." The virgins observed three evangelical counsels assumed through private vows and lived a simple life. They collaborated with parish priests in pastoral works, e.g., catechetical instruction of children, youth, and especially of catechumens and serving in health clinics. In the time of religious persecution (1740-1883), they transported mail, brought foods, medicine, and Body of Christ to friars and Christians who had suffered greatly in hiding from the persecution (see V.B.C. NGUYỄN, *Sổ Tay Công Giáo Việt Nam 2011 [Directory of the Catholic Church in Vietnam]*, Hồ Chí Minh City, Tôn Giáo Publication, 2011, 453-474). In 1860, the Dominican Nhà Phước officially had its own Directory in Nôm language. The content of this Directory was basically copied from the Directory of the Spanish Dominican Nuns. In 1900, Pope Leo XIII granted a privilege for Dominican Nhà Phước to become a public association called "Dominican Nhà Phước," with a perspective in the future of having it erected as an institute of consecrated life of diocesan right with private vows. The Second Regional Council, in Kẻ Sở (1912) and the Đông Dương General Council (1934) called for erection of the Dominican Nhà Phước as a religious congregation in accordance with the norms of canon law. In 1954, when Vietnam was divided into the North and the South, many members of the Dominican Nhà Phước from the North fled to the South. Based on the letter of permission of the Congregation for Evangelization, of 10 April 1956 (THE CONGREGATION FOR EVANGELIZATION, letter to Bishop Simon Văn Hiền Nguyễn – Bishop of Sài Gòn Archdiocese, art. 662/56, in the Congregation's archives). On 21 January 1958, Archbishop Simon Văn Hiền Nguyễn erected the Vietnamese Dominican Sisters of Saint Catharine of Siena Congregation, by a formal decree in accordance with canon 429, §1 of the 1917 Code of Canon Law. The first general chapter was convoked on 4 September 1961 and Sister Monica Thi Mau Pham was elected as superior general, for a six-year term. Because of the differences of culture, the Sisters who came from Thái Bình, Hải Phòng, and Bắc Ninh dioceses asked to be permitted to separate from the Dominican Sisters of Saint Catharine of Siena Congregation in order to erect a new congregation. On 4 November 1972, the Congregation for Evangelization accepted their petition. Thus, on 1 January 1973, Archbishop Paul Văn Bình Nguyễn of Sài Gòn Archdiocese erected the Congregation of the Dominican Sisters of Saint Rose of Lima (*Congregatio Religiosa Sororum Dominicanarum Sanctae Rosae*

is organized as a centralized entity,² with no smaller units (provinces). Therefore, all communities are under governance of the central administration. In order to describe the CDSSRL's way of life, governance, formation, mission, as well as the provisions regarding the authority and vigilance of the diocesan bishop upon the Congregation and its members, Chapter Four will examine the provisions of the CDSSRL's proper law, i.e., *Rules of Life*,³ *Constitutions*,⁴ *Directory*,⁵ and *Guidelines of the General*

de Lima) as a lay religious congregation of diocesan right (see NGUYỄN, Decree of Erection of the Congregation of the Dominican Sisters of Saint Rose of Lima).

² See THE CONGREGATION OF THE DOMINICAN SISTERS OF SAINT ROSE OF LIMA, *Directory*, Hồ Chí Minh City, 2017 (=CDSSRL, *Directory*), art. 127.1, 68. All subsequent citations of the articles will be taken from this edition unless otherwise stated.

³ The Congregation of the Dominican Sisters of Saint Rose of Lima borrows the Rules of Saint Augustine as its own *Rules of Life*.

⁴ After separating from the Dominican Sisters of Saint Catharine of Siena Congregation, the CDSSRL had used the Constitutions of the Dominican Sisters of Bùi Chu, the first Dominican Sisters Congregation in Vietnam, erected on 30 April 1950. Since 1989, the CDSSRL had used the draft text of the Constitutions of the Inter-Dominican Congregations in Vietnam. On 16 September 2004, the Seventh General Chapter officially promulgated its own Constitutions. Then, on 15 October 2004, the Constitutions were approved by Cardinal John Baptist Phạm Minh Mẫn, of Sài Gòn Archdiocese. The Book of Constitutions is understood as "Book I" of the Congregation. It contains 177 articles and is organized into twelve chapters which contain the essential elements mentioned in canon 578, such as the intention and the disposition of the foundress(es), the nature, purpose, spirit, and character of the Institute, and its sound traditions. Chapter One presents the nature and purpose of the consecrated life, and the evangelical counsels (chastity, poverty, and obedience) (see *Constitutions*, arts. 1-30). Chapter Two regulates the life in common (see *Constitutions*, arts. 31-42). Chapter Three treats of the liturgy and prayer life of the members (see *Constitutions*, arts. 43-54). Chapter Four presents the disciplinary norms concerning the members (see *Constitutions*, arts. 55-62). Chapter Five determines the specifics of the formation and training of the members (see *Constitutions*, arts. 63-67). Chapter Six defines the apostolate (see *Constitutions*, arts. 68-74), while Chapter Seven determines the formation of members at all levels, i.e., postulancy, pre-novitiate, novitiate, temporary profession, studentate, on-going formation (see *Constitutions*, arts. 75-100). Chapter Eight treats of governance (see *Constitutions*, arts. 101-146), Chapter Nine presents the norms for elections (see *Constitutions*, arts. 147-156), Chapter Ten determines the norms for the administration of temporal goods (see *Constitutions*, arts. 157-165), and Chapter Eleven treats of the obligation of the members to observe faithfully the discipline of the Congregation (see *Constitutions*, arts. 166-169). Finally, Chapter Twelve addresses the question of separation of a member from the Congregation (see *Constitutions*, arts. 170-177).

⁵ It was promulgated in 1973 (at the First General Chapter) and revised in every general chapter. The CDSSRL *Directory* is understood as "Book II" of the Congregation. In the present study, the most recent *Directory* (2017) will be used. It contains 251 articles and is organized similarly to the CDSSRL *Constitutions*, except for the two last chapters which are included as appendices. The *Directory* offers the practical application of the *Constitutions*.

Chapter X.⁶

The first part of the present chapter will focus on the norms of the internal authority of the CDSSRL and their influence on the life and governance of the Institute. The second part of the chapter will present the norms on the authority of the diocesan bishop, either the diocesan bishop of principal seat or the local diocesan bishop, regarding organizational structures, internal affairs, apostolate, administration of temporal goods of the Congregation, and also over individual religious. The third part will point out the *lacunae* in the provisions regarding the exercise of the authority and vigilance over the CDSSRL and its individual members by the diocesan bishop.

As an extensive canonical discussion of the universal norms regarding the internal authority of a religious institute, authority of the diocesan bishop of the principal seat of an institute of diocesan right and the authority the diocesan bishop regarding the subjection of the religious institute of diocesan right to his special care was carried out in Chapters I – III of the thesis, respectively, for the sake of brevity and to avoid unnecessary repetitions, the present chapter concentrates solely on the provisions implementing the stipulations of universal law in the proper law of the Congregation of the Dominican Sisters of Saint Rose of Lima.

⁶ THE CONGREGATION OF THE DOMINICAN SISTERS OF SAINT ROSE OF LIMA, *Guidelines of the General Chapter X*, Hồ Chí Minh City, 2017 (=CDSSRL, *Guidelines*). All subsequent citations will be taken from this edition unless otherwise stated. It contains 134 articles and is organized similarly to the CDSSRL *Constitutions*. The text is composed of proclamations, instructions, suggestions, advice, and warnings. While it is based on the previous version of Guidelines, it contains first of all whatever the current general chapter considers necessary and useful in order to respond to the needs of the time and place as well as to the demands of the current and future ministry of the Congregation.

4.1. Norms on the Internal Authority of the Congregation

Based on the norms of universal law, which acknowledge the just autonomy of life of each institute, especially of governance (see c. 586, §1), the CDSSRL's proper law contains norms to determine the exercise of internal authority of the Congregation, namely, the collegial and personal authority which are both needed to direct and govern the Congregation and to preserve its patrimony. In accordance with this *potestas* as defined by the universal law stated in canon 596,⁷ the governance structure for the CDSSRL includes collegial authority (general chapter and general commission)⁸ and personal authority (superiors with the assistance of their councils).⁹ This governance structure has its own primary juridic function, exercised in an interrelated manner within the Congregation. Although each role/function entails specific powers and responsibilities, all must conform to specific procedures determined by universal law and proper law of the CDSSRL.

⁷ Canon 596 reads as follows: “§1. Superiors and chapters of institutes possess that power over members which is defined in universal law and the constitutions. §2. In clerical religious institutes of pontifical right, however, they also possess ecclesiastical power of governance for both the external and internal forum. §3. The prescripts of cc. 131, 133, and 137–144 apply to the power mentioned in §1.”

⁸ See THE CONGREGATION OF THE DOMINICAN SISTERS OF SAINT ROSE OF LIMA, *The Constitutions*, Hồ Chí Minh City, 2004 (=CDSSRL, *Constitutions*), art. 110, 92.

⁹ See CDSSRL, *Directory*, art. 167, 93. Cf. CDSSRL, *Constitutions*, art. 111.2, 93.

4.1.1. General Chapter (*Constitutions*, arts. 113-116; *Directory*, arts. 137-156)

Regarding the general chapter,¹⁰ the CDSSRL's proper law basically repeats canon 631¹¹ of the 1983 Code of Canon Law by reconfirming the general chapter as a collegial body.¹² This body is the highest internal authority of the Congregation, without prejudice to the supreme authority of the Church as mentioned in canon 590, §1. The term "supreme authority" mentioned in canon 631, §1 is specified in article 113.1 of the CDSSRL *Constitutions* as "supreme legislative and executive authority."¹³ This notion of supreme authority is repeated and augmented in the CDSSRL *Directory* as "supreme legislative, executive, and judicial."¹⁴

In addition, the CDSSRL *Constitutions* also acknowledge that the general chapter is the body that represents the entire Congregation and a true sign of its unity in charity as mentioned in canon 631, §1¹⁵ since the general chapter is the vehicle by which each

¹⁰ For a canonical analysis of the general chapter as the highest internal authority of a religious congregation, see Chapter One of the thesis, pages 27-37.

¹¹ Canon 631 reads as follows: "§1. The general chapter, which holds supreme authority in the institute according to the norm of the constitutions, is to be composed in such a way that, representing the entire institute, it becomes a true sign of its unity in charity. It is for the general chapter principally: to protect the patrimony of the institute mentioned in can. 578, promote suitable renewal according to that patrimony, elect the supreme moderator, treat affairs of greater importance, and issue norms which all are bound to obey. §2. The constitutions are to define the composition and extent of the power of a chapter; proper law is to determine further the order to be observed in the celebration of the chapter, especially in what pertains to elections and the manner of handling affairs. §3. According to the norms determined in proper law, not only provinces and local communities, but also any member can freely send wishes and suggestions to a general chapter."

¹² See CDSSRL, *Constitutions*, art. 110.2, 92.

¹³ "[...] cơ quan quản trị và lập pháp tối cao [...]" (CDSSRL, *Constitutions*, 94).

¹⁴ Appendix I.1: "[...] cơ quan lập pháp, hành pháp và tư pháp tối cao [...]" (CDSSRL, *Directory*, 141).

¹⁵ See CDSSRL, *Constitutions*, art. 113.1, 94.

member of the Congregation can freely send her wishes and suggestions to the general chapter asking for consideration.¹⁶ This emphasizes the right of each member to contribute to the governance of the Congregation.¹⁷

Article 114 of the CDSSRL *Constitutions* stipulates the functions of the general chapter. The general chapter is:

1. To protect the patrimony of the Congregation and promote suitable renewal of this patrimony;
2. To elect the superior general, general councilors, two alternate councilors, or other positions as prescribed in the Directory of the Congregation.
3. To promulgate the Guidelines of the General Chapter.¹⁸

Article 137 of the CDSSRL *Directory* repeats and extends the authority and obligations of the general chapter mentioned in canon 631 and article 114 of the *Constitutions*, as it states:

1. The main obligations of the general chapter:
 - a. To protect the patrimony of the congregation;
 - b. To elect the superior general;
 - c. To elect the general council and members of the general commission;
 - d. To elect the general secretary, the general financial administrator, general directress of intellectual formation, other directresses, e.g., directress of social media, sacred liturgy, apostolates, and initial formation stages, etc. At least three members are proposed for each position by the superior general and general council. Then the capitulars vote to choose one among them.
 - e. To discuss and resolve affairs of importance;
 - f. To issue the Guidelines of the General Chapter.
2. The following main affairs are discussed and decided in the general chapter:
 - a. To consider the wishes and suggestions of members;

¹⁶ See CDSSRL, *Directory*, art. 137.2a, 75.

¹⁷ See c. 631, §3. See also *PC*, no. 14, in *AAS*, 58 (1966), 709, *FLANNERY*1, 619.

¹⁸ “1. Bảo tồn gia sản Dòng và xúc tiến việc canh tân thích nghi hợp với gia sản ấy. 2. bầu Bề trên Tổng quyền, các chị Tổng Cố vấn chính thức, hai chị Tổng Cố vấn dự khuyết hoặc các chức vụ khác do Nội quy Hội dòng ấn định. 3. ban hành Công vụ Tổng hội” (CDSSRL, *Constitutions*, 94).

- b. To review the observance of the Constitutions, Directory, and Guidelines of previous general chapter;
- c. To revise sections of the Constitutions and Directory;
- d. To interpret and dispense from the norms of the Directory;
- e. To promote suitable renewal regarding the ways of life, governance, formation, mission, etc., and make appropriate decisions in order to apply the renewal suitably and flexibly in the future, in step with the direction of the Church;
- f. To define the ordinary expenses for particular structures of governance;
- g. To define the maximum level of investment;
- h. To define the amount and way that each community is to contribute to the congregation;
- i. To define the place and time for the mid-term meeting to evaluate the general chapter.¹⁹

It should be noted that decisions in all the above-mentioned affairs must obtain an absolute majority of affirmative votes of the capitulars in the general chapter in accordance with canon 119.

The CDSSRL's proper law also specifies types of general chapter (*ordinary* and *extraordinary* general chapter),²⁰ its composition,²¹ the order to be observed in the

¹⁹ “1. Nhiệm vụ chính của Tổng Hội: a. Bảo vệ gia sản của Dòng; b. Bầu Bề trên Tổng Quyền; c. Bầu Ban Tổng Cố vấn, các thành viên của Hội đồng Hội dòng; d. Bầu chọn Tổng Thư ký, Tổng Quản lý, đặc trách Học vụ, Trưởng các ban và chi Giáo Chính các cấp... do Bề trên Tổng Quyền và Ban Tổng Cố vấn đề cử; e. Bàn và ^{giải} quyết các vấn đề quan trọng; f. Biểu quyết Công vụ Tổng hội. 2. Những vấn đề chính sau đây được bàn thảo và biểu quyết trong Tổng hội: a. Xét duyệt những kiến nghị và thỉnh nguyện của chi em; b. Xét duyệt việc thi hành Hiến pháp, Nội quy và những quyết định của Tổng hội khóa trước; c. Tu chính Nội quy hoặc Hiến pháp; d. Giải thích và miễn chuẩn Nội quy; e. Quyết định những đường hướng hoạt động cho Dòng trong thời gian tới cách linh động và phù hợp với đường hướng của Giáo Hội; f. Ấn định mức chi tiêu cho các cấp; g. Ấn định mức tối đa có thể đầu tư; h. Ấn định số tiền và cách thức mỗi cộng đoàn đóng góp cho Hội dòng; i. Chỉ định địa điểm và thời gian họp Hội nghị lượng định và Tổng hội kỳ tới” (CDSSRL, *Directory*, 74-75).

²⁰ See CDSSRL, *Constitutions*, art. 115, 95.

²¹ It defines who is to attend the general chapter: capitulars by office (the general superior, vice-general superior, the general councilors, the general secretary, the general financial administrator, former general superior at right previous term, superiors of the convents) and elected capitulars. Each group of ten perpetually professed sisters who have active and passive voice will elect one official capitular and one alternate capitular. When a capitular is impeded for any reason, the alternate capitular elected by the same election group will replace her. Besides capitulars, if it is necessary, the general commission can invite some experts to participate in the general chapter. These experts can give their opinions, but they do not have the right to vote (see CDSSRL, *Constitutions*, art. 116, 95; cf. CDSSRL, *Directory*, arts. 139, 76-77).

celebration of the general chapter, e.g., the procedure of elections²² and the manner of handling affairs.²³

4.1.2. General Commission (Collegial Authority other than the General Chapter) **(*Directory*, arts. 158-161)**

Article 110.3 of the CDSSRL *Constitutions* states:

Besides the elections, the collegial authority is exercised by the general commission in appropriate cases according to the norms of universal law and proper law²⁴

This provision differs from the norm of universal law which states that the collegial authority is exercised by the chapters (see cc. 631–632; 699, §1). The CDSSRL *Constitutions* and *Directory* determine that the general commission is a group of members of the Congregation who govern the Congregation outside of the time when the general chapter is in session.²⁵ This commission includes the superior general, all members of the general council (five), alternate members of the general council (two), and the superiors of formation convents.²⁶ Outside the general chapter, the general commission exercises the collegial authority.²⁷ It provides for deliberative participation and possesses decision-

²² See CDSSRL, *Directory*, arts. 148-151, 81-86.

²³ See *ibid.*, arts. 151-153, 86-87.

²⁴ *Constitutions*, art. 110.3: “Ngoài các cuộc bầu cử, quyền bính tập đoàn được thi hành, trong một số trường hợp chính đáng, bởi Hội đồng Hội dòng theo quy định của Giáo luật và luật dòng” (CDSSRL, *Constitutions*, 92).

²⁵ See CDSSRL, *Constitutions*, art. 110.3, 92; cf. CDSSRL, *Directory*, art. 158, 89.

²⁶ See CDSSRL, *Directory*, art. 159, 89.

²⁷ Outside the general chapter, the superior general exercises the highest *personal* authority in the internal governance of the Congregation over its members and communities (see Chapter One of the thesis, pages 38-48).

making authority for the entire Congregation.²⁸ It is to fulfill obligations entrusted to it by the general chapter and to resolve matters of greater importance affecting the entire Congregation as determined by the Constitutions, Directory, and Guidelines,²⁹ i.e., establishing a new house (community);³⁰ raising a mission community³¹ to the level of a sub-convent³² or a sub-convent to a convent;³³ reducing a sub-convent to the status of a mission community or a convent to a sub-convent;³⁴ suppressing an established community;³⁵ appointing superiors for mission communities and sub-convents.³⁶ When the offices of the general financial administrator, general secretary, directress of general intellectual formation,³⁷ directress of initial formation stages,³⁸ directress of social media,³⁹ directress of sacred liturgy;⁴⁰ and directress of apostolates become vacant, the general commission is competent to appoint a new office holder.⁴¹ Moreover, it may remove

²⁸ See CDSSRL, *Directory*, art. 158, 89.

²⁹ See *ibid.*, art. 160, 89-90.

³⁰ See CDSSRL, *Constitutions*, art. 139.1, 113; see also CDSSRL, *Directory*, art. 217, 114. Cf. cc. 608, 609.

³¹ In a mission community, there is at least two professed members; one must be perpetually professed (see CDSSRL, *Directory*, art. 217.2, 114).

³² In a sub-convent, there is at least three perpetually professed sisters who have active and passive voice (see *ibid.*, art. 209.1, 111).

³³ In a convent, there is at least six perpetually professed sisters who have active and passive voice (see *ibid.*, arts. 181.2 and 220, 101; 115).

³⁴ See *ibid.*, art. 221.1, 115.

³⁵ See CDSSRL, *Constitutions*, art. 139.2, 113. Cf. c. 616, §1.

³⁶ See CDSSRL, *Directory*, arts. 214, 113; 220.2 and 221.2, 115-116. Cf. c. 625, §3.

³⁷ See *ibid.*, art. 59.1a, 40.

³⁸ See *ibid.*, art. 81.1, 49.

³⁹ See *ibid.*, art. 60.1, 41.

⁴⁰ See *ibid.*, art. 41.1, 34.

⁴¹ See *ibid.*, Appendix 1.A, 143. See also CDSSRL, *Guidelines*, art. 42, 167.

officeholders from offices entrusted to them by the general chapter or by itself.⁴² In addition, it has authority to change the time and place of the celebration of the general chapter;⁴³ to invite experts to participate in the general chapter;⁴⁴ to permit capitulars to not participate in the general chapter;⁴⁵ to dispense from some norms in the *Directory* for the entire Congregation, particular communities, or individual religious;⁴⁶ to examine the annual report of the general financial administrator and of the communities;⁴⁷ to examine projects and extraordinary expenses determined by the general chapter;⁴⁸ to enter into contracts and alienation of the temporal goods of the Congregation while the amount of the transaction exceeds the amount defined by the general chapter for the Congregation, formation convent, communities, superior general, local superior, etc.;⁴⁹ to interpret the norms in the *Directory* and the *Guidelines*;⁵⁰ to convoke the extraordinary general chapter;⁵¹ to remove the active and passive voice from a member for a period of time due to a grave cause;⁵² and to dismiss of members.⁵³ However, this provision is contradicting

⁴² See CDSSRL, *Directory*, arts. 135.2-3, 72-73; 214, 113; and 217.3, 114.

⁴³ See *ibid.*, art. 138.1, 76.

⁴⁴ CDSSRL, *Constitutions*, art. 116.3, 95. See also CDSSRL, *Directory*, art. 139.3, 76.

⁴⁵ See CDSSRL, *Directory*, art. 141.1, 77.

⁴⁶ See *ibid.*, art. 129.1, 69.

⁴⁷ See CDSSRL, *Constitutions*, art. 130, 106-107; cf. CDSSRL, *Directory*, art. 178, 99-100.

⁴⁸ See CDSSRL, *Directory*, art. 246.2-3, 125.

⁴⁹ See *ibid.*, arts. 243, 124; 247.1, 125. Cf. c. 1293, §1, 2°.

⁵⁰ See *ibid.*

⁵¹ See CDSSRL, *Constitutions*, art. 115.2, 95.

⁵² See CDSSRL, *Directory*, art. 228, 117-118.

⁵³ To the causes for dismissal indicated in universal law, the CDSSRL proper law adds blackmailing and harming the reputation of other members of the Congregation, also through the use of social media, and causing grave harm to the community life (see CDSSRL, *Directory*, Index 1, 144, cf. c. 696).

the demand of canon 699, §1 which calls for a collegial action of the supreme moderator and his or her council. Although the general council in CDSSRL is part of the general commission and, therefore, in particular circumstances the voting results (counting the votes of the supreme moderator and the members of the general council) could satisfy the prescript of the canon, nevertheless, it may also happen that the decree of dismissal would be rendered invalid. Hence, appropriate redrafting of the Directory would be needed.

4.1.3. Superiors (*Constitutions*, arts. 111-123; *Directory*, arts. 162-168)

Superiors of religious institutes are to fulfill their office and exercise their personal power over the institute's members in accordance with the universal law and the proper law of each institute.⁵⁴ They are not to do it in the spirit of what was once known as *dominative power*, but in a *spirit of service* for the members as those who God entrusted to them.⁵⁵ Following the demands of universal law, the CDSSRL's proper law calls for the superiors of the Congregation to exercise their authority according to four standards:⁵⁶ (1) a spirit of service;⁵⁷ (2) respect for each individual's dignity as daughter of God;⁵⁸ (3) openness to listening and dialogue;⁵⁹ and (4) striving for the common good of the

⁵⁴ See c. 617.

⁵⁵ See c. 618. See also Chapter One of the thesis, pages 38-48.

⁵⁶ See CDSSRL, *Directory*, Index 1, 141.

⁵⁷ Cf. Mt 20:28; Mk 10:45; Lk 22:27; also cf. c. 618.

⁵⁸ Cf. c. 618.

⁵⁹ Cf. *ibid.*

Congregation and the Church.⁶⁰ In accordance with canons 596⁶¹ and 617⁶², the CDSSRL *Constitutions*, arts. 111.2,⁶³ 118,⁶⁴ 121-222,⁶⁵ 132-133,⁶⁶ and *Directory*, arts. 162-167, 182-184, 212,⁶⁷ reconfirm the authority of the superior general who exercises personal power in the internal governance of the Congregation over its members. That personal power is to be exercised in three levels defined by universal laws and proper laws, i.e., (1) independent acts; (2) decisions requiring the consent of the council; and (3) decisions requiring the counsel of the council.⁶⁸

4.1.3.1. Independent Acts

The personal power of the superior general can be exercised in independent acts for matters that do not require, by the universal and proper laws, the consent or counsel of the council, e.g., to admit candidates to the pre-novitiate and novitiate;⁶⁹ to permit a group of novices to reside for a certain period of time in another house of the congregation;⁷⁰ to

⁶⁰ Cf. *ibid.*

⁶¹ Canon 596 reads as follows: “§1. Superiors and chapters of institutes possess that power over members which is defined in universal law and the constitutions. §2. In clerical religious institutes of pontifical right, however, they also possess ecclesiastical power of governance for both the external and internal forum. §3. The prescripts of cc. 131, 133, and 137–144 apply to the power mentioned in §1.”

⁶² Canon 617 reads as follows: “Superiors are to fulfill their function and exercise their power according to the norm of universal and proper law.”

⁶³ CDSSRL, *Constitutions*, 93.

⁶⁴ *Ibid.*, 97.

⁶⁵ *Ibid.*, 98-99.

⁶⁶ *Ibid.*, 108-110.

⁶⁷ CDSSRL, *Directory*, 91-93; 101; 112.

⁶⁸ *Ibid.*, art. 167, 93.

⁶⁹ See cc. 641, cf. 643, §1, 4°.

⁷⁰ See c. 647, §3.

receive the profession of the members;⁷¹ to delegate a sister to receive the profession;⁷² to dispense the entire Congregation, a community, or a member from one or some norms of the Guidelines of the General Chapter;⁷³ to convoke and preside the general chapter and general commission;⁷⁴ to decide matters regarding the spiritual life, discipline, formation, apostolate and social works of the members and communities, unless the universal and proper laws defined otherwise;⁷⁵ to confirm the election of the convents' superiors;⁷⁶ to permit the member to change the will and disposition for their use and revenue regarding temporal goods;⁷⁷ to give orders or commands in relation to the common goods of the community and Congregation;⁷⁸ to give precepts to individuals in particular cases, or impose penances on individuals.⁷⁹

4.1.3.2. Decisions Requiring the Consent of the Council

Based on norms of the 1983 Code of Canon Law, the CDSSRL's proper law defines the following matters that require the superior general to obtain the consent of the council: (1) to erect, transfer, and suppress of a novitiate house;⁸⁰ (2) to permit a candidate to make

⁷¹ See CDSSRL, *Constitutions*, art. 122.1, 99.

⁷² See *ibid.*

⁷³ See CDSSRL, *Constitutions*, art. 122.4, 99-100.

⁷⁴ See *ibid.*, art. 122.5, 100.

⁷⁵ See *ibid.*, art. 122.6, 100.

⁷⁶ See *ibid.*, art. 122.8, 100.

⁷⁷ See *ibid.*, art. 122.9, 100.

⁷⁸ See CDSSRL, *Constitutions*, art. 30, 35-36; cf. CDSSRL, *Directory*, art. 12, 24.

⁷⁹ See CDSSRL, *Constitutions*, art. 62, 54; CDSSRL, *Directory*, art. 56, 39.

⁸⁰ See CDSSRL, *Constitutions*, art. 87.2, 69; cf. 647, §1.

the novitiate in another house of the Congregation;⁸¹ to admit a candidate to temporary profession, renew profession, perpetual profession;⁸² (3) to permit a member to transfer to another religious institute or to admit a religious from another religious institute to the CDSSRL;⁸³ (4) to permit a member to live outside a house of the Congregation, but not for more than a year, except for the purpose of caring for ill health, of studies, or of exercising an apostolate in the name of the Congregation;⁸⁴ (5) to grant an indult of exclaustation to a member professed by perpetual vows, but not for more than three years;⁸⁵ (6) to petition the diocesan bishop to impose exclaustation on a member of the congregation;⁸⁶ (7) to grant an indult of departure of a temporary professed member;⁸⁷ (8) to readmit one who had legitimately left the congregation after completing the novitiate or after profession;⁸⁸ (9) to issue a declaration of fact so that the dismissal is established juridically regarding a member who has defected notoriously from the Catholic faith or has contracted marriage

⁸¹ See CDSSRL, *Constitutions*, art. 87.3, 69; cf. 647, §2.

⁸² See CDSSRL, *Constitutions*, art. 92.1-2, 73-74; cf. 656, 3°.

⁸³ See CDSSRL, *Constitutions*, art. 171, 134-135; cf. 684, §1.

⁸⁴ See CDSSRL, *Constitutions*, art. 60, 53; cf. CDSSRL, *Directory*, art. 52, 37; cf. c. 665, §1. There are no other major superiors in the Congregation than the superior general and her vicar since there are no provinces and other equivalent parts, cf. c. 620.

⁸⁵ See CDSSRL, *Constitutions*, art. 61.1, 53-54; cf. c. 686, §1.

⁸⁶ See CDSSRL, *Directory*, art. 55, 38; cf. c. 686, §3.

⁸⁷ See CDSSRL, *Constitutions*, art. 172.1, 135-136; cf. c. 688, §2.

⁸⁸ See CDSSRL, *Constitutions*, art. 172.2, 136; cf. c. 690.

or attempted it, even only civilly;⁸⁹ (10) to issue a decree of dismissal;⁹⁰ and (11) to expel a member from a religious house.⁹¹

Besides the above mentioned norms which implement the demands of the universal law, the CDSSRL's proper law requires the superior general to obtain the consent of the council in the following matters: (1) to permit a member to study abroad and to pursue graduated studies in Vietnam;⁹² (2) to accept a resignation of a councilor, a member of general commission, the general secretary, the general bursar, general directress of intellectual formation, other directresses, and local superiors;⁹³ (3) to permit a professed member to go abroad;⁹⁴ (4) to appoint or transfer a member from one office to another or from one location to another;⁹⁵ (5) to permit a novice to take the first profession before due time, but not by more than fifteen days;⁹⁶ (6) to change the determined period of time (three

⁸⁹ See CDSSRL, *Constitutions*, art. 174, 137; cf. c. 694.

⁹⁰ See CDSSRL, *Constitutions*, art. 175, 138; cf. c. 699, §1.

⁹¹ It should be noted that the universal law does not demand the council's consent if it is done by the superior general. However, the CDSSRL's proper law requires the superior general to obtain the council's consent. If there is danger in delay, similarly to the norm of universal law, the CDSSRL's proper law allows the local superior to do the same with the consent of her council (See CDSSRL, *Constitutions*, art. 176, 138-139; cf. c. 703).

⁹² See CDSSRL, *Directory*, Appendix.1B, 146; see also CDSSRL, *Guidelines*, art. 35, 164.

⁹³ See CDSSRL, *Directory*, art. 132, 71 and Appendix 1.B1, 146.

⁹⁴ See CDSSRL, *Directory*, art. 54, 38.

⁹⁵ See CDSSRL, *Constitutions*, art. 122.2, 99. Cf. CDSSRL, *Directory*, art. 134, 71-72. Also cf. cc. 190; 624, §3.

⁹⁶ See *ibid.*, 147; cf. c. 649, §2.

years) for studying theology by a junior sister;⁹⁷ and (7) to appoint the assistants of directresses/mistresses of postulants, pre-novices, novices, and junior sisters.⁹⁸

4.1.3.3. Decisions Requiring the Counsel of the Council

Based on norms of the 1983 Code of Canon Law, the CDSSRL's proper law requires the superior general to seek the counsel of the general council in the following matters: (1) to exclude a member from making a subsequent profession when the period of temporary profession has been completed⁹⁹ and (2) to decide a dismissal process.¹⁰⁰

Besides the above-mentioned norms of the universal law, the CDSSRL's proper law requires the superior general to seek the counsel of the general council in the following matters: (1) to dismiss a novice;¹⁰¹ (2) to extend the period of temporary profession, but not exceed nine years;¹⁰² and (3) to permit a member to anticipate the perpetual profession time, but not by more than three months.¹⁰³

4.2. Norms Concerning the Authority of the Diocesan Bishop

The Congregation of the Dominican Sisters of Saint Rose of Lima is a lay religious congregation of diocesan right. Although it has its own proper autonomy of governance as

⁹⁷ See CDSSRL, *Directory*, art. 117.1a&b, 63.

⁹⁸ See *ibid.*, arts. 94, 55; 99, 57; 106, 59-60; 123, 67.

⁹⁹ See *ibid.*, Appendix 1.B2, 147; cf. c. 689, §1.

¹⁰⁰ See CDSSRL, *Directory*, Appendix 1.B2, 147; cf. c. c. 697.

¹⁰¹ See CDSSRL, *Directory*, Appendix 1.B2, 147; cf. c. 653, §1.

¹⁰² See CDSSRL, *Directory*, Appendix 1.B2, 147; cf. c. 657, §2.

¹⁰³ See CDSSRL, *Directory*, Appendix 1.B2, 148; cf. c. 657, §3.

described in canon 586, this autonomy is not absolute; it is subject to ecclesiastical authorities, namely, the diocesan bishop of the principal seat and local bishops where the house(s) of the Congregation is located, in particular matters pertaining to either the Congregation or an individual member that exceed the competence of the internal authority of the Congregation.

4.2.1. The Authority of the Diocesan Bishop of the Principal Seat

Based on canons 595, §1; 595, §2; 582; 625, §2 of the *ius vigens*, the proper law of CDSSRL defines that the diocesan bishop of the principal seat has certain authority in affairs beyond the competence of the CDSSRL's superiors, i.e., related to (1) the approval of the constitutions and confirmation of changes in the constitutions;¹⁰⁴ (2) approval of the Directory and the Guidelines of the General Chapter and confirmation of changes in the Directory;¹⁰⁵ (3) dispensations from the norms of the proper law for cases effecting the entire institute;¹⁰⁶ (4) transfer of the generalate to another diocese;¹⁰⁷ (5) presiding at election of the superior general and approval of the election's result;¹⁰⁸ (6) approval of the resignation, removal, or privation of superior general's office;¹⁰⁹ and (7) approval of the

¹⁰⁴ See CDSSRL, *Constitutions*, art. 106, 90; cf. c. 595, §1.

¹⁰⁵ See CDSSRL, *Constitutions*, art. 106, 90; see also CDSSRL, *Directory*, art. 128, 68-69.

¹⁰⁶ See CDSSRL, *Constitutions*, art. 108, 91; see also CDSSRL, *Directory*, art. 129, 69-70; cf. c. 595, §2.

¹⁰⁷ See CDSSRL, *Constitutions*, art. 104, 88; cf. c. 582.

¹⁰⁸ See CDSSRL, *Constitutions*, art. 118, 97; see also CDSSRL, *Directory*, art. 149.1&12b, 82, 84; cf. c. 625, §2.

¹⁰⁹ See CDSSRL, *Constitutions*, art. 123.1, 100; see also CDSSRL, *Directory*, art. 135.1, 72.

removal and privation of the office of the members of the general commission and general council.¹¹⁰

4.2.1.1. Approval of the Constitutions and Confirmation of Changes in the Constitutions (*Constitutions*, art. 106)

Based on canons 587, §2 and 595, §1,¹¹¹ the introduction of the Book of Constitutions of the CDSSRL affirms that the Book of Constitutions is approved by the diocesan bishop of the principal seat and the same competent authority confirms any subsequent changes in it as it stated:

[...] This Book of Constitutions must be enacted by the general chapter and be approved by the diocesan bishop of the principal seat before it is promulgated by the superior general.¹¹²

Furthermore, article 106.1 of the CDSSRL *Constitutions* stipulates:

1. To formalize the norms of the Directory into the Constitutions or to amend, subrogate, or abrogate an article from the Constitutions, the following conditions must be met:
 - a. The proposed changes must be initiated in the general chapter, confirmed in the subsequent general chapter, and approved in the following general chapter.
 - b. The proposed changes must be approved by the diocesan bishop of the principal seat.¹¹³

¹¹⁰ See CDSSRL, *Constitutions*, art. 112, 93; see also CDSSRL, *Directory*, arts. 133-135, 71-74.

¹¹¹ See Chapter Two of the thesis, pages 75-81.

¹¹² *Constitutions*, Introduction: “[...] bản Hiến Pháp này phải được Tổng Hội của mỗi Hội Dòng chấp nhận, và Đức Giám mục nơi có nhà Trung ương phê chuẩn, trước khi Bề trên Tổng quyền ban hành” (CDSSRL, *Constitutions*, 13).

¹¹³ *Constitutions*, art. 106.1. “Muốn đưa một số Nội Quy trở thành Hiến pháp hoặc sửa đổi hay hủy bỏ một số Hiến Pháp, cần phải hội đủ những điều kiện sau: a. Được khởi xướng trong Tổng hội thứ nhất, xác nhận trong Tổng hội thứ hai và chuẩn y trong Tổng hội thứ ba. b. Được Đức Giám mục nhà Trung ương phê chuẩn” (CDSSRL, *Constitutions*, 90).

The process of introducing new norms into the CDSSRL's Constitutions is cumbersome since three consecutive general chapters are to be involved, over a twelve-year period. As such, this norm is rather not practical. Therefore, a revision this norm is necessary that any subsequent changes in the CDSSRL's Constitutions be accepted by the absolute majority of the capitulars in the general chapter.¹¹⁴

4.2.1.2. Approval of the Directory and the Guidelines of the General Chapter and Confirmation of Changes in the Directory (*Constitutions*, art. 106; *Directory*, art. 128)

Besides the constitutions, the *ius vigens* determines that “other norms established by competent authority of an institute are to be collected suitably in other codes and, moreover, can be reviewed appropriately and adapted according to the needs of places and times.”¹¹⁵ In addition, the universal law expressly mandates that proper law of each religious institute define the program of formation of its members in order to meet the needs of the local Church and the conditions of the people and times;¹¹⁶ establish suitable norms concerning the use and administration of temporal goods of the institute, by which the poverty is to be fostered, protected, and expressed;¹¹⁷ define the composition of the general chapter, its power, the way of its celebration, elections, and handling of affairs.¹¹⁸

¹¹⁴ See CDSSRL, *Directory*, 137.2c, 75.

¹¹⁵ Canon 587, §4.

¹¹⁶ See c. 659, §2.

¹¹⁷ See c. 635, §2.

¹¹⁸ See c. 631, §2.

In accordance with the principle of subsidiarity mentioned in canons 587, §4; 659, §2; 635, §2; and 631, §2, the CDSSRL has other codes besides its Constitutions which are called Directory (Book II), Guidelines of the General Chapter (Book III), and Handbook of Formation (Book IV). These books interpret in detail the Constitutions and offer clarity in the practical application of various norms of Book I.

In accordance with canon 587, §4, the enactment and approval of Books II-IV is reserved to the competent authority of the institute. According to McDermott and Morrissey, Books II and III (equivalent to the CDSSRL's Directory and Guidelines of the General Chapter) should be approved by the general chapter¹¹⁹ and they could be changed to adapt to the needs of places and times by the general chapter as well. Regarding the handbook(s), they are to be approved by the general commission of the Congregation, and may be changed by them.¹²⁰

When compared with universal law, the CDSSRL's proper law gives the diocesan bishop of principal seat some additional authority over the Congregation, that is, to confirm the Directory and Guidelines of the General Chapter:

A norm of the Directory can be amended, abrogated, or subrogated *only* when it is approved by the general chapter and confirmed by the diocesan bishop of principal seat.¹²¹

The Guidelines of the General Chapter, which include official decisions of the general

¹¹⁹ See MCDERMOTT, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," 751; MORRISEY, "Proper Law," in *Legal Education for Leadership of Religious Institutes*, Ottawa, Saint Paul University, July, 2018, 8. Cf. cc. 587, §4 and 631, §§1-2.

¹²⁰ See MORRISEY, "Proper Law," 8.

¹²¹ *Directory*, art. 128.1: "Muốn sửa đổi, hủy bỏ hay thêm bớt khoản Nội quy nào phải được tổng hội chấp thuận và được Đức Giám mục nhà Trung ương chuẩn y" (CDSSRL, *Directory*, 68-69).

chapter are established by consent of an absolute majority of the capitulars. The Guidelines must be signed by the superior general, the editors, and the secretaries, and be presented to the diocesan bishop of the principal seat for his confirmation.¹²²

Regarding the competency of the diocesan bishop of principal seat in establishing the Directory and Guidelines of the CDSSRL as defined in its Constitutions and Directory, it is necessary to consider two points of view. On the one hand, the legislators of the Congregation (the capitulars in the general chapter) aim to inform the diocesan bishop of the principal seat of the changes in the Directory and Guidelines by presenting to him the revised text for his confirmation so that he may properly understand the Congregation's way of life, its system of governance, the principles of formation, its mission, and various aspects of the discipline of its members. This may help him in exercising his authority in particular matters pertaining to either the Congregation as such or individual religious. On the other hand, this specific prerogative of the bishop may lead him to believe that he possesses this authority in virtue of universal law. Moreover, it also may create a burden on both the diocesan bishop of principal seat and the Congregation. In other words, the bishop must spend considerable time to study, comment upon and eventually confirm the Congregation's norms, and the Congregation must wait for his confirmation; the history teaches that it could be protracted for six months or more,¹²³ in order to resolve particular

¹²² *Constitutions*, art. 117.1: “Công vụ Tổng hội gồm những quyết định chính thức của tổng hội được đa số phiếu chấp thuận. Công vụ có chữ ký của Bề trên Tổng quyền, các Hiệu đính viên và Thư ký Tổng hội, được đệ trình lên Đức Giám mục nhà Trung ương của Hội dòng để xin chuẩn y” (CDSSRL, *Constitutions*, 96).

¹²³ The revised Directory and the Guidelines of the General Chapter X of CDSSRL were confirmed and approved after four and a half month.

issues before obtaining the favorable decision.¹²⁴

4.2.1.3. Dispensations from the Proper Law Affecting the Entire Congregation (*Constitutions*, art. 108; *Directory*, art. 129)

Canon 595, §2 gives the diocesan bishop the faculty to dispense from the constitutions of a religious institute, in particular cases. As already addressed in Chapter Two,¹²⁵ canon 595, §2 does not clearly determine if this is the diocesan bishop of principal seat or other diocesan bishops. For matters affecting individual religious and for his or her spiritual good/benefit, the competent authority to dispense is the diocesan bishop of the diocese where the house to which the religious has been attached is situated.¹²⁶ Reflecting the universal law, the CDSSRL *Constitutions* stipulate the competency to dispense from the norms of the *Constitutions*:

The diocesan bishop of the principal seat has the authority to grant dispensation from disciplinary norms of the *Constitutions* for the entire Congregation; the local diocesan bishop can grant dispensation from some norms of the *Constitutions* for a community or a religious subject to him based on the petition letter of the major superior with the consent of the general commission.¹²⁷

Article 108.1 of the CDSSRL *Constitutions* determines further that “the petition letter of the major superior with the consent of the general commission” is necessary for

¹²⁴ The Guidelines of the General Chapter VIII of CDSSRL were not approved.

¹²⁵ See Chapter Two of the thesis, pages 81-82.

¹²⁶ See c. 595, §2.

¹²⁷ *Constitutions*, art. 108.1: “Đức Giám mục nhà Trung ương có quyền chuẩn chức một số Hiến pháp cho toàn Hội dòng; Đức Giám mục Giáo phận có quyền chuẩn chức một số Hiến pháp cho cộng đoàn hay cho một số chị em thuộc quyền theo đơn xin của Bề trên cao cấp, với quyết nghị của Hội đồng Hội dòng” (CDSSRL, *Constitutions*, 91). Cf. c. 595, §2.

obtaining the dispensation for a community or individual religious. This additional requirement serves to avoid unfounded dispensations of individual religious due to the lack of information, or accorded for unjust or unreasonable causes.

For the Directory and Guidelines, the CDSSRL's proper law specifies the competency to dispense as follows:

For just and reasonable causes and for the common good of the Congregation and of the member(s), the general chapter or the general commission can dispense the entire Congregation, a particular community, or some members from particular norms of the Directory and Guidelines.¹²⁸

The superior general can dispense the entire Congregation, a particular community, or individual members from some norms of the Guidelines; however, she cannot amend the norms of the Guidelines of the General Chapter.¹²⁹

Article 122.4 of the CDSSRL *Constitutions*, has its complementation in article 129.2 of the CDSSRL *Directory* which requires that the superior general obtain consent of the general council for granting a dispensation from the norms of the Guidelines of the General Chapter:

The superior general cannot amend the norms of the Guidelines of the General Chapter, but for an important reason, with the consent of the General Council, she can dispense the entire Congregation, a particular community, or individual members from one or some norms the Guidelines.¹³⁰

¹²⁸ *Directory*, art. 129.1: “Khi có lý do chính đáng và vì lợi ích của Hội dòng, Tổng hội hoặc Hội đồng Hội dòng có quyền miễn chuẩn một vài số Nội quy, Công vụ cho toàn Dòng, cho một cộng đoàn hoặc một số chị em” (CDSSRL, *Directory*, 69).

¹²⁹ *Constitutions*, art. 122.4: “Bề trên Tổng quyền có thể chuẩn chức các quyết định Tổng hội từng lần cho toàn Hội dòng, cho cộng đoàn hoặc một số chị em, nhưng không có quyền sửa đổi các quyết định ấy” (CDSSRL, *Constitutions*, 99-100).

¹³⁰ *Directory*, art. 129.2: “Bề trên Tổng quyền không được sửa đổi Công vụ, nhưng khi có lý do quan trọng, với sự đồng ý của Ban Tổng Cố vấn chị có quyền miễn chuẩn một vài số Công vụ cho toàn Dòng, cho một cộng đoàn hoặc một số chị em” (CDSSRL, *Directory*, 69).

4.2.1.4. Transfer of the Principal House of the Congregation to Another Diocese (*Constitutions*, art. 104)

The 1983 Code of Canon Law does not explicitly mention the transferring of a religious institute's house nor the transferring of the principal house¹³¹ of a religious institute of diocesan right from one diocese to another.¹³² However, the CDSSRL's proper law reflects the provision of canon 495, §1 of the 1917 Code¹³³ by defining in article 104 of the CDSSRL *Constitutions*:

[...] If the generalate is moved or transferred to another house within the same diocese, the consent of the general commission is required. If the generalate is moved or transferred to another diocese, additionally the consent of the two respective diocesan bishops is also required.¹³⁴

Comparing with canon 495, §1 of the 1917 Code, there is a minor change, namely, the competent authority. The previous Code required “the consent of the ordinaries, both of the place where there is the principal house and of the place where it wishes to go”¹³⁵ while the CDSSRL's proper law requires “the consent of the two respective diocesan

¹³¹ Fanfani and O'Rourke provide a useful determination that the principal house is the house where the supreme moderator or superior general habitually resides (see L.G. FANFANI and K. O'ROURKE, *Canon Law for Religious Women*, Dubuque, IA, The Priory Press, 1961, 32).

¹³² See Chapter Two of the thesis, pages 83-85.

¹³³ *CIC/17*, c. 495, §1 read as follows: “A religious congregation of diocesan right cannot constitute *houses* in another *diocese*, except with the consent of the Ordinaries both of the place where there is the principal house and of the place where it wishes to go; the local Ordinary of the place from which it withdraws, however, shall not deny this consent except for grave cause.”

¹³⁴ *Constitutions*, art. 104. “[...] Nếu đổi trụ sở Trung ương của Hội dòng sang nhà khác trong cùng giáo phận, phải có sự đồng ý của Hội đồng Hội dòng. Nếu đổi sang giáo phận khác, phải có thêm sự đồng ý của hai Đức Giám mục liên hệ” (CDSSRL, *Constitutions*, 88).

¹³⁵ *CIC/17*, c. 495, §1: “[...] consentiente utroque Ordinario, tum loci ubi est domus princeps, tum loci quo velit commigrare [...]”.

bishops.”¹³⁶ It should be noted that the diocesan bishop is always the local ordinary, but a local ordinary is not always the diocesan bishop.¹³⁷ Since the proper law of the Congregation expressly requires the diocesan bishop to be involved, the vicars general or episcopal vicars are excluded, except by special mandate (see c. 134, §3).

¹³⁶ *Constitutions*, art. 104. “[...] phải có thêm sự đồng ý của hai Đức Giám mục liên hệ” (CDSSRL, *Constitutions*, 88).

¹³⁷ See c. 134, §2.

4.2.1.5. Presiding at Election of the Superior General and Approval of the Election's Result (*Constitutions*, art. 118; *Directory*, art. 149.1.12b)

For religious institutes of diocesan right, canon 625, §2 states that the diocesan bishop of the principal seat presides at the election of the superior general. This provision is repeated in article 118 of CDSSRL *Constitutions*:

The superior general is elected by the capitulars of the general chapter under the presidency of the diocesan bishop of the principal seat. She is the official representative of the Congregation and holds power over all houses and members of the Congregation.¹³⁸

At such elections, the bishop of the principal seat is to preside personally or through a delegate he appoints, if he cannot fulfill this canonical obligation in person.¹³⁹ In presiding at the election of the superior general, the function of the bishop or his delegate is to ensure that the canonical procedure is observed carefully in keeping with the general norms for election provided in the universal law¹⁴⁰ and the proper law of the Congregation.¹⁴¹ It should be kept in mind that the *ius vigens* does not require such election to be confirmed by the competent ecclesiastical authority.¹⁴² However, the CDSSRL's proper law reflects the provision of canon 506, §4 of the 1917 Code¹⁴³ by providing that

¹³⁸ *Constitutions*, art. 118: “Bề trên Tổng quyền do Tổng hội bầu lên dưới sự chủ tọa của Đức Giám mục nhà Trung ương.¹³⁸ Chị là đại diện chính thức của Hội dòng, có quyền trên mọi Tỉnh dòng, mọi cộng đoàn và mọi chị em chiếu theo Giáo luật và luật dòng” (CDSSRL, *Constitutions*, 97). Cf. *Directory*, art. 149.1; cf. also cc. 625, §2; 622.

¹³⁹ See CDSSRL, *Directory*, art. 149.1, 82.

¹⁴⁰ See cc. 165-179. See also Chapter Two of the thesis, pages 91-94.

¹⁴¹ See CDSSRL, *Constitutions*, arts. 147-156, 119-124. Cf. CDSSRL, *Directory*, arts. 149-231, 82-119.

¹⁴² See c. 625, §2.

¹⁴³ *CIC/17*, c. 506, §4 read as follows: “The Ordinary of the place in which the election is conducted presides, personally or through another, over the general election of the Superioress in congregations of

the election of the superior general needs the confirmation of the diocesan bishop of principal seat.¹⁴⁴

4.2.1.6. Resignation, Removal, or Privation of Superior General's Office **(*Constitutions*, art. 123.1; *Directory*, art. 135.1)**

Article 123.1 of the CDSSRL *Constitution* states:

For very serious reasons, the superior general may resign or be removed. In both cases, the authority to accept her resignation or to remove her from office is the diocesan bishop of the principal seat.¹⁴⁵

The above-mentioned article goes against canon 187 on resignation which requires “a just cause.” Resignation is a free act of the office-holder acting with a sound mind, free of grave fear, malice, substantial error, or simony (see cc. 187-188) while removal from office requires “a grave cause” (see c. 193, §1). Removal is initiated by competent authority (see cc. 192-193) or is effected by virtue of the law itself (see c. 194).

Article 135.1 of the CDSSRL *Directory* determines the modality of the process of removal from the office of superior general:

If the superior general has caused serious damage to the reputation or the common good of the Congregation, the vice-superior general can convoke the general councilors, and with a 2/3 of majority affirmative votes decide in favour of requesting removal of the superior

women if it concerns a congregation of diocesan right, [and it is for him] to confirm the election results or to rescind it as an action of conscience.”

¹⁴⁴ See CDSSRL, *Directory*, art. 149.12b, 84.

¹⁴⁵ *Constitutions*, art. 123.1: “Vì lý do rất quan trọng, Bề trên Tổng quyền có thể xin từ chức hay bị bãi nhiệm. Cả hai trường hợp đều thuộc thẩm quyền Đức Giám mục nhà trung ương quyết định” (CDSSRL, *Constitutions*, 100).

general from office. The vice-superior general can then send a petition to the diocesan bishop of principal seat to request the removal of the superior general.¹⁴⁶

Regarding the resignation from the office of the superior general, the CDSSRL's proper law requires the approval of the diocesan bishop of principal seat. However, the removal requires a formal process by the internal competent authority, namely, the vice-superior general obtaining at least the 2/3 majority of affirmative votes of the general council. The vice-superior general sends to the diocesan bishop of the principal seat a petition for removal of the superior general from office,¹⁴⁷ with evidence regarding the facts and reasons calling for removal. After careful examination of all the merits of the case and the proofs regarding the facts, the diocesan bishop of principal seat can issue the decree of removal. The Congregation's proper law provides to him such authority since he is the one who approves the election of the superior general as mentioned in article 149.12b of the CDSSRL *Directory*.

However, in the case of the privation of office of the superior general as a penalty for a delict, among others, abuse of authority in using money of the Congregation¹⁴⁸ or in inducing the members to make a manifestation of conscience to her,¹⁴⁹ grave violation of

¹⁴⁶ *Directory*, art. 135.1: “Khi Bề trên Tổng quyền có những hành vi làm phương hại nặng đến danh dự hoặc ích lợi chung của Hội dòng, thì Phụ tá Bề trên Tổng quyền triệu tập tất cả các tổng cổ vấn và với hai phần ba (2/3) số phiếu đồng ý bãi nhiệm; Phụ tá Bề trên Tổng quyền có thể đệ đơn lên Đức Giám mục nhà trung ương xin bãi nhiệm Bề trên Tổng quyền” (CDSSRL, *Directory*, 72).

¹⁴⁷ See CDSSRL, *Directory*, art. 135.1, 72.

¹⁴⁸ See CDSSRL, Appendix.2.V.4, 140; cf. c. 1389, §1.

¹⁴⁹ See CDSSRL, *Constitutions*, arts. 50, 48; cf. c. 630, §5.

residence after a warning,¹⁵⁰ or illegal alienation of the Congregation's property,¹⁵¹ the vice-superior general with the consent of the general council is to decide to conduct the preliminary steps leading towards the canonical process of privation. The vice-superior general or a delegated councilor begins to collect or complete the proofs regarding the facts and imputability. The vice-superior general sends all the acts of this internal investigation to the diocesan bishop of the principal seat¹⁵² who conducts a canonical penal process (judicial or administrative). If the matter must proceed by way of extrajudicial decree, the bishop is to inform the accused of the accusation and the proofs, giving an opportunity for self-defense, afterwards to weigh carefully all the proofs and arguments with two assessors; and if the delict is certainly established and a criminal action is not extinguished, to issue the decree of privation.¹⁵³ If a trial is held, it is conducted in accordance with the demands of penal law concerning judicial proceedings.

4.2.1.7. Confirmation of the Resignation, Removal, and Privation of the Office of the Members of the General Commission and General Council
(Constitutions, art. 112; Directory, arts. 133-135)

¹⁵⁰ See CDSSRL, *Directory*, Appendix.2.III.7, 138; cf. c. 1396.

¹⁵¹ See CDSSRL, *Directory*, Appendix.2.V.1, 140; cf. c. 1377. It should be noted that the universal law prescribes a just penalty for this offense (see c. 1377) while the CDSSRL's proper law further specifies the penalty of privation from office (see CDSSRL, *Constitutions*, art. 123.1, 100). The universal law, in c. 1315, §3 allows a particular law to add other penalties to those established by universal law for a certain delict.

¹⁵² The *ius vigens* determines that the ordinary has authority to conduct a canonical penal process (judicial or administrative) (see cc. 1717 – 1718; 1721), while the CDSSRL's proper law specifies "the diocesan bishop of the principal seat" (CDSSRL, *Directory*, art. 135.1, 72).

¹⁵³ CDSSRL, *Directory*, art. 136, 74. Cf. c. 695, §2. Cf also c. 1720.

Regarding the resignation, removal and privation of the office of the members of the general commission and general council, the CDSSRL's proper law requires the confirmation of the diocesan bishop of principal seat. As determined in article 135.2 of the *CDSSRL Directory*:

[...] in urgent situations where exist a serious damage to the reputation or the common good of the Congregation:

- a. The superior general, with the consent of the general commission, can issue a decree of removal or privation of a member of the general commission or the general council. Such decree must be confirmed by the diocesan bishop of principal seat.
- b. In the process of making decision, if the removal or privation concerns a member of the general commission or the general council, the superior general is not required to convoke that member or obtain her consent.¹⁵⁴

However, in the case of the privation of office as a penalty for a canonical crime, the present Directory determines that the superior general with the consent of the general commission conducts a canonical penal process, judicial or administrative.¹⁵⁵ Before issuing a decree of deprivation, the superior general is to inform the accused of the accusation and the proofs, giving an opportunity for self-defense,¹⁵⁶ afterwards to weigh carefully all the proofs, arguments, and defenses with members of the general

¹⁵⁴ *Directory*, art. 135.2: “[...] Khi khẩn thiết và có phương hại nặng đến danh dự hoặc ích lợi chung của Hội dòng thì: a. Với quyết nghị của Hội đồng Hội dòng, Bề trên Tổng quyền có thể bãi nhiệm một thành viên Hội đồng Hội dòng hoặc Tổng Cố vấn và được Đức Giám mục nhà Trung ương chấp nhận. b. Nếu việc bãi nhiệm liên quan tới thành viên nào thì Bề trên Tổng quyền không phải triệu tập chị và không cần phải có sự đồng ý của chị” (*CDSSRL, Directory*, 72).

¹⁵⁵ *CDSSRL, Directory*, art. 135, 72. Cf. c. 696, §1.

¹⁵⁶ Regarding the privation, article 136.1 requires: “1) to have enough evidence regarding the facts and imputability; 2) to make known the accusation and present the evidence to the accused; 3) to respect the accused's right of self-defense; 4) to provide appropriate time for the member to restore justice, resolve the scandal, and sufficiently mitigate the damage” (Có đủ bằng chứng về sự kiện và sự quy trách nhiệm. 2. Cho đương sự biết sự tố cáo và các bằng chứng. 3. Tôn trọng quyền được biện hộ của đương sự. 4. Cho đương sự thời gian sửa lỗi, hoặc bồi thường thiệt hại) (*CDSSRL, Directory*, 74).

commission;¹⁵⁷ and if the delict is certainly established and a criminal action is not extinguished, the superior general is to proceed collegially to issue a decision through secret ballot; if it has been decided to deprive the member of her office, the superior general is to issue a decree of privation.¹⁵⁸ After that the superior general transmits the decree and all the acts to the diocesan bishop of the principal seat for his confirmation.¹⁵⁹ However, this procedure as set up in the Directory contradicts the norm of universal law that the competent authority to conduct a penal process is the ordinary as understood in canon 134, §1, and in the case of lay institutes of diocesan right, it is a local ordinary. Therefore, a proposal of rewording of the relevant text of the Directory will be presented in Chapter 5 of the thesis.

4.2.2. The Authority of the Local Diocesan Bishop

Based on canons 609, §1; 616, §1; 630, §3; 675–677; 681–682; 686, §1; 686, §3; 688, §2; 691, §2; 700 of the *ius vigens*, the CDSSRL’s proper law defines that the diocesan bishop of the diocese where a house or houses of the Congregation are located has authority in particular matters that exceed the competence of superiors of the Congregation, i.e., (1) erection of the house;¹⁶⁰ (2) suppression of the legitimately erected house;¹⁶¹ (3)

¹⁵⁷ Cf. cc. 697; 699, §1.

¹⁵⁸ See CDSSRL, *Directory*, art. 136, 72. Cf. c. 699, §1.

¹⁵⁹ See CDSSRL, *Directory*, art. 136, 72. Cf. c. 700.

¹⁶⁰ See CDSSRL, *Constitutions*, art. 139, 113.

¹⁶¹ See *ibid.*

appointment of confessors;¹⁶² (4) entrusting works of apostolate to a religious;¹⁶³ (5) exercising external apostolate by a religious;¹⁶⁴ (6) cooperation and coordination of the works and apostolic activities with other religious institutes;¹⁶⁵ (7) extension of the exclaustation;¹⁶⁶ (8) imposition of the exclaustation;¹⁶⁷ (9) indult of departure of a temporarily professed Sister;¹⁶⁸ (10) indult of departure of a perpetually professed Sister;¹⁶⁹ and (11) dismissal of a member of the Congregation.¹⁷⁰

4.2.2.1. Erection of a Religious House (*Constitutions*, art. 139.1; *Directory*, art. 127.1)

Canon 609, §1 states:

Houses of a religious institute are erected by the competent authority according to the constitutions, with the previous written consent of the diocesan bishop.¹⁷¹

The universal law leaves room for the constitutions of each institute to determine the competent authority to erect its house(s).¹⁷² In accord with canon 609, §1, article 139.1

¹⁶² See *ibid.*, art. 50.3, 48.

¹⁶³ See CDSSRL, *Directory*, art. 74, 47.

¹⁶⁴ See *ibid.*, art. 73, 47.

¹⁶⁵ See CDSSRL, *Constitutions*, art. 74, 60. Cf. CDSSRL, *Directory*, art. 75, 47-48.

¹⁶⁶ See CDSSRL, *Constitutions*, art. 61.1, 53-54.

¹⁶⁷ See CDSSRL, *Directory*, art. 55.2, 38.

¹⁶⁸ See CDSSRL, *Constitutions*, art. 172.1, 135-136.

¹⁶⁹ See *ibid.*, art. 172.2, 136.

¹⁷⁰ See *ibid.*

¹⁷¹ Canon 609, §1: “Instituti religiosi domus eriguntur ab auctoritate competenti iuxta constitutiones, praevisio Episcopi dioecesanis consensu in scriptis dato.” Cf. *CCEO*, c. 509, §1.

¹⁷² See Chapter Three of the thesis, pages 108-117.

of the CDSSRL *Constitutions* outlines the process, determines the competent authority and conditions to erect a new house of the Congregation:

1. The process and conditions to erect a new community.
 - a. With the consent of the general commission of the Congregation, a written petition from the superior general is to be sent to the bishop of the diocese where the community will be erected;¹⁷³
 - b. A written consent of the diocesan bishop of the diocese where the community will be erected;¹⁷³
 - c. A written decree of erection of the superior general with the consent of the general commission;
 - d. When erecting a new house, the superior general must consider its advantages to the Church and the Congregation and suitable safeguards for those things which are required to properly carry out the religious life of the members according to the proper purpose and spirit of the Congregation.¹⁷⁴

Article 217.1 of the CDSSRL *Directory* stipulates further:

For the needs of apostolic works or of studies, the Superior General, with the consent of the general commission, can erect a new house for such purpose.¹⁷⁵

It should be noted that the CDSSRL's proper law determines the consent of the general commission of the Congregation is needed to erect a house.¹⁷⁶ Therefore, the superior general must observe canons 127, §§1-2 and 166. For erection of a religious house, canon 609, §1 requires the written consent of the diocesan bishop beforehand. To remove any confusion, article 139.1b of the CDSSRL *Constitutions* specifically determines that the

¹⁷³ Cf. c. 609, §1.

¹⁷⁴ *Constitutions*, 139.1 a-d. “Điều kiện để thiết lập cộng đoàn mới: a. đơn xin của Bề trên Cao cấp đệ lên Đức Giám mục Giáo phận nơi thiết lập cộng đoàn; b. văn thư chấp thuận của Đức Giám mục giáo phận; c. văn thư thiết lập của Bề trên Cao cấp theo quyết nghị của Hội đồng Hội dòng; d. các vị hữu trách phải để ý đến ích lợi của Hội Thánh và của Hội dòng, cũng phải bảo đảm những gì cần thiết để chị em có thể sống đời tu thích đáng, phù hợp với mục đích và tinh thần dòng” (CDSSRL, *Constitutions*, 113). Cf. cc. 609, §1; 610, §1.

¹⁷⁵ *Directory*, art. 217.1: “Vì nhu cầu sinh hoạt tông đồ hoặc học hành, Hội đồng Hội dòng có thể thành lập một phụ xá (cộng đoàn sứ vụ)” (CDSSRL, *Directory*, 114). Cf. c. 608.

¹⁷⁶ See CDSSRL, *Constitutions*, art. 139.1a, 113.

Congregation needs to obtain “the previous written consent the diocesan bishop where the house will be erected.”¹⁷⁷ It is entirely logical to conclude that because a religious house is erected within a particular church while keeping in mind the needs of the people of God,¹⁷⁸ it is the local bishop who is competent as the pastor and moderator of the apostolate in the diocese.¹⁷⁹

4.2.2.2. Suppression of the Erected House (*Constitutions*, art. 139.2)

Based on canon 616, §1,¹⁸⁰ article 139.2 of the CDSSRL *Constitutions* stipulates:

A legitimately erected religious house can be suppressed by the superior general with the consent of the general commission, after consulting the diocesan bishop of the diocese where the house will be suppressed. The decree of suppression will determine the disposal of goods of the suppressed house, but must respect the intentions of the founders, donors and other legitimately acquired rights.¹⁸¹

It should be noted that the act of suppression of religious houses by the superior general must be accomplished in accordance with “the norm of the constitutions.”¹⁸² That means the universal law leaves room for the constitutions of the Congregation to determine

¹⁷⁷ See *ibid.*, art. 139.1b, 113.

¹⁷⁸ See c. 610, §1.

¹⁷⁹ See c. 678, § 1; cf. *MR*, no. 9, in *AAS*, 70 (1978), 479, in *CLD*, vol. 9, 305-306.

¹⁸⁰ Canon 616, §1 reads as follows: “The supreme moderator can suppress a legitimately erected religious house according to the norm of the constitutions, after the diocesan bishop has been consulted. The proper law of the institute is to make provision for the goods of the suppressed house, without prejudice to the intentions of the founders or donors or to legitimately acquired rights.”

¹⁸¹ *Constitutions*, art. 139.2: “Cộng đoàn có thể bị giải thể do Bề trên Tổng quyền theo quyết nghị của Hội đồng Hội dòng, sau khi đã tham khảo ý kiến Đức Giám mục nơi cộng đoàn sẽ bị giải thể. Nghị quyết giải thể sẽ định đoạt tài sản của cộng đoàn, nhưng phải tôn trọng những khế ước liên hệ” (CDSSRL, *Constitutions*, 113). Cf. c. 616, §1.

¹⁸² Canon 616, §1: “[...] ad normam constitutionum [...]” See Chapter Three of the thesis, pages 117-121.

further if the consent or counsel of the college or group of persons is needed or otherwise.¹⁸³

Article 139.2 of the CDSSRL *Constitutions* states that the act of suppression of the superior general requires the consent of the general commission. Since the constitutions require so, the superior general must observe canons 127, §1 and 166 for the validity of the act.

Moreover, article 139.2 of the CDSSRL *Constitutions* specifically defines the particulars of the consultation of the diocesan bishop of the diocese where the house will be suppressed. Therefore, the diocesan bishop of principal seat is not involved in its suppression. Since both universal and proper law expressly refer to the diocesan bishop, the vicars general and episcopal vicars are excluded, except by special mandate (see c. 134, §3). For the disposal of goods of the suppressed house, the CDSSRL's proper law does not have any express stipulation, but simply states that it is based on the determinations of the decree of suppression.¹⁸⁴

4.2.2.3. Appointing of Confessor (*Constitutions*, art. 50.3)

Article 50.3 of the CDSSRL *Constitutions* states:

In large communities, especially in formation communities, after consultation with members of the community, the superiors should appoint an ordinary confessor. The confessor must be approved by the local ordinary. Nevertheless, members are free to approach other confessors.¹⁸⁵

¹⁸³ See c. 127, §1.

¹⁸⁴ See CDSSRL, *Constitutions*, art. 139.2, 113.

¹⁸⁵ *Constitutions*, art. 50, 3: “Trong các cộng đoàn lớn, nhất là cộng đoàn đào tạo, sau khi tham khảo ý kiến của chị em, Bề trên cần liệu sao cho có cha giải tội thường xuyên. Vị giải tội này phải được Đấng bản quyền sở tại chấp thuận. Tuy nhiên, chị em vẫn được tự do đến với cha giải tội khác” (CDSSRL, *Constitutions*, 48). Cf. c. 630, §3.

This norm repeats canon 630, §3 which states: “[...] in houses of formation, and in more numerous lay communities, there are to be ordinary confessors approved by the local ordinary after consultation with the community; nevertheless, there is no obligation to approach them.”¹⁸⁶ It is necessary to note that the CDSSRL’s proper law uses the term “should appoint,” so this obligation would not be a strict obligation for the superiors. As a reality, there is no ordinary confessor appointed in the Congregation so far. However, this responsibility is fulfilled by superiors in each community by arranging for a confessor (though not “ordinary confessor”) for her own community to better provide for the good of the members that they be able to approach the sacrament of penance at least one a month.¹⁸⁷

4.2.2.4. Entrusting Works of Apostolate to a Religious (*Directory*, arts. 73-74)

The CDSSRL *Constitutions* discuss apostolate in Chapter Six. While they present the nature of the Congregation’s apostolate,¹⁸⁸ its character¹⁸⁹ and ways of its implementation in the Institute,¹⁹⁰ and cooperation with other members of the People of God,¹⁹¹ there is no direct indication as to the relationship between the Congregation and the diocesan bishop in what concerns apostolic works. In response to recent tensions and difficulties between the Congregation and diocesan bishops/parish priests regarding

¹⁸⁶ Canon 630, §3: “[...] in domibus formationis et in communitatibus numerosioribus laicalibus habeantur confessarii ordinarii ab Ordinario loci probati, collatis consiliis cum communitate, nulla tamen facta obligatione ad illos accedendi.” See Chapter Three of the thesis, pages 127-131.

¹⁸⁷ See CDSSRL, *Guidelines*, art. 6, 155.

¹⁸⁸ See CDSSRL, *Constitutions*, arts. 68-70, 57-58.

¹⁸⁹ See *ibid.*, art. 71, 58.

¹⁹⁰ See *ibid.*, arts. 72-73, 59-60.

¹⁹¹ See *ibid.*, art. 74, 60.

pastoral works and apostolate entrusted to the Congregation or individual religious, the CDSSRL's General Chapter X issued norms to clearly specify the rights and duties of the diocesan bishop, the parish priests, the religious superiors, and the individual religious regarding works of apostolate.

Article 73 of the CDSSRL *Directory* stipulates the duties of the individual religious when performing external apostolate:

1. Submit to and revere the local diocesan bishop. Works entrusted to the religious by a diocesan bishop are subject to the authority and direction of the same bishop.
2. Submit to the proper superiors and be faithful to the discipline of the Congregation.¹⁹²

The works of religion or charity entrusted by the diocesan bishop to the Congregation or to the individual religious, such as assisting the parish priest in the pastoral care through the apostolate of catechesis at all levels, promoting justice and peace, providing social services, etc., are subject to the authority of the diocesan bishop and under his direction.¹⁹³ Article 74 of the CDSSRL *Directory* points to a written agreement between the local diocesan bishop and the superior general in accordance with canon 681, §2. In order to minimize the potential for future problems, the rights and obligations of both parties are spelled out in detail and clearly before the agreement is signed by both parties:

To benefit the Church and to avoid difficulties and tensions that may arise between the local diocesan bishop and the religious, works of religion or charity entrusted by the diocesan bishop to the religious must be discussed and presented in a written agreement between the diocesan bishop and the competent superior in order that the rights and

¹⁹² *Directory*, art. 73: “1. Tuân phục và kính trọng Đức Giám mục Giáo phận. Những công việc do Đức Giám mục Giáo phận trao thì thuộc quyền bình và sự chỉ đạo của ngài. 2. Tuân phục Bề trên của mình và phải trung thành tuân giữ kỷ luật của Dòng” (CDSSRL, *Directory*, 47). Cf. cc. 681, §1; 678, §2.

¹⁹³ CDSSRL, *Directory*, art. 73, 47. Cf. cc. 681, §1; 683, §1. See Chapter Three of the thesis, pages 139-141.

obligations of both parties are clearly spelled out, concerning:

1. The scope of work;
2. Personnel;
3. Contract period;
4. Health insurance;
5. Financial arrangements;
6. Other necessary things.¹⁹⁴

Moreover, article 76 of the CDSSRL *Directory* mentions the works of apostolate performed by the religious serving in the parish(es). It calls for “a cordial dialogue and mutual consultation between the parish priest and the religious superior is needed in order to achieve a harmony between the pastoral works and the discipline of the community.”¹⁹⁵ For such pastoral works, CDSSRL’s proper law does not require a written agreement as for the works entrusted by a diocesan bishop to the Congregation as such,¹⁹⁶ but it calls for a cordial dialogue and mutual consultation between the parish priest and the religious superior. In practice, the parish priest presents the scope of works for which he needs assistance (e.g., acting as extraordinary minister of Holy Communion, teaching catechism to children or youth, conducting of choir, bringing Viaticum to the sick, etc.), then the local superior considers the request and assigns suitable sister(s). As an unwritten rule, the parish priest does not have authority to demand a specific sister for a specific work in his parish. Likewise, the individual Sister is not allowed to accept any pastoral works entrusted by the

¹⁹⁴ CDSSRL, *Directory*, art. 74: “Để sinh ích cho Giáo Hội và tránh mọi khó khăn có thể xảy ra giữa Đức Giám mục Giáo phận với chị em, những công việc do Đức Giám mục Giáo phận trao cho chị em, cần phải được trao đổi và thống nhất với nhau bằng hợp đồng giữa Đức Giám mục Giáo phận và Bề Trên có thẩm quyền, để xác định rõ ràng quyền lợi và nghĩa vụ của hai bên về: 1. Nội dung công việc, 2. Nhân sự, 3. Thời hạn, 4. Bảo hiểm y tế, 5. Lương bổng. Những điều cần thiết khác (CDSSRL, *Directory*, 47). Cf. cc. 681, §2; 678, §3. See Chapter Three of the thesis, pages 140-141.

¹⁹⁵ *Directory*, art. 76: “[...] cần được trao đổi giữa chị phụ trách cộng đoàn và cha xứ, để có sự hài hoà trong công tác mục vụ và kỷ luật cộng đoàn” (CDSSRL, *Directory*, 48).

¹⁹⁶ See *ibid.*, art. 74, 47.

parish priest without the permission of the superior of the community, as stipulated in article 56 of the CDSSRL *Guidelines*.¹⁹⁷

4.2.2.5. Cooperation and Coordination of the Works and Apostolic Activities under the Direction of the Diocesan Bishop (*Constitutions*, art. 74; *Directory*, arts. 75-76)

In accordance with canon 680, article 74 of the CDSSRL *Constitutions* refers to the cooperation and collaboration between the CDSSRL's members and all Christian faithful, especially with members of Dominican family:

Imbued with the spirit and zeal of St. Dominic, all members of the Congregation of St. Rose of Lima collaborate with all people of God, especially with members of the Dominican Family to implement more effectively the apostolate.¹⁹⁸

Furthermore, article 75 of the CDSSRL *Directory* adds that all members of the Congregation are to collaborate sincerely with diocesan clergy, other religious institutes, and the lay Christian faithful under the direction of the diocesan bishop since all share in the one Spirit and follow Christ in exercising the common mission of the Church.¹⁹⁹

4.2.2.6. Extension of the Exclaustration (*Constitutions*, art. 61, 1)

¹⁹⁷ *Guidelines*, art. 56: “[...] khi thi hành sứ vụ tại các giáo xứ, không tự ý nhận bất cứ công tác nào khác khi chưa có phép của chị phụ trách cộng đoàn” (CDSSRL, *Guidelines*, 171). Cf. c. 682, §1.

¹⁹⁸ *Constitutions*, art. 74: “Được thấm nhuần tinh thần và lòng nhiệt thành của Cha Thánh Đa Minh, chị em Đa Minh Việt Nam hợp tác với mọi thành phần dân Chúa, đặc biệt với các thành viên gia đình Đa Minh để thi hành sứ vụ tông đồ một cách hữu hiệu hơn” (CDSSRL, *Constitutions*, 60).

¹⁹⁹ CDSSRL, *Directory*, 47-48. Cf. c. 680. See Chapter Three of the thesis, pages 150-153.

Article 61.1 of the CDSSRL *Constitutions*, which basically repeats canon 686, §1, determines:

For a grave cause, the superior general, with the consent of the general council, can grant an indult of exclaustation to a perpetually professed member, but not for more than three years. The authority to extend or to grant an indult for more than three years is reserved to the diocesan bishop.²⁰⁰

Canon 686, §1 on exclaustation is placed among the canons pertaining to the separation of members from a religious institute. Article 61.1 of the CDSSRL *Constitutions*, however, places the exclaustation in the section of the *Constitutions* which concerns religious discipline since the exclaustation is treated as only a temporary separation. Similar to the universal law, the CDSSRL's proper law does not determine the specifics of the gravity of the cause for granting the indult of exclaustation.²⁰¹

In accordance with canon 687, article 61.2 of the CDSSRL *Constitutions* presents the canonical effects of exclaustation for a sister:

During the time of exclaustation, the vows of an exclaustated member remain, but she is considered free from the obligations, which cannot be reconciled with the new condition of her life. Yet, she remains dependent upon and under the care of superiors of the Congregation and also of the local ordinary.²⁰² If it is possible, she should keep in constant contact with the nearest community, and the community is to care for her. Nevertheless, she lacks any active and passive voice.²⁰³

²⁰⁰ *Constitutions*, art. 61.1: “Khi có lý do hệ trọng, Bề trên Tổng quyền, với sự đồng ý của ban Tổng Cố vấn, có thể cho chị đã khấn trọn đời được phép sống ngoại vi tối đa ba năm. Việc triển hạn được dành cho Đức Giám mục giáo phận” (CDSSRL, *Constitutions*, 53-54).

²⁰¹ See Chapter Three of the thesis, page 172.

²⁰² Cf. c. 687.

²⁰³ *Constitutions*, art. 61.2: “Chị sống ngoại vi vẫn còn lời khấn, tuy không buộc phải giữ những bổn phận không phù hợp với hoàn cảnh của mình, nhưng chị vẫn phục quyền các vị hữu trách trong Hội dòng và Đức Giám mục bản quyền sở tại.²⁰³ Nếu có thể, chị nên thường xuyên liên lạc với cộng đoàn gần đó, và cộng

Regarding the lack of active and passive voice of an exclaustated religious, one should point to a difference between canon 687 and article 61.2 of the CDSSRL *Constitutions*. Canon 687 expressly determines that the exclaustated religious, whether the exclaustation is voluntary or imposed, lacks active and passive voice during the time of exclaustation, while article 228.1-2 of the CDSSRL *Directory* determines further that the member lacks active and passive voice: (1) from the time of submitting the petition of indult of exclaustation, (2) during the time of the exclaustation, and (3) one year after returning the Congregation.²⁰⁴ The first and the third point are not in harmony with canon 687. The reason for this norm of CDSSRL *Directory* was to deter members from asking too casually for an indult of exclaustation. The Directory also determines that “Those who are [...] exclaustated and wish to travel to another country must obtain the permission from the superior general and general council beforehand.”²⁰⁵

4.2.2.7. Imposition of the Exclaustation (*Directory*, art. 55.2)

The CDSSRL *Constitutions* do not mention the imposition of the exclaustation. However, for the necessity and urgency of the subject matter, the General Chapter X of the Congregation added the norm for imposing exclaustation, as stated:

[...] For a grave cause, with equity and charity observed, the superior general, with the consent of the general council, can request the bishop of the diocese, where the house to

đoàn cần quan tâm tới chị. Tuy nhiên, chị không được quyền bầu cử và thụ cử” (CDSSRL, *Constitutions*, 54). Cf. c. 687.

²⁰⁴ Cf. CDSSRL, *Directory*, art. 228.1-2, 117.

²⁰⁵ *Directory*, art. 54.2: “Những chị em đang [...] sống ngoại vi, muốn xuất ngoại phải được sự chấp thuận của Bề trên Tổng quyền và Ban Tổng Cố vấn” (CDSSRL, *Directory*, 38).

which the religious has been attached is located, to impose exclaustation on a member in perpetual vows.²⁰⁶

Canon 686, §3 does not expressly specify which diocesan bishop is competent.²⁰⁷

However, article 55.2 of the CDSSRL *Directory* clarifies that the competent authority is the bishop of the diocese where the religious house to which the religious is assigned or attached to at the time of making request is located.²⁰⁸ Moreover, it also specifies the grave causes for an imposed exclaustation, such as serious disruptions in the common life or frequent violations of the rights of other members.²⁰⁹

Besides the canonical effects of exclaustation mentioned in canon 687, the CDSSRL's proper law adds no additional provision regarding a member on whom exclaustation was imposed; the provisions of articles 61.2; 149.1-2²¹⁰ of the *Constitutions* and articles 54.2, 228.1-2²¹¹ of the *Directory* applied to voluntary exclaustation are also applicable in the case of those on whom exclaustation has been imposed.

4.2.2.8. Confirmation of the Indult of Departure of a Temporarily Professed Sister (*Constitutions*, art. 172.1)

²⁰⁶ Ibid., art. 55.2: “[...] Khi có lý do nghiêm trọng, bề trên tổng quyền với sự đồng ý của Ban Tổng Cố vấn, có thể đệ đơn lên Giám mục Giáo phận nơi chị em được bổ nhiệm áp đặt một chị khấn trọn đời phải sống ngoại vi” (CDSSRL, *Directory*, 38). Cf. 696, §3.

²⁰⁷ See Chapter Three of the thesis, page 177.

²⁰⁸ See CDSSRL, *Directory*, 38.

²⁰⁹ See *ibid.*, footnote 26, 38.

²¹⁰ See CDSSRL, *Constitutions*, 54, 120.

²¹¹ See CDSSRL, *Directory*, 38, 117.

In accordance with canon 688, §2, article 172.1 of the CDSSRL *Constitutions* confirms the freedom of a religious to request a departure from the Congregation during the period of temporal vows, for a grave cause (*gravi de causa*):

For a grave cause, during the time of temporary profession, a religious can obtain an indult of departure from the superior general with the consent of the general council. The bishop of the house of assignment must confirm the indult for it to be valid.²¹²

The grave cause (*causa gravis*) is not defined in the CDSSRL's proper law; it would be determined and evaluated by the superior general and the general council in individual cases. If a temporarily professed sister decides to leave the Congregation, she must expressly submit to the superior general a request in writing, presenting briefly the grave cause for the request and what has been done so far to resolve difficulties/problems. After careful consideration and discernment of the cause, with the consent of the general council, the superior general may issue a written indult of departure. The superior general will then send the indult for confirmation by the diocesan bishop of the diocese where the religious is assigned, as required by canon 688, §2 for the validity of the act. According to article 172.3 of the CDSSRL *Constitutions*, the indult takes effect at the moment of its acceptance by the religious in the process of notification.²¹³

²¹² *Constitutions*, art. 172.1: “Khi có lý do quan trọng, một chị đang còn lời khấn tạm muốn hồi tục, phải đệ đơn lên Bề trên Tổng quyền. Sự chấp thuận của Bề trên Tổng quyền sau khi được ban Tổng Cố vấn đồng ý, phải có sự chuẩn y của Đức Giám mục nơi đương sự được bổ nhiệm” (CDSSRL, *Constitutions*, 135-136). Cf. c. 688, §2.

²¹³ See CDSSRL, *Constitutions*, art. 172.3, 136.

4.2.2.9. Granting the Indult of Departure to a Perpetually Professed Sister (*Constitutions*, art. 172.2)

Based on canon 691, §1, the CDSSRL *Constitutions* recognize the freedom of a perpetually professed Sister to request an indult of departure from the Congregation as stated in article 172.2:

A perpetually professed religious is not to request an indult of departure from the Congregation except for the gravest of causes, and after thoughtful discernment before the Lord. The religious is to present a petition to the general superior, who then transmits the petition along with her personal opinion and the opinion of the general council to the bishop of the house of assignment.²¹⁴

In this case, similarly to the requirement of universal law, the request is to be made *only* for the gravest of causes (*ob gravissimas causas*) and must be seriously pondered before the Lord.²¹⁵ The *gravissima causa* is not specified in the CDSSRL's proper law. However, it would be determined and evaluated by the superior general and the general council. Among such causes, one could mention a genuine inability to observe the obligations of religious life, such as the evangelical counsels or community life, the way of life of the member that is no longer congruent with the nature and end of the Congregation, falling in love and wanting to get married, pregnancy, etc. After having applied all appropriate means in order to help the member to persevere in her vocation, if the religious still decides to leave the Congregation, she must submit her written request to

²¹⁴ *Constitutions*, art. 172.2: “Chị đã khẩn trọng đòi chị được xin xuất dòng khi có lý do rất quan trọng, và đã được suy xét cẩn thận trước mặt Chúa. Bề trên Tổng quyền gửi đơn của đương sự cùng với ý kiến của chị và của ban Tổng Cố vấn lên Đức Giám mục nơi đương sự được bổ nhiệm để Đức Giám mục quyết định” (CDSSRL, *Constitutions*, 136). Cf. c. 691, §2.

²¹⁵ See CDSSRL, *Constitutions*, art. 172.2, 136; cf. c. 691, §1.

the superior general who will review it first with the general council, and then pass it²¹⁶ to the diocesan bishop of the house to which the religious is assigned, together with her own opinion and that of the general council. After careful consideration of all pertinent circumstances of the case, the bishop is free to decide whether or not to grant the indult. According to article 172.3 of the CDSSRL *Constitutions*, the indult takes effect at the moment when the religious is notified and accepts it.²¹⁷

4.3. *Lacunae* in the CDSSRL Provisions regarding the Authority of the Diocesan Bishop in Internal and External Matters of the Congregation

After studying the norms of the internal authority of the Congregation and the authority of the diocesan bishop as defined in the proper law of the CDSSRL, we found that there are many *lacunae* with respect to the exercise of the authority of the diocesan bishop over the Congregation and individual Sisters.

4.3.1. *Lacunae* in the Provisions regarding the Exercise of the Authority over the Congregation by the Diocesan Bishop

There are several matters in the common norms concerning the exercise of the authority of the diocesan bishop over a religious institute of diocesan right that proper law of the CDSSRL does not address: (1) visitation of individual houses and works of

²¹⁶ In passing the petition, “the superior should also include a brief curriculum vitae of the religious, indicating dates of birth, entry, and profession, as well as major apostolic activities and periods of formal education. If there have been periods of absence or of exclaustation, they should also be noted” (see HOLLAND, “Separation of Members from the Institute [cc. 684-704],” 862).

²¹⁷ See CDSSRL, *Constitutions*, art. 172.3, 136.

apostolate or charity; (2) establishment of schools;²¹⁸ (3) financial reports;²¹⁹ (4) alienation of temporal goods;²²⁰ and (5) pious foundations entrusted to the Congregation.²²¹

4.3.1.1. Visitation of Individual Houses and Works of Apostolate or Charity of the CDSSRL

Canon 628, §2, 2^o recognizes the right and obligation of a diocesan bishop to visit all individual religious houses of an institute of diocesan right located in his territory.²²² In addition, canon 683, §1 determines that a diocesan bishop has the right and duty to visit churches and oratories where the Christian faithful habitually attend, all schools, and other works of religion or charity, i.e., nursing homes, assisted living houses, hospitals, orphanages, retreat centers, etc., whether spiritual or temporal, entrusted to religious institutes, whether exempted or non-exempted, of pontifical or of diocesan right, located in his territory, but not schools which are open exclusively to the institute's own students.

However, there is no norm in the Constitutions, Directory, and Guidelines, related to the right of a diocesan bishop to visit religious houses of an institute of diocesan right located in his territory. This *lacuna* in the CDSSRL's proper law could be filled by a

²¹⁸ See c. 801.

²¹⁹ See c. 637.

²²⁰ See c. 638, §4.

²²¹ See c. 1304.

²²² It should be kept in mind that the religious houses and the members of exempt institutes and institutes of pontifical right are excluded from the canonical visitation of the diocesan bishop (see cc. 591, 593).

suitable norm to help the members understand this right and duty of the diocesan bishop and assure that they are properly disposed towards the visitor.

4.3.1.2. Establishment of Schools by the Congregation

Regarding the establishment of schools by a religious institute, canon 801 states:

Religious institutes whose proper mission is education, retaining their mission faithfully, are also to strive to devote themselves to Catholic education through their schools, established with the consent of the diocesan bishop.

The religious institutes whose proper mission is education have authority to establish schools as defined in their constitutions. However, the canon clearly states that the consent of the diocesan bishop is required to establish these schools. Regarding the establishment of schools, nothing is said in the CDSSRL's proper law. In fact, all schools were established by the Congregation without asking consent (whether explicit or implicit) of the diocesan bishops. This has not only occurred for the CDSSRL, but also occurred and persisted in most, if not all, religious congregations in Vietnam as the universal law seems not to be fully utilized or even considered. Thus, this matter should be clearly addressed in the proper law to remind the Congregation to obtain the consent of the diocesan bishops before establishment of school(s).

4.3.1.3. Financial Reports

Canon 637 addresses the right of the local ordinary to be informed about the financial affairs of a house or houses of a religious institute of diocesan right located in his territory. The CDSSRL's proper law is silent on this matter. It only mentions the

responsibility of the financial council, the general financial administrator, the financial officers, and other administrators to submit monthly and annual financial reports to the superiors and council to examine.²²³ Since there is no provision in the proper law of the Congregation regarding submitting financial reports to the local bishop, the Congregation did not do it and bishops did not exercise their right to examine the financial reports of house(s) of the Congregation, either. Therefore, this matter is suggested for consideration in the next general chapter of the Congregation, including the question of the content of such financial reports and time intervals for having them drafted and presented; these stipulations are going to find its place in the proper law of the CDSSRL.

4.3.1.4. Alienation of Temporal Goods

Regarding the alienation of temporal goods of a religious institute of diocesan right, and any other transaction in which the patrimonial condition of an institute could worsen, besides the written permission of the competent superior with the consent of his or her council, the universal law also requires, for the validity of the alienation, the written consent of the local ordinary.²²⁴ In this important matter, however, nothing is said in the CDSSRL's proper law on the competency of the local ordinary as recognized in canon 638, §4. Although numerous articles of the Constitutions, Directory, and Guidelines mention

²²³ See CDSSRL, *Constitutions*, arts. 130.1d, 107; 163.2-3, 130. See also CDSSRL, *Directory*, arts. 178, 99-100; 238.1 and 239-240, 122-123.

²²⁴ See c. 638, §4.

the purpose and spirit of using the temporal goods,²²⁵ methods of administration,²²⁶ alienation,²²⁷ contracts,²²⁸ management of lay person's goods²²⁹ and loans,²³⁰ nevertheless, there is no provision referring to the requirement to obtain beforehand the written consent of the local ordinary, whether the local ordinary of the principal seat or the local ordinary in whose diocese the property to be alienated is located. It is a *lacuna* in the CDSSRL's proper law, so it is suggested for consideration by the next general chapter of the Congregation.

4.3.1.5. Pious Foundations Entrusted to the Congregation

Canon 1304, §1 states:

For a juridic person to be able to accept a foundation validly, the written permission of the ordinary is required. He is not to grant this permission before he has legitimately determined that the juridic person can satisfy both the new obligation to be undertaken and those already undertaken; most especially he is to be on guard so that the revenues completely respond to the attached obligations, according to the practice of each place or region.

Since a religious institute is a public juridic person by the law itself (see c. 634, §1), it can accept a pious foundation as stated in canon 1304, §1 with the written permission of

²²⁵ See CDSSRL, *Constitutions*, arts. 157-159, 126-128; CDSSRL, *Directory*, arts. 232-233, 119-120; see also CDSSRL, *Guidelines*, art. 120, 196.

²²⁶ See CDSSRL, *Constitutions*, arts. 160-163, 128-130; CDSSRL, *Directory*, arts. 234-241, 120-123; see also CDSSRL, *Guidelines*, 121-134, 196-202.

²²⁷ See CDSSRL, *Constitutions*, art. 160, 128; CDSSRL, *Directory*, art. 247, 125.

²²⁸ See CDSSRL, *Constitutions*, art. 161, 128-129; cf. CDSSRL, *Directory*, arts. 242-243, 123-124; also cf. CDSSRL, *Guidelines*, art. 122, 196-197.

²²⁹ See CDSSRL, *Constitutions*, art. 164, 130; CDSSRL, *Directory*, art. 248, 126; see also CDSSRL, *Guidelines*, art. 128.3, 199-200.

²³⁰ See CDSSRL, *Constitutions*, art. 165, 130-131; CDSSRL, *Directory*, 251, 126.

the ordinary. However, proper law of the CDSSRL is silent on this matter. Thus, this issue should be clearly addressed in the proper law to remind the Congregation about the obligation to obtain the permission of the local ordinary before accepting a foundation.

4.3.2. *Lacunae* in the Provisions regarding the Exercise of Authority over Individual Members of the Congregation

There are some matters related to the common norms concerning the exercise of authority of the diocesan bishop over individual religious for which proper law of the CDSSRL does not address: (1) permission for management of lay person's goods by a member of the Congregation; (2) prohibition a religious from residing in the diocese; (3) confirmation of the decree of dismissal; (4) mandate for teaching theological subjects in institutes of higher studies; and (5) permissions for publishing writings and the use of instruments of social communication dealing with questions of religion and morals.

4.3.2.1. Permission for Management of Lay Person's Goods by a Member of the Congregation

In accordance with canon 672 which prohibits a religious to undertake "the management of goods belonging to lay persons or secular offices which entail an obligation

of rendering accounts.”²³¹ Article 164 of the CDSSRL *Constitutions* basically repeats the principle of canon 285, §4:

1. Without the express permission of the major superior, no religious is allowed to participate in the management of the property of persons outside the Congregation, whether juridic persons or physical persons.
2. If that administration is to be consolidated in the final balance-sheet, then the major superior must carefully consider that question and must obtain the consent of the council.²³²

Article 248 of the CDSSRL *Directory* explains in more detail the application of the article 164.1 of the *Constitutions*:

No religious are permitted to manage the goods of a lay person, whether money, treasured items, or bank checks. When there is an appropriate reason for approval:

1. Regarding the superior general, she must obtain the permission of the general council.
2. Regarding other sisters, they must obtain the permission from the relevant superiors. If the amount exceeds the amount determined in the Guidelines, she must also have the permission from the superior general.²³³

Article 128.3 of the Guidelines of the General Chapter X clearly defines “a reasonable cause” mentioned in article 248 of the *Directory*, that is, having “her own elderly or incapacitated parents or blood siblings.”²³⁴ However, there is no norm in the

²³¹ Canon 672 refers to c. 285, §4: “Religious are bound by the prescripts of cann. 277, 285, 286, 287, and 289, and religious clerics additionally by the prescripts of can. 279, §2; in lay institutes of pontifical right, the proper major superior can grant the permission mentioned in can. 285, §4.” Cf. *CIC/17*, c. 139, §3.

²³² *Constitutions*, art. 164.1: “Nếu không có phép của Bề trên cao cấp, không ai được phép tham gia vào việc quản trị tài sản của người ngoài Hội dòng, dù là pháp nhân hay thể nhân. 2. Nếu việc tham gia đó buộc phải thanh toán sổ sách thì Bề trên cao cấp phải đề dặt hơn, và phải có sự đồng ý của ban Cố vấn” (CDSSRL, *Constitutions*, 130).

²³³ *Directory*, art. 248: “Tất cả chị em không được nhận quản lý tài sản của người khác, bất kể là tiền, báu vật hay ngân phiếu. Khi có lý do chính đáng: 1. Bề trên Tổng quyền phải có sự đồng ý của Ban Tổng cố vấn. 2. Chị em phải có sự đồng ý của chị phụ trách liên hệ, nếu quá định mức theo Công vụ, phải có phép Bề trên Tổng quyền” (CDSSRL, *Directory*, 126).

²³⁴ “[...] trường hợp của cha mẹ và anh chị em ruột” (CDSSRL, *Guidelines*, 199-200).

proper law of the CDSSRL that would mention the requirement to obtain permission from the ordinary. This *lacuna* in the CDSSRL's proper law is recommended for consideration by the Congregation's authority, also in view of defining which ordinary (of the principal seat or of the diocese of the house to which the religious is assigned) should be approached.

4.3.2.2. Prohibiting a Religious from Residing in the Diocese

The CDSSRL's proper law has no provision concerning a case of a diocesan bishop prohibiting a religious from residing in his diocese when "a most grave cause demands it" (*urgente gravissima causa*) as stated in canon 679.²³⁵ It would be advisable to include some norm in this regard in proper law of the CDSSRL in order, on the one hand, to inform the sisters about the possibility of such a prohibition issued by the diocesan bishop, due to, for instance, a behavior of the religious that has caused and continues to cause immediate and grave spiritual harm to the Christian faithful) and, on the other hand, to remind the superiors of their obligation to act when the bishop informs them of the matter. Such a norm is indeed needed so that some undesirable situations, e.g., misunderstanding and tension between the religious superior and the diocesan bishop relating to the right to a good reputation of the Sister(s) and the Congregation, unexpected hierarchical recourse from the Congregation, deterioration of the relationship between the Congregation and the diocesan bishop, can be avoided.

²³⁵ Canon 679 reads as follow: "When a most grave cause demands it, a diocesan bishop can prohibit a member of a religious institute from residing in the diocese if his or her major superior, after having been informed, has neglected to make provision; moreover, the matter is to be referred immediately to the Holy See."

4.3.2.3. Confirmation of the Decree of Dismissal

The norm of canon 700 is unequivocal in stating that if it concerns an institute of diocesan right, confirmation of the decree of dismissal belongs to the bishop of the diocese where the house to which the religious has been attached is located. The CDSSRL Constitutions are less precise as to indicating the competent authority to confirm the decree of dismissal. Article 175.1 of the CDSSRL *Constitutions* reads as follows:

The superiors must observe the process of dismissal according to canons 694, 697, 698, 699 and 700 concerning the collection or completion of the proofs, giving the sister full opportunity for self-defense, issuing the decree of dismissal by the competent authority and the confirmation of the decree.²³⁶

Although the norm of universal law is clear, nevertheless there is a possibility that two issues can be misunderstood, especially by those less familiar with canon law, namely that the competent authority issuing the decree of dismissal of a sister is the same authority that confirms the decree or the competent authority who confirms the decree is a superior of the Congregation. Canon 699, §1 specifies that the superior general must act in a collegial fashion with the participation of at least four members of the council. If the dismissal has been decided, the superior general is “to issue a decree of dismissal with the reasons in law and in fact expressed at least summarily for validity.” Canon 700 specifies that the confirmation of the bishop of the diocese where the house to which the religious has been attached is situated gives the decree legal force. The problem seems to be with

²³⁶ *Constitutions*, art. 175.1: “Các vị hữu trách phải tiến hành thủ tục trục xuất theo Giáo luật các điều 694, 697, 698, 699 và 700 về vấn đề điều tra, thu thập chứng liệu, cho tu sĩ được quyền biện hộ, thẩm quyền ban hành và phê chuẩn nghị định trục xuất” (CDSSRL, *Constitutions*, 138).

the wording of article 175.1 of the CDSSRL Constitutions. It is suggested that this norm should be taken into consideration and revision in accordance with canons 699, §1 and 700 of the Code of Canon Law.

4.3.2.4. Mandate for Teaching Theological Subjects in Institutes of Higher Studies

Canon 812 establishes a requirement of having a mandate to teach theological disciplines in any institutes of higher studies, issued by the competent ecclesiastical authority. Concerning this matter, however, the proper law of the CDSSRL keeps silent. Due to the importance of this issue, an appropriate norm is suggested to be inserted into the proper law, including the question of the permission from the competent superior and the mandate issued by the competent ecclesiastical authority (specifying who the competent authority to grant a mandate to teach theological disciplines in the manner of canon 812 actually is), in order to remind sisters teaching theological disciplines and sacred sciences of the importance of their task.

4.3.2.5. Permissions for Publishing Writings and the Use of Instruments of Social Communication Dealing with Questions of Religion and Morals

There are no provisions in the proper law of the CDSSRL regarding permissions for publishing writings and the use of instruments of social communication. Due to the importance of this matter, it is suggested that such norms should be included in the proper law to stress the authority of the local ordinary and to highlight the obligation of asking for his permission as determined in universal law. Additionally, another norm of proper law should remind the members that the permission of the competent superior is required to

publish writings dealing with questions of religion or morals (see c. 832). It is expected that an inclusion of such norms would help the sisters to acknowledge the importance of asking permission of the competent authority before addressing the questions of religion and morals in their publications.

CONCLUSION

The chapter presents the provisions of the CDSSRL's proper law regarding the internal authority of the Congregation and the authority of the diocesan bishop. Based on the norms of universal law which acknowledge the internal authority of religious institutes (general and other chapters and superiors), proper law of the CDSSRL attempts to identify clearly the internal authority of the Congregation, namely, the collegial and personal authority which are both in service of directing and governing the Congregation and preserving its patrimony.

The collegial authority of the CDSSRL is vested in the general chapter and general commission. The provisions on the CDSSRL's general commission seems to differ from the parameters set up in universal law which states that the collegial authority is exercised by the chapters. The CDSSRL's general commission, however, exercises its collegial authority outside of the time when the general chapter is in session. While its functions are primarily to fulfill obligations entrusted by the general chapter and to resolve matters of greater importance affecting the entire Congregation as determined by the *Constitutions*, *Directory*, and *Guidelines*, nevertheless, the general commission has some specific

prerogatives which put it on a collision course with universal law; various instances of it were addressed in the chapter and appropriate solutions proposed.

The CDSSRL's proper law calls for the superiors of the Congregation to exercise their authority in accordance with the demands of universal law and the proper law of the Institute in the spirit of service and respect for sisters' dignity by listening, promoting voluntary obedience of the members through appropriate dialogue and consultation, and fostering, participation, collaboration, cooperation and co-responsibility of each member for the good of the Congregation and the People of God.

In accordance with the norms of universal law, which acknowledge the authority of the competent ecclesiastical authority (diocesan bishop, ordinary, local ordinary), the CDSSRL's proper law contains norms to determine in greater detail the authority of both the diocesan bishop of the principal seat and diocesan bishops where the house(s) of the Congregation is located. In general, most provisions of the CDSSRL's proper law repeat the common norms, but some are more restrictive.²³⁷ Interestingly, some structures are unique to the Congregation, for instance, the general commission which is not rooted in the Code of Canon Law nor found in other religious institutes.

In addition, there are certain unclear or inapplicable norms in the CDSSRL's proper law which have caused many difficulties and tensions between superiors and members,

²³⁷ For instance, exclaustation's effects (see CDSSRL, *Constitutions*, art. 61.2, 54); erection of a religious house (see *Constitutions*, art. 139.1; *Directory*, art. 127.1); suppression of an erected house (see *Constitutions*, art. 139, 2).

especially related to the way of exercising authority. Likewise, tensions arose between the local bishops and the Congregation, especially with regard to the manner of exercising authority of both diocesan bishop and religious superior in relation to just autonomy of life of the Congregation, particularly in governance and apostolate. In order to minimize and resolve the difficulties and tensions among relevant parties, in the next chapter the study proceeds to propose some practical approaches and concrete canonical solutions for better administration and collaboration between diocesan bishop and superiors of the Congregation. The author will also suggest several revisions regarding the above-mentioned unclear or inapplicable norms of the proper law of the CDSSRL and propose norms which would supply for certain *lacunae* in the legislation.

CHAPTER FIVE

**PROPOSALS OF PRACTICAL APPROACHES AND CANONICAL SOLUTIONS FOR BETTER
COLLABORATION BETWEEN DIOCESAN BISHOP AND SUPERIORS OF THE
CONGREGATION OF THE DOMINICAN SISTERS OF ST. ROSE OF LIMA**

INTRODUCTION

Certain contentious matters emerged and some difficulties occurred and persisted in lay religious institutes in Vietnam, including the Dominican Sisters of Saint Rose of Lima. These difficulties and tensions are related to the question of the relationship between the diocesan bishop(s) and the institutes. More particularly, the problems concerned the ways of exercising the authority of both diocesan bishop(s) and the institutes' superior(s) in relation to the principle of just autonomy of life of the institutes, especially in their governance and works of the apostolate.

The chapter will be divided into two parts. The first part will propose practical means for collaboration between diocesan bishop(s) and DSSRL's superior(s), including annual meeting between superior(s) and the diocesan bishop(s)/local ordinaries, mutual dialogue in the spirit of respect and collaboration for the common good of the Church, fostering the relationship and cooperation in the works of evangelization, charity, justice and peace and religious freedom, and the use of mediation to resolve tensions. The second part of the chapter will propose canonical solutions on issues related to the interpretation of universal, particular, and proper law, the authority and obligations of diocesan bishops towards religious institutes of diocesan right, and the revision of the DSSRL's proper law.

5.1. Practical Means for Collaboration between Diocesan Bishops and Religious Superiors in the Vietnamese Context

The DSSRL has cooperated and collaborated with many diocesan bishops and parish priests, and with other religious institutes, societies of apostolic life in works of apostolate (e.g., pastoral work at parishes, religious and moral education, liturgical formation of the faithful, catechetical instruction, etc.). These efforts produced good fruits in evangelization, but on the other hand, due to the deficiency in understanding the DSSRL's charisms, poor dialogue, and the lack of respect for the dignity, rights and competence of the respective parties, some contentions matters and difficulties appeared.

5.1.1. Annual Meetings between Religious Superiors and the Diocesan Bishops/ Local Ordinaries

The *ius vigens* does not expressly mention annual meetings between religious superiors and the diocesan bishops/local ordinaries to foster good relationship. However, it expressly establishes the right and the duty of diocesan bishop to visit the individual houses of an institute of diocesan right located in his own territory (see c. 628, §2), churches and oratories which the Christian faithful habitually attend, all schools, and other works of religion or charity whether spiritual or temporal, entrusted to religious (see c. 683, §1). Universal law does not specify how often such episcopal visitations should be carried out. However, canon 396, §1 determines that the diocesan bishop “[...] is obliged to visit the diocese annually either in whole or in part, so that he visits the entire diocese at least every five years either personally or, if he has been legitimately impeded, through the coadjutor

bishop, an auxiliary, vicar general, episcopal vicar, or another presbyter.” Nevertheless, the demands of life dictate that besides episcopal visitations that are required by universal law, it is necessary to set other meetings between diocesan bishops and religious superiors of institutes of diocesan right to enhance the relationship between them.

This particular initiative would correspond to the exhortation of the Congregation for Bishops in *Apostolorum successores*, no. 102:

For the sake of improved coordination of different apostolic works and programs within the diocesan pastoral context, and with a view to becoming better acquainted and fostering mutual esteem, it is good that the Bishop should *regularly meet the Superiors* of the institutes. This should provide an excellent opportunity for sharing experiences, identifying goals for evangelization and finding suitable methods to meet the needs of the faithful, so that the institutes can plan new apostolic activities and improve existing ones.¹

Pope John Paul II in his apostolic exhortation *Pastores gregis* urged bishops to find special occasions for listening to the religious in order to promote and encourage a spirituality of communion,² show esteem to and promote consecrated men and women since through their presence and ministry, they significantly enrich the ecclesial communion.³

Meetings of diocesan bishops, whether the diocesan bishop of the principal seat and other diocesan bishops, with religious superiors could be set annually or at least biannually.

¹ CONGREGATION FOR BISHOPS, Directory for the Pastoral Ministry of Bishop *Apostolorum successores*, 22 February 2004 (=AS), no. 102, Libreria editrice Vaticana, 2004, 115.

² See JOHN PAUL II, Post-Synodal Apostolic Exhortation on the Bishop, Servant of the Gospel of Jesus Christ for the Hope of the World *Pastores gregis*, 16 October 2003 (=PG), no. 22, in AAS, 96 (2004), 855, English translation *Servant of the Gospel of Jesus Christ for the Hope of the World* Pastores gregis, Ottawa, Canadian Conference of Catholic Bishop, 2003, 24.

³ See *ibid.*, no. 50, in AAS, 96 (2004), 890, in *Servant of the Gospel of Jesus Christ for the Hope of the World* Pastores gregis, 52.

For the diocesan bishop of the principal seat, participation in such encounters would provide him with an opportunity to listen to the major superiors' concerns regarding the life, the governance, the formation, the works of apostolate and charity of the entire Institute and be informed about the essential work accomplished by the Institute's members. Likewise, other diocesan bishops would have an opportunity to listen to the religious superiors' concerns regarding the life of a house (or houses) of the Institute, located in their respective particular churches, learn about the challenges experienced by religious due to the changing times, and be informed about the apostolic works accomplished in their respective and other dioceses, by the Institute members.

Once the concerned bishops understand the joyful and painful aspects of the life of the religious institute, they might be able to encourage the religious to embrace fully the gifts of the Holy Spirit by observing faithfully the evangelical counsels and the institute's purpose, spirit, character, sound traditions and discipline and thus move forward in their spiritual journey to serve God and the people of God and to witness the holiness in today's world.⁴ At such meetings, moreover, the bishops might also provide reflections on their own experience regarding the contribution of the religious institutes to the apostolic and charitable works in the diocese. Additionally, such meetings would provide the bishops with opportunities to address the needs and problems of the diocese, identify current and future directions for pastoral works, charity activities, formation, and evangelization strategies. Sharing with religious superiors the visions and ongoing projects and plans for

⁴ See VC, nos. 36-37, in AAS, 88 (1996), 410-411, in *Origins*, 25 (1996), 693.

their particular churches would be a privileged time for the bishop to seek further cooperation and collaboration of the institute in their pastoral ministry.

5.1.2. Mutual Dialogue in All Matters in the Spirit of Respect, and Collaboration for the Common Good

The call to dialogue raised by the Church from the time of the Second Vatican Council in the 1960s, has recently received attention, particularly of Pope Francis who invited the Church to dialogue not only with the modern world⁵ but also within the Catholic Church, e.g., dialogue within the episcopal conference,⁶ between the bishops and religious/superiors of religious institutes,⁷ between the bishops and the priests and cooperators/coordinators,⁸ between the bishops and the Christian faithful.⁹

In the Directives for Mutual Relations between Religious and Bishops in the Church *Mutuae relationes*, the Congregation for Religious and Secular Institutes and the Congregation for Bishops called for a mutual dialogue between diocesan bishops and superiors of religious institutes present in the diocese.¹⁰ The *Mutuae relationes* also urged

⁵ See FRANCIS, Apostolic Exhortation on the Proclamation of the Gospel in Today's World *Evangelii gaudium*, no. 238, in AAS, 105 (2013), 1116, in USCCB, *The Joy of the Gospel* *Evangelii gaudium*, 115.

⁶ See AS, no. 31, 48-49.

⁷ See MR, nos. 38, 40 in AAS, 70 (1978), 495-496, in CLD, vol. 9, 326-327. See also FRANCIS, Speech in the Meeting with Superiors General of Religious Institutes in Rome, 27-29 November 2013, in *La Civiltà Cattolica*, 3 January 2014, 6.

⁸ See AS, no. 53, 66-67.

⁹ See FRANCIS, Post-Synodal Apostolic Exhortation on Love in the Family *Amoris laetitia*, 19 March 2016 (=AL), nos. 136-141, in AAS, 108 (2016), 365-366, English translation *The Joy of Love: On Love in the Family*, New York, Paulist Press, 2016, 102-105.

¹⁰ See MR, nos. 38, 40, in AAS, 70 (1978), 495-496, in CLD, vol. 9, 326-327.

the religious superiors to cooperate “[...] actively and dialogue with the bishops in seeking solutions, in arranging the programming of choices made, in launching experiments, even completely new ones, always acting in view of the most urgent needs of the Church and in conformity with the norms and directives of the Magisterium and according to the nature of their institute.”¹¹ At the meeting with 120 male superiors general of religious institutes from around the world, on 29 November 2013, Pope Francis stressed that: “Dialogue between the bishop and religious must be rescued so that, due to a lack of understanding of their charisms, bishops do not view religious simply as useful instruments.”¹²

In the light of the teaching of the Church and the experience of the Church in general, and in Vietnam in particular, several practical proposals to build a mutual dialogue between diocesan bishop(s) and superior(s) of the religious institutes are suggested below.

¹¹ Ibid., no. 41, in *AAS*, 70 (1978), 496, in *CLD*, vol. 9, 327.

¹² FRANCIS, Speech in the Meeting with Superiors General of Religious Institutes in Rome, 6.

5.1.2.1. Respecting the Dignity and Competence of All Participants of Dialogue

Through baptism, all Christ's faithful - bishops, presbyters, deacons, women and men religious, and laity - share a true equality of dignity and action.¹³ All are called to holiness; all have the right and duty to build up the Church, each according to his or her proper vocation, gift, duty which he or she has received from the Spirit.¹⁴ Therefore, "each one, according to his proper role, must be a sign and instrument both of union with God and of the salvation of the world."¹⁵ The unity that is sought, according to Pope John Paul II "is not uniformity, but a gift of the Spirit who is present in the variety of charisms and states of life."¹⁶ Likewise, Pope Francis stated that the unity "is not uniformity, but a 'unity in diversity,' or 'reconciled diversity'."¹⁷

Concerning consecrated men and women, they are dedicated to the building up of the Church and to the salvation of the world (see c. 573, §1). Indeed, whatever the nature, spirit, and purpose of each religious institute, whether they are dedicated to contemplation (see c. 674) or apostolic action (see c. 675), they are all called to participate in the mission

¹³ See c. 204; see also VC, no. 31, in AAS, 88 (1996), 404-405, in *Origins*, 25 (1996), 691-692; cf. LG, nos. 1-17, in AAS, 57 (1965), 5-21, *FLANNERY1*, 350-369; GS, no. 23, in AAS, 58 (1966), 1044, *FLANNERY1*, 924-925.

¹⁴ See VC, no. 31, in AAS, 88 (1996), 404-405, in *Origins*, 25 (1996), 691-692.

¹⁵ MR, no. 4: "[...] singula, iuxta munus ipsorum proprium, signum debent esse ac instrumentum sive unionis cum Deo sive salutis mundi [...]" (in AAS, 70 [1978], 476, in *CLD*, vol. 9, 301).

¹⁶ VC, no. 4: "[...] Etenim in Ecclesia communio non est aequalitas, sed Spiritus donatio quae etiam per gratiarum vitaeque statuum varietatem transit [...]" (in AAS, 88 [1996], 380, in *Origins*, 25 [1996], 684).

¹⁷ AL, no. 139: "[...] non est uniformitas, sed quaedam 'unitas in diversitate' vel quaedam 'diversitas reconciliata'" (in AAS, 108 [2016], 366, in *The Joy of Love: on Love in the Family*, 104).

of the Church.¹⁸ Also, they must respect the diocesan bishop and follow his direction in all matters involving the care of souls, the public exercise of divine worship, and works of apostolate (see c. 678, §1) including the works of apostolate and works of charity entrusted by the bishop to a religious institute or individual religious (see cc. 681, §1; 683, §1).

Diocesan bishop, as the pastor of a particular Church¹⁹ and moderator of all apostolate,²⁰ is called to exercise his ministry in close union with consecrated men and women who “enrich the particular Church with fruitful charisms and the witness of holiness, charity, fraternity and mission.”²¹ Furthermore, he is urged to care for religious charisms by preserving and safeguarding a just autonomy of life of institutes of consecrated life (see c. 586, §2), especially the legitimate competence of religious superiors with regard to internal matters of institutes (see cc. 631-632; 596; 617-619; 627). The diocesan bishop is to foster religious life (cf. c. 574 §1) and protect it in conformity with its own definite characteristics.²²

In order to build a mutual dialogue between diocesan bishops and superiors of the religious institutes, the dignity of each partner in the dialogue must be respected, not because that dignity is something to be created, but because it is inherent in each human

¹⁸ See *LG*, no. 12, in *AAS*, 57 (1965), 16-17, *FLANNERY1*, 363; see also *PC*, no. 8, in *AAS*, 58 (1966), 706, *FLANNERY1*, 615-616; *CD*, nos. 33-35, in *AAS*, 58 (1966), 690-692, *FLANNERY1*, 583-586; see also *AA*, nos. 20d, 23, in *AAS*, 58 (1966), 855-856, *FLANNERY1*, 787-789.

¹⁹ See c. 383, §1.

²⁰ See c. 678, § 1; cf. *MR*, no. 9, in *AAS*, 70 (1978), 479, in *CLD*, vol. 9, 305-306.

²¹ *AS*, no. 63, 73.

²² See *MR*, no. 9c, in *AAS*, 70 (1978), 479, in *CLD*, vol. 9, 305-306.

being. Also, each party should identify his/her parameters of the exercise of authority and respect the competence of the other participant(s) in the dialog. As a result, such dialogue will not only create an atmosphere of peace, joy, understanding, and unity between the parties but also actively foster and promote a good cooperation and collaboration between the bishops and the superiors of institutes in various works of pastoral ministry and charity, all in order to build up the local Church and for the salvation of the world.

5.1.2.2. Propounding the Reality of Ecclesial Communion through the Work of Evangelization and Service to Human

In apostolic exhortation *Vita consecrata*, Pope John Paul II emphasized the necessity for collaboration in the work of evangelization which “must be done in communion and dialogue with all other sectors of the Church.”²³ He emphasized further:

[...] The challenges of evangelization are such that they cannot be effectively faced without the cooperation, both in discernment and action, of all the Church’s members. It is difficult for individuals to provide a definitive answer; but such an answer can arise from encounter and dialogue. In particular, effective communion among those graced with different charisms will ensure both mutual enrichment and more fruitful results in the mission in hand [...].²⁴

Pope John Paul II also called for the communion and dialogue among members of the Church in order to promote an ecclesial cooperation and apostolic spirituality because according to him “‘dialogue is the new name of charity,’ especially charity within the Church.”²⁵ In addition, the Congregation for Bishops stressed a mutual dialogue in

²³ VC, no. 74, in AAS, 88 (1996), 449, in *Origins*, 25 (1996), 706.

²⁴ Ibid.

²⁵ Ibid., in AAS, 88 (1996), 450.

collaboration and cooperation in the apostolic and pastoral endeavors between the bishop and superiors in order to introduce and present detailed programs, projects, and directions.²⁶ In such a dialogue, religious are to be “[...] given the opportunity to share with their pastoral leaders their thoughts, ideas, insights and frustrations concerning the situation of religious in the Church.”²⁷

The dialogue between the diocesan bishop and the superiors of an institute is to create a platform for living out ecclesial communion within the particular church at the service of better cooperation and collaboration in the work of evangelization and in common areas of service to human life, e.g., charity and social work or justice and peace issues.

5.1.2.3. Fostering the Positive Attitude towards Each Partner of the Dialogue

The participants should keep in mind the golden rule spoken by Jesus in the Sermon on the Mount: “Do to others whatever you would have them do to you” (Mt 7:12; cf. Lk 6:31). Pope Francis notes that in any dialogue or argument, what is important is not to win or to be proven right, but show affection and concern for the other person, namely, based on the position supported by solid choices, beliefs or values of each person.²⁸

²⁶ See AS, no. 110, 121-124. Cf. CD, no. 35, in AAS, 58 (1966), 690-692, *FLANNERY1*, 584-585; also cf. cc. 678, 738, § 2.

²⁷ E. RINERE, “Dialogue between Bishops and Religious,” in *Review for Religious*, 45 (1986), 368.

²⁸ See AL, no. 140, in AAS, 108 (2016), 366, in *The Joy of Love: on Love in the Family*, 105.

Technically speaking, dialogue is a process of genuine interaction among participants. Thus, all participants are encouraged to share openly and sincerely their concerns, hopes and dreams, pain, disappointment, fear, anger, etc. Essentially, listening patiently and attentively is a fundamental element of a mutual dialogue. Pope John Paul II in *Pastores gregis* calls for the bishop to be a model of attentive listening in order that “through the evangelical exercise of his authority, he will be ready to dialogue with his co-workers and the faithful in order to build effective mutual understanding.”²⁹ Patient and attentive listening encourages the speaker to be open and to trust the listener, and conversely, the listener can better understand the matters that the speaker is sharing.

Gentle and respectful attitudes, gestures, and words should be present in the dialogue. Here we find the fundamental principle that Saint Paul stressed in the Letter to the Ephesians: “No foul language should come out of your mouths, but only such as is good for needed edification, that it may impart grace to those who hear” (Eph 4:29). “[...] all bitterness, fury, anger, shouting, and reviling must be removed from you, along with all malice” (Eph 4:31). Likewise, in the Letter to the Colossians, Saint Paul admonished them that all anger, fury, malice, slander, and obscene language must be put away (see Col 3:8). Similarly, Pope Francis urged that in a mutual dialogue “[...] we need to develop certain attitudes that express love and encourage authentic dialogue” by paying attention to the “[...] way of asking and responding to questions, the tone we use, our timing and any

²⁹ *PG*, no. 19, in *AAS*, 96 (2004), 851, in *Servant of the Gospel of Jesus Christ for the Hope of the World Pastores gregis*, 21. Cf. *LG*, nos. 27, 37, in *AAS*, 57 (1965), 32-33, 42-43, *FLANNERY*1, 382-384, 394-395.

number of other factors [which] condition how well we communicate.”³⁰ He added, “[...] words should be carefully chosen so as not to offend, especially when discussing difficult issues. Making a point should never involve venting anger and inflicting hurt. A patronizing tone only serves to hurt, ridicule, accuse and offend others.”³¹

Building a mutual dialogue between diocesan bishops and superiors of the religious institutes requires that both parties promote and create an atmosphere of respect, honesty, openness, gentleness, patience, attentive listening and concern for the well-being of each partner. As a result, they may reach effective mutual understanding and find a common ground in cooperating and collaborating in their efforts for the good of the Church.

5.1.2.4. Appreciation of Each Partner of the Dialogue

Strictly speaking, in a dialogue, right of freedom to speak out one’s thoughts and concerns should be fully respected since the participants must be given the opportunity to exchange opinions and experiences, and to propose and respond. In Directory for the Pastoral Ministry of Bishop *Apostolorum successores*, the Congregation for Bishops called for the bishop to respect the freedom of opinion and of action and the legitimate rights of the faithful. More recently, Pope Francis stressed that the “fraternal communion is enriched by respect and appreciation for differences within an overall perspective that advances the common good. We need to free ourselves from feeling that we all have to be alike.”³² Pope

³⁰ AL, no. 136, in AAS, 108 (2016), 365, in *The Joy of Love: on Love in the Family*, 102.

³¹ Ibid., no. 139, in AAS, 108 (2016), 366, in *The Joy of Love: on Love in the Family*, 104.

³² Ibid., in AAS, 108 (2016), 365.

Francis also emphasized in *Amoris laetitia*, no. 138 that: “everyone has something to contribute, because they have their life experiences, they look at things from a different standpoint and they have their own concerns, abilities and insights. We ought to be able to acknowledge the other person’s truth, the value of his or her deepest concerns, and what it is that they are trying to communicate, however aggressively.”³³ He adds further that “we have to put ourselves in their shoes and try to peer into their hearts, to perceive their deepest concerns and to take them as a point of departure for further dialogue.”³⁴

In order to have a mutual dialogue between diocesan bishops and superiors of the religious institutes, both parties need to appreciate each other by recognizing each other’s right to exist and freedom to speak out their thoughts and concerns. All those appreciations should originate in an esteem of the value and worth of the partner. Through the recognition and respect of the fundamental human values, of thoughts and concerns of each other, a fraternal relationship can be created and different points of view accepted more easily. Then, the cooperation in the service of the people of God in the works of apostolate and charity will be enhanced.

5.1.2.5. Introducing and Implementing Practical Proposals and Solutions

All participants of the dialogue should evaluate pastoral works, charity activities, formation, and evangelization initiatives to find out the sources of problems that had occurred and have persisted. Once everything is identified, perceptions of the problems

³³ Ibid., no. 138, in *The Joy of Love: on Love in the Family*, 103.

³⁴ See *ibid.*

and misperceptions of the persons involved should be clarified. Then, both bishops and religious superiors need to cooperate and collaborate to identify current and future directions for pastoral strategies as well as the visions and ongoing projects.

It should be kept in mind that the diocesan bishop as the pastor of a particular Church has ultimate and decisive authority to choose among the proposals according to his prudential judgement. Religious superiors will promote and encourage to implement the accepted approaches in the spirit of ecclesial communion, cooperation, and collaboration in order to enrich the particular Church through the particular charisms of their institutes and the witness of holiness, charity, and fraternity among the institutes' members.

In short, the Church points to the crucial need for dialogue between the local bishops and religious superiors since a mutual dialogue is a useful way to create a greater understanding, respect, sympathy, resolution of conflicts and problems,³⁵ and greater cooperation and collaboration in the mission of the Church.

³⁵ See *MR*, nos. 38, 40, in *AAS*, 70 (1978), 495-496, in *CLD*, vol. 9, 326-327. See also FRANCIS, Speech in the Meeting with Superiors General of Religious Institutes in Rome, 7.

5.1.3. Fostering the Cooperation and Collaboration in the Works of Evangelization, Charity, and Justice and Peace

At the present, in the Church in Vietnam, the lay religious institutes operate retreat centers, hospitals, medical clinics, schools, residential houses for students, nursing homes, orphanages, shelters, and mental health facilities for men and women. All these works are greatly valued and appreciated by the diocesan bishops, and even by the local civil authority. However, it seems that there is no sufficient collaboration between the local bishops and the religious institutes in the above-mentioned works. Thus, in the light of the teaching of the Church and canon law and the current circumstances in Vietnam, some practical approaches to cooperation and collaboration between the bishops and the religious institutes in a diocese are suggested for consideration.

5.1.3.1. Works of Evangelization: Cooperation in the Ministry within the Particular Church

Cooperation and collaboration between local bishops and religious institutes in the mission of the Church should always be encouraged, fostered, and even made urgent by the Church, to build up the Church and pursue its evangelizing mission (see 1 Cor 14:26) as they both serve the People of God and promote and safeguard human dignity (see 1 Cor 2:4-6).

5.1.3.1.1. Cooperation in the Exercise of Ecclesiastical Power in the Particular Church

Without entering into the doctrinal debate about the capacity of lay people to exercise ecclesiastical power of governance or jurisdiction, lay persons fulfill their

functions under the authority of, respectively, the pastor or the diocesan bishop. In fact, the Apostolic Signatura acknowledged that: “[...] the administrative act, inasmuch as it proceeds from a person who possesses administrative power, is also able to be derived from a lay person, who might have been called to cooperate in the exercise of power (administrative or executive) according to the norm of law.”³⁶ Consequently, a woman religious can cooperate in the exercise of the power of governance (see c. 129, §2) or, in a broader sense, administrative power:

Can. 228 §1. Lay persons who are found suitable are qualified to be admitted by the sacred pastors to those ecclesiastical offices and functions which they are able to exercise according to the precepts of the law.

§2. Lay persons who excel in necessary knowledge, prudence, and integrity are qualified to assist the pastors of the Church as experts and advisors, even in councils according to the norm of law.

The Code identifies a number of ecclesiastical offices through which a woman religious can cooperate in the exercise of the power of governance or administrative power; these are especially: chancellor of the diocesan curia (see c. 482, § 1), vice-chancellor (see c. 482, §2), notary (see cc. 482 §3; 483, §1), financial officer (see c. 494, §1), member of the diocesan finance council (see 492, §1), director of a Catholic school (see c. 806, §2), administrator of an ecclesiastical juridic person (see c. 1279, §2), judge in collegiate tribunal (see c. 1421, §2), assessor (see c. 1424), auditor (see c. 1428, §2), defender of the bond and promoter of justice (see c. 1435), advocate and procurator (see c. 1483), expert

³⁶ “Canon 1400, §2 – Controversies from an Act of Administrative Power,” in *Roman Replies and CLSA Advisory Opinions 1991*, K. VANN and L. JARRELL (eds.), Washington, DC, CLSA, 1991, 37; cf. J. BEAL, “Hierarchical Recourse: Procedures at the Local Level,” in *Proceedings of the Annual Convention of the Canon Law Society of America*, 62 (2000), 95.

in the tribunal (see c. 1574). In particular, a woman religious can be entrusted by a diocesan bishop in participating in the exercise of the pastoral care of a parish due to the shortage of priests in the diocese. In such a case, the sister taking on this role is fulfilling it under the direction of the priest moderator (see c. 517, §2).³⁷

5.1.3.1.2. Cooperation in the Exercise of the Teaching and Sanctifying Functions in the Particular Church

Besides these offices, a woman religious can fulfil numerous offices related to the teaching and sanctifying functions of the Church: she can serve as extraordinary minister of baptism (see c. 861, § 2),³⁸ an extraordinary minister of Holy Communion (see c. 910, §2), bring the Most Holy Eucharist as Viaticum to the sick (see c. 911, §2), cooperate in the exercise of the ministry of the Word (see c. 759), preside at funeral services,³⁹ assist at marriage where there is a lack of priests and deacons (see c. 1112, §1),⁴⁰ preside the Liturgy of the Word on Sundays and Holy Days of Obligation because of the absence of a sacred

³⁷ Canon 517, §2 permits a bishop to entrust the participation in the exercise of pastoral care of a parish without a resident pastor to a non-ordained person, under the supervision of the priest moderator. However, the offices of parish priest (see c. 519) and parish administrator (see c. 539) are reserved for priests (*sacerdotes*).

³⁸ See CONGREGATION FOR THE CLERGY, *Instruction on the Pastoral Conversion of the Parish Community in the Service of the Evangelizing Mission of the Church*, 20 July 2020, art. 98, 2°, The Holy See Press, 16.

³⁹ As provided in no.19 of the Praenotanda of the Order of Christian Funerals (see *ibid.*, art. 98, 3°).

⁴⁰ Canon 1112, §1 reads as follow: “Where there is a lack of priests and deacons, the diocesan bishop can delegate lay persons to assist at marriages, with the previous favorable vote of the conference of bishops and after he has obtained the permission of the Holy.” Cf. *PB*, art. 63, in *AAS*, 80 (1988), 876, in *Code of Canon Law*, 711, regarding the competence of the Congregation for Divine Worship and the Discipline of the Sacraments; see also CONGREGATION FOR THE CLERGY, *Instruction on the Pastoral Conversion of the Parish Community in the Service of the Evangelizing Mission of the Church*, art. 100, 16-17.

minister or for another grave cause (see c. 1248, §2),⁴¹ present the Gospel teaching as a catechist (see c. 785, §1), engage in liturgical worship as psalmist, commentator, cantor or music director, sacristan, church usher, or function as expert and advisor of the pastors of the Church (see c. 228, §2).

5.1.3.1.2.1. Preaching the Word of God

Preaching the Word of God is among the principal duties of those who have received the sacrament of orders (see cc. 762-764), especially for pastors of souls – bishops and parish priests (see c. 771, §1). However, the lay faithful can be called to cooperate with bishops and priests in the exercise of the ministry of the Word (see c. 759). Also, canon 758 instructs that: “By virtue of their consecration to God, members of institutes of consecrated life give witness to the gospel in a special way and the bishop appropriately calls upon them to help in proclaiming the gospel.” For the spiritual advantage of the faithful in the areas where the absence or shortage of clergy is felt or particular language requirements call for that, the religious may cooperate with the diocesan bishop in preaching the Word of God in churches, oratories or other sacred places, giving religious instruction, guiding retreats, or offering spiritual conferences (see c. 766).

However, it should be kept in mind that preaching the homily is reserved for the sacred minister, priests and deacons (see c. 767, §1). The Instruction on Certain Questions regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priest

⁴¹ See also CONGREGATION FOR THE CLERGY, *Instruction on the Pastoral Conversion of the Parish Community in the Service of the Evangelizing Mission of the Church*, art. 98, 1^o, 16.

(1997) stresses that “this exclusion is not based on the preaching ability of sacred ministers nor their theological preparation, but on that function which is reserved to them in virtue of having received the Sacrament of Holy Orders.”⁴² For that reason, the diocesan bishop cannot validly dispense from canon 767, §1 since “this is not merely a disciplinary law but one which touches upon the closely connected functions of teaching and sanctifying.”⁴³ It should be noted that this prohibition pertains only to the preaching of a homily during the liturgy. The religious sisters may be permitted by the diocesan bishop to preach in a non-liturgical ceremony in a church or oratory, when he judges it to be to the spiritual advantage of the faithful in certain circumstances, or where it seems useful in particular cases, namely, giving the Scriptures instruction, guiding retreats, or offering spiritual conferences (see c. 766). The Instruction mentions also a possibility of offering personal testimonies during the celebration of Eucharistic liturgies on special occasions (for instance, day of vocations to the consecrated life, day of the sick, etc.) as a means of explicating the homily preached by a cleric, without however provoking any confusion as to the subsidiary character of such pronouncements by lay persons.⁴⁴

⁴² *EM*, art. 3, §1: “Etenim non agitur de maiore speciali ingenio ad rem exponendam vel praeparatione theologica, sed de munere reservato illi qui sacramento Ordinis est insignitus” (in *AAS*, 89 [1997], 865, in *Sacred Music*, vol. 124 [1997], 22).

⁴³ Regarding canon 767, § 1, the Pontifical Commission for the Authentic Interpretation of Legal Texts was asked: “Q: Whether the diocesan bishop is able to dispense from the prescription of canon 767, §1, by which the homily is reserved to priests or deacons? R. Negative” (PONTIFICAL COUNCIL FOR THE AUTHENTIC INTERPRETATION OF THE CODE OF CANON LAW, Response on 20 June 1987, in *AAS*, 79 [1987], 1249, English translation in *CLD*, vol. 12, 446; cf. *EM*, art. art. 3, §1, in *AAS*, 89 (1997), 865, in *Sacred Music*, vol. 124 (1997), 22).

⁴⁴ See *EM*, art. 3, §2, in *AAS*, 89 (1997), 865, in *Sacred Music*, vol. 124 (1997), 22.

Before appointing a religious to preach in such instances, the diocesan bishop should carefully determine the appropriate circumstances, taking into account particular laws in his diocese (cf. c. 772, §1), namely, the absence or shortage of clergy, specific language requirements and the qualifications of the appointed individuals, i.e., expertise, experience, orthodoxy in faith. In the letter of appointment, the diocesan bishop needs to specify clearly the type of preaching, its place and time, and/or particular circumstances and other similar aspects. Lay preachers must take care that they be well-prepared for their task in order to bring much spiritual fruit to the faithful.

The contemporary means of communication offer great opportunities for preaching the Word of God to Catholics, other Christians, and the non-baptized, not only on the local level but truly everywhere in the world. There is, therefore, a shift from the traditional means of preaching the Word of God to an extensive use of social communication, i.e., radio, television, internet, Facebook, Twitter, Instagram, etc. In order to produce concrete and lasting results, the minister - whether a cleric (diocesan or religious) or/and an authorized laity (religious or lay person) - should be trained, possibly in a Catholic university or an institute of higher studies,⁴⁵ in the technical aspects of using various means of social communication and the methods of presenting the content of preaching in cross-

⁴⁵ See NOBEL, "To Proclaim the Gospel Online – Challenges and Difficulties," 116 and footnote no. 66, 116.

cultural online contexts.⁴⁶ After completion of the program, the candidate would receive a certificate to be submitted with the *nihil obstat* request.⁴⁷

In the same line of thinking as Michael Nobel, the author of this thesis recommends a policy which should address the requirement of a *nihil obstat* for those authorized to preach online in the name of the Church⁴⁸ since, due to the nature of the internet, “it is an impossible task to keep track of who makes what available and where.”⁴⁹ The competent authority to grant a *nihil obstat* is the diocesan bishop who is the pastor of a particular Church⁵⁰ and moderator of all apostolate in the diocese.⁵¹ This *nihil obstat* can be granted by the bishop himself or his delegate.⁵²

More importantly, the preachers of the Divine Word online should keep in mind the basic demands with regard to the content of preaching, which “[...] must be in line with

⁴⁶ K. ST. AMANT, “When Computers and Cultures Collide: Rethinking Computer Mediated Communication according to International and Intercultural Communication Expectations,” in *Journal of Business and Technical Communication*, 16 (2002), 202. See also NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties,” footnote no. 32, 99.

⁴⁷ Ibid., 116. Nobel points out further that “these courses would apply also to parish priests, and be successfully completed by any cleric to be considered qualified to proclaim the gospel online; this qualification does not grant the right to proclaim the gospel online, i.e., a parish priest does not have the right to proclaim the gospel online, he has this responsibility by law for his parishioners, but online ministry of the word goes beyond his competency,” *ibid.*, 115.

⁴⁸ Cf. c. 772, §2. According to Nobel: “If an unauthorized lay person proclaims the gospel in his/her own name, a diocesan *nihil obstat* is not required, but the material presented could be subject to scrutiny. Furthermore, any person who is forbidden from proclaiming the gospel online is prohibited from doing so. The use of pseudonyms out of ignorance, deception, malice, to avoid penalties, etc., if verified, would result in administrative actions” (NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties,” 117).

⁴⁹ NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties,” 98.

⁵⁰ See c. 383, §1.

⁵¹ See c. 678, § 1; cf. *MR*, no. 9, in *AAS*, 70 (1978), 479, in *CLD*, vol. 9, 305-306.

⁵² See NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties,” 116.

the magisterial teaching of the Church,”⁵³ and should avoid any inappropriate language, and speech.⁵⁴ Especially “the material presented cannot contain any persuasive words of human wisdom or profane display of a vain or ambitious eloquence.”⁵⁵ Furthermore, those who do preach the Divine Word online are also bound by c. 823, §1, that is, they are to submit his or her preaching’s content to prior judgment of diocesan bishop.⁵⁶

5.1.3.1.2.2. Catechetical-Liturgical Formation

Catechesis “is an education of children, young people and adults in the faith, which includes especially [...] the initial proclamation of the Gospel or missionary preaching through the kerygma to arouse faith, apologetics or examination of the reasons for belief, experience of Christian living, celebration of the sacraments, integration into the ecclesial community, and apostolic and missionary witness.”⁵⁷

Pope John Paul II, in the Post-Synodal Apostolic Exhortation on Catechesis in Our Time *Catechesi tradendae* remarked on the place of catechesis in the Church’s pastoral programs whether on the local or the universal level.⁵⁸ He urged that the catechetical activity be put as the priority over all other works and treated as the prime aspect of the

⁵³ Ibid., 118.

⁵⁴ See *ibid.*, 104, 106.

⁵⁵ Ibid., 117.

⁵⁶ See *ibid.*, 95.

⁵⁷ JOHN PAUL II, Post-Synodal Apostolic Exhortation on Catechesis in Our Time *Catechesi tradendae*, 16 October 1979 (=CT), no. 18, in AAS, 71 (1979), 1291-1292, English translation in *FLANNERY2*, 772.

⁵⁸ See *ibid.*, no. 15, in AAS, 71 (1979), 1289, *FLANNERY2*, 770-771.

Church's mission.⁵⁹ At the same time, he indicated that there is a constant need for renewal in catechesis by "a certain broadening of its concept, by the revision of its methods, by the search for suitable language, and by the utilization of new means of transmitting the message."⁶⁰ The Pope also reminded all (himself, the bishops, priests, men and women religious, lay catechists, parents) about their respective responsibilities with regard to catechesis.⁶¹ Likewise, the current law reaffirms the priority of catechetical formation of adults, youth, and children that is entrusted to all faithful, especially the parish priest with the help of "the clerics attached to the parish, of members of institutes of consecrated life and of societies of apostolic life, taking into account the character of each institute, and of lay members of the Christian faithful, especially of catechists."⁶²

Men and women religious in Vietnam in general, and the Dominican Sisters of Saint Rose of Lima in particular, have been deeply committed to the catechetical work of the Church by providing religious education to children, youth and adults in accordance with the charisms and purposes of each institute,⁶³ taking into account the General Catechetical Directory (1971),⁶⁴ and also the General Directory for Catechesis of Catholic Bishops' Conference of Vietnam (2017).⁶⁵ Particularly, due to social changes of recent

⁵⁹ See *ibid.*

⁶⁰ *Ibid.*, no. 17, in AAS, 71 (1979), 1290-1291, *FLANNERY2*, 771-772.

⁶¹ See *ibid.*, no. 16, in AAS, 71 (1979), 1289-1290, *FLANNERY2*, 771.

⁶² Canon 776.

⁶³ Cf. *CT*, no. 65, in AAS, 71 (1979), 1330-1331, *FLANNERY2*, 802.

⁶⁴ See CONGREGATION FOR THE CLERGY, General Directory for Catechesis *Ad normam decreti*, 11 April 1971 (=GDC [1971]), in AAS, 64 (1972), 97-176, English translation in *FLANNERY2*, 529-605.

⁶⁵ CATHOLIC BISHOPS' CONFERENCE OF VIETNAM, *General Directory for Catechesis*, Hà Nội, Tôn Giáo Publication, 2017.

time, religious actively cooperate and collaborate with the diocesan clerics in catechetical education and instruction by devoting their time and talent to provide a harmonious vision and creative methods of catechesis in order to transmit the content which is fundamentally Christocentric:⁶⁶ “at the heart of catechesis we find, in essence, a Person, the Person of Jesus of Nazareth, ‘the only Son from the Father [...] full of grace and truth,’ (Jn. 1:14) who suffered and died for us and who now, after rising, is living with us forever.”⁶⁷ The goal of catechesis is not only to impart knowledge but also to integrate Christian formation, “open to all the other factors of Christian life” (CT, no. 21b),⁶⁸ such as liturgical education, moral formation, education for community life, and missionary initiation⁶⁹ so that the “catechetical instruction, which illumines and strengthens the faith develops a life in harmony with the Spirit of Christ, stimulates a conscious and fervent participation in the liturgical mystery and encourage men to take an active part in the apostolate.”⁷⁰

Based on the new Directory for Catechesis of the Pontifical Council for Promoting the New Evangelization (2020),⁷¹ the DSSRL’s Sisters, as catechists, cooperate and coordinate with the bishops and parish priests in formation and instruction catechists.

⁶⁶ See CONGREGATION FOR THE CLERGY, General Directory for Catechesis *Ad normam decreti*, no. 98, in AAS, 64 (1972), 157, *FLANNERY2*, 585-586. Cf. *Catechism of the Catholic Church*, Collegeville, MN, The Liturgical Press, 1994, 426-429; CT, nos. 5-6, in AAS, 71 (1979), 1280-1281, *FLANNERY2*, 764-765.

⁶⁷ CT, no. 5, in AAS, 71 (1979), 1280-1281, *FLANNERY2*, 764.

⁶⁸ CONGREGATION FOR THE CLERGY, General Directory for Catechesis *Ad normam decreti*, no. 84, in AAS, 64 (1972), 150, *FLANNERY2*, 579.

⁶⁹ See *ibid.*, nos. 85-86, in AAS, 64 (1972), 150-151, *FLANNERY2*, 579-580.

⁷⁰ *Ibid.*, no. 84, in AAS, 64 (1972), 150, *FLANNERY2*, 579. See also SECOND VATICAN COUNCIL, Declaration on Education *Gravissimum educationis*, 28 October 1965, no. 4, in AAS, 58 (1966), 732, English translation in *FLANNERY1*, 730; cf. c. 788, §2.

⁷¹ See CONGREGATION FOR THE CLERGY, *General Directory for Catechesis*, 23 March 2020 (=GDC [2020]), Washington, DC, USCCB, 2020.

Firstly, sisters engaged in catechesis study carefully and in depth the content, pedagogy, as well as the methodology of the new Directory for Catechesis. Secondly, they dedicate themselves to the specific work of catechesis in the diocesan and parochial settings, highlighting the close link between catechesis and evangelization in three major principles of action: witnessing (catechesis in a missionary going forth), mercy (catechesis under the sign of mercy) and dialogue (catechesis as a laboratory of dialogue). In accordance with the Congregation's charism, the DSSRL's priority is formation of children,⁷² adolescents, and young adults.⁷³ Besides the above mentioned priority, sisters provide catechesis for adults who sincerely desire to deepen their faith, those who have been baptized but who have not been sufficiently catechized, those who identify themselves as Catholics, but who have fallen away from or have not practiced the faith,⁷⁴ and also non-baptized persons.⁷⁵ This catechesis is provided either at the request of individuals or at the request of parish priests. Furthermore, the DSSRL's sisters extend their care to those who suffer from various types of disabilities or physical or mental problems, especially children:

Every Christian community considers those who suffer handicaps, physical or mental, as well as other forms of disability - especially children - as persons particularly beloved of the Lord. A growth in social and ecclesial consciousness, together with undeniable progress in specialized pedagogy, makes it possible for the family and other formative centers to provide adequate catechesis for these people, who, as baptized, have this right and, if non-baptized, because they are called to salvation. The love of the Father

⁷² Cf. *ibid.* nos. 177-179, 143-147; *GDC* (1971), nos. 78-81, in *AAS*, 64 (1972), 146-148, *FLANNERY2*, 575-577; cf. also *CT*, no. 37, in *AAS*, 71 (1979), 1308-1309, *FLANNERY2*, 785.

⁷³ Cf. *GDC* (2020), no. 181, 148-149; *GDC* (1971), no. 83, in *AAS*, 64 (1972), 149-150, *FLANNERY2*, 578-579.

⁷⁴ *GDC* (2020), no. 172, 154; cf. *CT*, nos. 43-44, in *AAS*, 71 (1979), 1312-1313, *FLANNERY2*, 788.

⁷⁵ Cf. *CT*, no. 19, in *AAS*, 71 (1979), 1292-1293, *FLANNERY2*, 773-774.

for the weakest of his children and the continuous presence of Jesus and His Spirit give assurance that every person, however limited, is capable of growth in holiness.⁷⁶

Last but not least, the DSSRL has provided personnel to cooperate with the diocesan bishops and parish priests to open classes to train new catechists as well as to offer seminars, and short courses for catechists at the diocesan and parish levels. By highlighting catechesis and evangelization in the socio-religious context⁷⁷ of Vietnam (people of other faiths, people of no faith, and others in human society in spiritual and material need)⁷⁸ and being mindful of the demands of ecumenism,⁷⁹ the response of the Congregation to the pastoral needs of the Church in Vietnam aims at a creative adaptation of proven theologico-pastoral instruments to new situations and demands.

In order that catechesis be fruitful within the process of missionary discipleship outlined in the new Directory for Catechesis, the DSSRL's sisters are conscious of the necessity to keep in mind that the true face of God and His loving plan of salvation for humankind that has been revealed in His Son, Jesus Christ must be expressed honestly and correctly.⁸⁰ In order to do so, they need to be nourished by the Gospel, deepen their

⁷⁶ *GDC* (2020), no. 189, 161; cf. *GDC* (1971), no. 91, in *AAS*, 64 (1972), 152-153, *FLANNERY2*, 581; cf. also *CT*, no. 41, in *AAS*, 71 (1979), 1311-1312, *FLANNERY2*, 787.

⁷⁷ See *GDC* (2020), no. 202, 211; cf. also *EN*, no. 20, in *AAS*, 68 (1976), 18-19, *FLANNERY2*, 719; *CT*, no. 53, in *AAS*, 71 (1979), 1319-1321, *FLANNERY2*, 794-795.

⁷⁸ See *GDC* (2020), nos. 193-194, 192-193; cf. PAUL VI, apostolic exhortation *Evangelii nuntiandi*, 8 December 1975 (= *EN*), no. 54, in *AAS*, 68 (1976), 43, English translation in *FLANNERY2*, 735.

⁷⁹ See *GDC* (2020), nos. 197-198, 204-205; cf. *GDC* (1971), no. 27, in *AAS*, 64 (1972), 115, *FLANNERY2*, 546; cf. also *EN*, no. 54, in *AAS*, 68 (1976), 43, *FLANNERY2*, 735; *CT*, nos. 32-34, in *AAS*, 71 (1979), 1304-1307, *FLANNERY2*, 781-784.

⁸⁰ See *GDC* (2020), no. 23, 13-14.

“encounter with God and forge a bond of permanent communion with Him,”⁸¹ and be His witnesses of faith, love and mercy before the world.⁸² Indeed, all aspects of proclamation of the Gospel, witness of faith, love and mercy, catechetical instruction, and sacraments are the means by which the message of God is transmitted to others.⁸³ Among the above mentioned aspects, the Christian witness of the catechist’s life is the strongest factor in bringing forth fruitfulness in evangelization.

5.1.3.1.2.3. Catholic Schools and Religious-Moral Education

The diocesan bishop has the right and obligation to regulate and to watch over Catholic religious instruction and formation in any school in his territory (see c. 804, §1) and to inspect the Catholic schools situated in his territory (see c. 806, §1). Since religious-moral education is a part of the catechesis,⁸⁴ the diocesan bishop (as local ordinary) has to oversee of the qualities of teachers of religion, both in Catholic and non-Catholic schools in the diocese, regarding their “[...] correct doctrine, the witness of a Christian life, and teaching skill.”⁸⁵ He also (as local ordinary) has the right to appoint or approve teachers of religion, remove them or demand that they be removed for reasons of religion or morals (see c. 805).

⁸¹ Ibid.

⁸² See *ibid.*

⁸³ See *ibid.*, no. 46, 27.

⁸⁴ See *CT*, nos. 25-26, in *AAS*, 71 (1979), 1297-1298, *FLANNERY2*, 777-778.

⁸⁵ Canon 804, §2.

On the other hand, Catholic schools established by religious institutes are dependent on the religious institute's authority (see c. 801). Therefore, the competent superiors as defined in proper law have authority to set organizational structures and to arrange for the personnel, i.e., appoint the schools' faculty (e.g., dean/principal, an associate dean/principal, secretary, financial administrator), the professional staff (director of education student services, the advisors, coordinators, teachers). In addition, the religious superiors also have authority over the administration of goods of the schools by requiring the financial officers to render an account of their administration at the time and in the manner defined by proper law. Likewise, the religious superiors may also monitor the educational programs and practices in order to ensure that both the teachers and students meet the standards defined by the conceptual framework of the school. The superiors have also the responsibility to take care that religious instruction and education is imparted diligently in their schools (see c. 778).

It is desirable that both the diocesan bishop and religious superiors share the vision of how to provide for religious-moral education in Catholic schools. Therefore, they should seek the ways of cooperation and collaboration with one another to more effectively bring “forth [...] a Christian vision of the world, of life, of culture and of history,”⁸⁶ and to make sure that the teaching of religion in Catholic schools help students to understand “the

⁸⁶ CONGREGATION FOR CATHOLIC EDUCATION, *The Catholic School on the Threshold of the Third Millennium*, no. 14, 42.

meaning of life, the significance of reality and a responsible commitment to transform it in the light of the evangelical values and modern culture.”⁸⁷

5.1.3.1.2.4. Media Apostolate (cc. 822-832)

Living in the digital world, the use of different social communication tools (the press, cinema, radio, television, internet, website, Facebook, Twitter, Instagram, etc.) presents new opportunities to evangelize. In his message for the 47th World Communications Day “Social Networks: Portals of Truth and Faith; New Spaces for Evangelization,”⁸⁸ Pope Benedict XVI affirmed:

Social networks, as well as being a means of evangelization, can also be a factor in human development. As an example, in some geographical and cultural contexts where Christians feel isolated, social networks can reinforce their sense of real unity with the worldwide community of believers. The networks facilitate the sharing of spiritual and liturgical resources, helping people to pray with a greater sense of closeness to those who share the same faith. An authentic and interactive engagement with the questions and the doubts of those who are distant from the faith should make us feel the need to nourish, by prayer and reflection, our faith in the presence of God as well as our practical charity: “If I speak in the tongues of men and of angels, but have not love, I am a noisy gong or a clanging cymbal” (1 Cor 13:1).

In the digital world there are social networks which offer our contemporaries opportunities for prayer, meditation and sharing the word of God. But these networks can also open the door to other dimensions of faith. Many people are actually discovering, precisely thanks to a contact initially made online, the importance of direct encounters, experiences of community and even pilgrimage, elements which are always important in the journey of faith. In our effort to make the Gospel present in the digital world, we can invite people to come together for prayer or liturgical celebrations in specific places such as churches and chapels. There should be no lack of coherence or unity in the expression

⁸⁷ CONGREGATION FOR CATHOLIC EDUCATION, *Consecrated Persons and Their Mission in Schools: Reflections and Guidelines*, 28 October 2002, no. 54, in *The Journal of Catholic Education*, 7 (2003), 103. The decree *Ad gentes*, no. 12 also recommends that Christians dedicate themselves with particular care to the education of children and young people both for their formation and “as a service of great value to men, [...] to raising human dignity and promoting more human conditions” (in AAS, 58 [1966], 960-961, FLANNERY1, 826).

⁸⁸ See BENEDICT XVI, Message for the 47th World Communications Day, 12 May 2013, http://w2.vatican.va/content/benedict-xvi/en/messages/communications/documents/hf_ben-xvi_mes_20130124_47th-world-communications-day.html (13 September 2019).

of our faith and witness to the Gospel in whatever reality we are called to live, whether physical or digital. When we are present to others, in any way at all, we are called to make known the love of God to the furthest ends of the earth.⁸⁹

Likewise, Pope Francis confirms that the Internet may offer greater possibilities for encounter and solidarity among peoples.⁹⁰ Thus, he encourages using of new technologies for communication and evangelization:

In a world like this, media can help us to feel closer to one another, creating a sense of the unity of the human family which can in turn inspire solidarity and serious efforts to ensure a more dignified life for all. Good communication helps us to grow closer, to know one another better, and ultimately, to grow in unity. [...] By means of the internet, the Christian message can reach “to the ends of the earth” (Acts 1:8). Keeping the doors of our churches open also means keeping them open in the digital environment so that people, whatever their situation in life, can enter, and so that the Gospel can go out to reach everyone. We are called to show that the Church is the home of all. Are we capable of communicating the image of such a Church? Communication is a means of expressing the missionary vocation of the entire Church; today the social networks are one way to experience this call to discover the beauty of faith, the beauty of encountering Christ. In the area of communications too, we need a Church capable of bringing warmth and of stirring hearts.⁹¹

In the context of Vietnam, in order to reach people in the new, digital environment, the author would propose that both diocesan bishops and religious institutes cooperate and collaborate in using new technologies to evangelize, particularly by establishing radio networks, television channels, websites, etc. These means could be used for video broadcasting of daily Mass, audio or video diffusion of prayers, like the Liturgy of the

⁸⁹ Ibid.

⁹⁰ See FRANCIS, Message for the 50th World Day of Social Communications, 1 June 2016, http://w2.vatican.va/content/francesco/en/messages/communications/documents/papa-francesco_20160124_messaggio-comunicazioni-sociali.html (13 September 2019).

⁹¹ FRANCIS, Message for the 48th World Day of Social Communications, 1 June 2014, http://w2.vatican.va/content/francesco/en/messages/communications/documents/papa-francesco_20140124_messaggio-comunicazioni-sociali.html (13 September 2019).

Hours or the rosary, the Divine Mercy devotion. One could also think of audio or video broadcasting of reflections on daily Mass readings, the Scripture, the lives of the saints, matters related to human life and dignity, marriage and family, child and youth protection, canonical affairs and Church governance, spiritual songs, Catholic news, vocations to priesthood and consecrated life, catechesis, justice and peace, etc.

In order to establish radio networks, television channels, or websites, both diocesan bishops and religious institutes in Vietnam could consider the following strategies:

- (1) Establish an organizational structure to promote the cooperation and collaboration among the authors and Web designers;⁹²
- (2) Select suitable personnel for each type of media activity;⁹³
- (3) Establish a source of funding to provide financial resources for space, equipment, salaries and other expenses;
- (4) Create guidelines to determine:
 - a) the roles and duties of moderator(s) and other staff members and specific policies on presenting the content;
 - b) pastoral policies regarding the use of social media for preaching, proclamation of the Gospel, catechetical instruction, religious formation, etc.;

⁹² See NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties,” 101.

⁹³ See *ibid.*, 116 and footnote no. 66, 116.

- c) policies for the ministers who are involved in the ministry in the online environment;⁹⁴
 - d) policies regarding an appropriate content, language, and speech,⁹⁵ respecting cultural, local, denominational or religious sensitivities in general;⁹⁶
- (5) Determine the questions of official name and logo, and application for a license in accordance with the civil law;⁹⁷
 - (6) Present issues related to copyright laws in creating the website and posting materials, especially containing personal information;⁹⁸
 - (7) Explicate principles of confidentiality and privacy, particularly with respect to the personally identifiable information, i.e., name, phone number, address or email address, etc.
 - (8) Establish the requirements for a *nihil obstat* for those authorized to preach and proclaim the Divine Word online in the name of the Church;⁹⁹ determine the competent authority to grant a *nihil obstat*;¹⁰⁰

⁹⁴ See *ibid.*, 121-122.

⁹⁵ See ROMAN CATHOLIC BISHOP OF DIOCESE OF CALGARY, *RC Diocese of Calgary. Strengthening Parish Communities. Model Code of Conduct for Priests, Deacons, Religious Clerics, Sisters and Brothers, Pastoral Ministers, Administrators, Staff and Volunteers*, Calgary 2010, 10, in <https://www.catholicyc.ca/uploads/6/5/5/7/65570685/model-code-of-conduct-03-17-11.pdf> (02 May 2021). See also NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties,” 104, 106.

⁹⁶ See NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties,” 104.

⁹⁷ See *ibid.*, 115.

⁹⁸ See *ibid.*, 104. It should be kept in mind that “pictures, videos and all personal information are not to be shared or posted without prior consent of the individual and, in the case of a minor or vulnerable adult, consent of the parent of the minor or vulnerable adult” (THE DIOCESE OF ROCKFORD, *Pastoral Guidelines for the Use of Technology and Social Media*, January 2011, 16, in <https://www.rockforddiocese.org/pdfs/socialmedia/Pastoral%20Guidlines.pdf> [02 May 2021]).

⁹⁹ Cf. c. 772, §2.

¹⁰⁰ See NOBEL, “To Proclaim the Gospel Online – Challenges and Difficulties,” 116.

- (9) Put in place strategies for operating and maintaining the established radio networks, television channels, or websites (passwords,¹⁰¹ updates and modifications, etc.).¹⁰²

Implementing the above-mentioned strategies should help to make the modern means of communication more attractive for the user to access frequently and to share with one another. Consequently, the ministry has the potential to reach truly diverse audiences, including those who have lost their contact with the institutional Church.

5.1.3.2. Works of Charity

In the current reality of Vietnam society, the Church has to extend her help to the poor, the sick, the orphans, the homeless, the lonely, the hopeless, the oppressed, the strangers, the prisoners, and many others in need. Christians are called to recognize the face of Jesus in the faces of our brothers and sisters since whatever we do for them, we do it for the Lord (see Mt 25:40).¹⁰³ Likewise, Jesus united the love for God and the love for neighbor into a single commandment – called the greatest commandment in Mk 12:30-31: “[...] The first is this [...] ‘You shall love the Lord your God with all your heart, with all your soul, with all your mind, and with all your strength.’ The second is this: ‘You shall love your neighbor as yourself.’” The new commandment of charity unites love of God with love of neighbor.

¹⁰¹ See *ibid.*, 95.

¹⁰² See *ibid.*, 111.

¹⁰³ Jesus identified himself with the hungry, the thirsty, the stranger, the naked, the sick, the prisoner (see Mt 25:31-46).

The term “our brothers and sisters” and “neighbor” are identified in the parable of the Good Samaritan, that is, anyone in need and those who are suffering (see Lk 10: 25-37).¹⁰⁴ Imitating Jesus who always cared for the wounded, the abandoned, the sick, the blind, the crippled, and all who were under the power of the devil (see Mt 5:23-24; cf. Lk 6:17-18; Mt 8:16), Christians follow in Jesus’ footsteps by doing what He did for our brothers and sisters. To continue Jesus’ mission, we are called to be His heart, showing compassion for the suffering; to be His mouth to preach the Good News, speak words of love and encourage those who are hopeless, console those who are suffering, raise our voice to protect the oppressed and the excluded, to be His hands to bring food and drink to the poor, clean and bandage the wounds of the lepers, assist the elderly, the sick and abandoned, to be His feet to go to visit families in difficulty, find abandoned babies and children on the streets and under the bridges, find young people without a future who, although rich in worldly goods, are impoverished within, looking for a purpose in life, blind in their journey, go everywhere to find the lost sheep and other sheep not belonging to the same flock, to be His eyes to look at others with love and compassion, to be His ears to hear the voices of the suffering, and concerns, hopes and dreams, and pain, disappointment, fear, and anger of others.

Being Jesus’ heart, mouth, hands, feet, eyes, ears have been manifested and performed in various ways for years by individuals (the lay faithful, religious, clergy, and even non-Christians or non-believers), by groups, by religious institutes, and dioceses.

¹⁰⁴ FRANCIS, Encyclical Letter on Fraternity and Social Friendship *Fratelli tutti*, 3 October 2020, no. 69, English translation *Fratelli tutti*, Indy Publisher, IN, Royal Press, 26 October 2020, 28-29.

However, due to the spirit of the collaboration called for by the Church,¹⁰⁵ collaboration between diocesan bishops and religious institutes in works of charity in local Churches is promoted and strengthened. Particularly, these works relate to opening and operating nursing homes, orphanages, shelters, mental health facilities, medical clinics, and pastoral centers. Similarly to what was indicated for the media apostolate, this collaboration should include the following areas: establishing an effective organizational structure, providing qualified personnel, securing a source of funding, creating suitable guidelines for administration of the works, obtaining the necessary permits in accordance with the civil law, and finally, operating and maintaining of all the initiatives.

5.1.3.3. Justice and Peace

The modern society problems experienced by people in the world are also faced by the society of Vietnam: sexual violence, exploitation and torture, human trafficking, human rights violations, and various forms of discrimination. The notion of peace must be understood as not just the absence of war, but “it is appropriately called ‘the effect of righteousness’ (Is 32:17).”¹⁰⁶ Peace “is the fruit of that right ordering of things with which the divine founder has invested human society and which must be actualized by man thirsting after an ever more perfect reign of justice.”¹⁰⁷ In fact, peace must also be founded on a fair relationship among people and groups, between people and the environment, on

¹⁰⁵ See BENEDICT XVI, Apostolic Letter Issued Motu Proprio on the Service of Charity *Intima Ecclesiae natura*, 11 November 2012, art. 7.2, in AAS, 104 (2012), 1001, English translation in *L'Osservatore Romano*, 10 December 2012, 5.

¹⁰⁶ GS, no. 78, in AAS, 58 (1966), 1101, *FLANNERY1*, 986-987.

¹⁰⁷ *Ibid.*

a respect for the human persons and their dignity.¹⁰⁸ As emphasized in no. 78 of the Pastoral Constitution on the Church in the Modern World *Gaudium et spes*:

[...] Peace cannot be obtained on earth unless the welfare of man is safeguarded and people freely and trustingly share with one another the riches of their minds and talents. A firm determination to respect other men and peoples and their dignity, as well as the studied practice of brotherhood are absolutely necessary for the establishment of peace. Hence peace is likewise the fruit of love, which goes beyond what justice can provide [...].¹⁰⁹

In order to promote the culture of peace, the values of justice and peace, human rights, democracy, dignity of all people, especially of women and children as well as reconciliation and peaceful co-existence are to be safeguarded and promoted. One way to achieve this goal is a collaboration between diocesan bishops and religious institutes to establish a Justice and Peace Commission at the diocesan level. It should be noted that the establishment of the Justice and Peace Commission needs to take place with consideration for its advantage to the Church and the people of God. In order to produce concrete and lasting results of this collaboration, the bishops and religious institutes need to provide trained personnel, motivated to promote and work for justice and peace. There is also a need to provide for a sufficient training program to assist the members of the Commission to explore and reach a greater awareness and understanding of the concept, scope and tasks of justice and peace ministry as well as to provide for the member specific methods to look at real situations in order to identify, clarify, and address the pertinent issues and work

¹⁰⁸ See JOHN PAUL II, Message for the 1999 World Day of Peace, 1 January 1999, nos. 1-2, 10, in AAS, 91 (1999), 377-378, 384-385, English translation in https://w2.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_14121998_xxxii-world-day-for-peace.html (13 September 2019).

¹⁰⁹ GS, no. 78, in AAS, 58 (1966), 1101, *FLANNERY*1, 987.

effectively for justice and peace, especially regarding charity works, welfare and development. Besides training programs, the bishops and religious superiors need to safeguard the necessary means of financial support for the Justice and Peace Commission.

After having developed the diocesan structures, the works of justice and peace may be extended by establishing Justice and Peace Groups at the parish level, to promote human dignity of every person through personal contact with those in need and to foster attitudes of mercy and compassion, particularly for the homeless, the unemployed, the elderly, the migrants and refugees.

Since justice and peace will never be achieved once and for all by the sole efforts of Justice and Peace Commissions or Groups, the work for justice and peace must become a continual effort of all the People of God. It should begin in each person, each family, parish, diocese, religious institute, nation, since the roots of violence and injustice deeply lie in the heart of man and the daily ways of thinking and acting.¹¹⁰

5.1.3.4. Religious Freedom

Freedom of belief and religion is a right of every human person. This freedom, declared by the Second Vatican Council in the Declaration on Religious Liberty *Dignitatis humanae*, is “[...] to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with

¹¹⁰ See Mt 15:11, 18-20; cf. Mk 7:14-23.

others, within due limits.”¹¹¹ This right “[...] has its foundation in the very dignity of the human person as this dignity is known through the revealed Word of God and by reason itself. This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right.”¹¹²

Pope John Paul II stressed in his *Message for the 1999 World Day of Peace* that religious freedom is the heart of human rights.¹¹³ However, at the present situation in Vietnam, it is common knowledge that there are religious groups and individuals (laity, religious, and clergy) still being discriminated against and marginalized. Facing that challenge, it requires efforts of everyone to strengthen and protect religious freedom by raising their voice and concern. There is an urgent need to establish ad hoc committees for religious freedom at the level of Episcopal Conference or particular dioceses, together with the cooperation and collaboration of the religious institutes to preserve religious freedom.

¹¹¹ SECOND VATICAN COUNCIL, Declaration on Religious Liberty *Dignitatis humanae*, 7 December 1965 (=DH), no. 2: “[...] debent immunes esse a coercitione ex parte sive singulorum sive coetuum socialium et cuiusvis potestatis humanae, et ita quidem ut in re religiosa neque aliquis cogatur ad agendum contra suam conscientiam neque impediatur, quominus iuxta suam conscientiam agat privatim et publice, vel solus vel aliis consociatus, intra debitos limites [...]” (in AAS, 58 [1966], 930, English translation in *FLANNERY*1, 800).

¹¹² “[...] esse revera fundatum in ipsa dignitate personae humanae, qualis et verbo Dei revelato et ipsa ratione cognoscitur. Hoc ius personae humanae ad libertatem religiosam in iuridica societatis ordinatione ita est agnoscendum, ut ius civile evadat” (ibid., in AAS, 58 [1966], 930-931).

¹¹³ See no. 5, in AAS, 91 (1999), 380-381, English translation in https://w2.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_14121998_xxxii-world-day-for-peace.html (13 September 2019).

5.1.4. Use of Mediation between Diocesan Bishops and Religious Superiors

If there are difficulties and tensions between religious superiors and the diocesan bishops, meeting together and mutual dialogue could help. However, if the above proposed approaches will not resolve the problems between the two parties, then a mediation body might be created to find an equitable solution. Indeed, c. 1733 on avoid contentions and seeking an equitable solution by common counsel, possibly using the mediation of suitable persons, together with the canons on avoiding trials (cc. 1713-1716) may be adapted to create a space for a dialogue between the parties helped by persons not involved in the controversy and thus impartially assessing the situation.

Regarding such a mediation body, Stella Giegbefumwen proposed:

The Episcopal Conference of each nation or region should constitute a structure to attend to this matter. The structure would first report to the conference from the local diocesan level. At the universal level, the structure should collaborate with the Congregation for Institutes of Consecrated Life and for Societies of Apostolic Life in handling the issues, especially those matters regarding conflicts between diocesan bishops and religious institutes that cannot be resolved by the conferences who are more familiar with the peculiarity of their region [...].¹¹⁴

The author agrees with Giegbefumwen's point of view stated above. However, in the context of ecclesial and cultural perspective of Vietnam, the author proposes a papal legate (nuncio) instead of the Conference of Bishops. In Vietnamese culture, there is a reluctance to raise the voice to protect the right of the third party; in other words, most individuals would not speak up unless the matter directly relates to his/her own right or

¹¹⁴ S.E. GIEGBEFUMWEN, *The Role of the Constitutions of a Religious Institute of Diocesan Right to Define Its Relationship with the Bishop: A Particular Reference to the Institute of the Sisters of the Sacred Heart of Jesus* (Nigeria), JCD thesis, Ottawa, Saint Paul University, 2014, 220-221.

his/her relatives' right. Realistically speaking, the Conference may as well be hesitant to intervene or speak their voice to protect the right of the religious institutes to avoid any adverse reaction of their peers, particularly if the bishop involved in the dispute is an archbishop. Consequently, the author believes that the papal nuncio is the best neutral authority to intervene in tensions between bishops and religious superiors because he, as a foreigner, is not influenced by Vietnamese culture. If the mediation of the nuncio would not bring the end to the conflict, then it is proposed that the Congregation for Institutes of Consecrated Life and for Societies of Apostolic Life be involved.

5.2. Proposals of Concrete Canonical Solutions

Concerning the situation in Vietnam where proper application of the universal law of the Church still presents a challenge, the author would like to bring out two proposals. The first consists of suggesting that the diocesan bishop(s) establish norms to define the authority and obligations of the diocesan bishops towards religious institutes of diocesan right, and the second, that a suitable revision of the proper law of the Dominican Sisters of Saint Rose of Lima Congregation be undertaken.

5.2.1. Particular Law Defining the Authority and Obligations of the Diocesan Bishops towards Religious Institutes of Diocesan Right

The experience of institutes of consecrated life of diocesan right in Vietnam suggests that each diocesan bishop should establish norms and/or directories or

instructions¹¹⁵ in his diocese to define the authority and obligations of himself towards religious institutes, secular institutes, and societies of apostolic life, whether of pontifical or diocesan right, clerical or lay, in accordance with universal law and adapted to the local situation and time. Due to the limited scope of this thesis which focuses on the lay religious institutes of diocesan right, the author will suggest some norms and/or instructions. These proposals are a logical conclusion and summary of possible areas of difficulties and confusion which were indicated throughout the thesis.

5.2.1.1. Norms on Dispensations from the Constitutions (cf. c. 595, §2).¹¹⁶

The universal law gives the diocesan bishop the faculty to dispense, in particular cases, from the constitutions of a religious institute of diocesan right (see c. 595, §2). Since the Congregation of the Dominican Sisters of Saint Rose of Lima is a lay religious congregation of diocesan right, it is subjected to the diocesan bishop in this matter.

Constitution 108.1 stipulates that the superior general of the CDSSRL, acting with the consent of the general commission, submits a petition to the diocesan bishop of principal seat for a dispensation from particular norms of the Constitutions in matters affecting the entire institute, for instance, the observance of fasting and abstinence¹¹⁷ on

¹¹⁵ The diocesan bishop has authority to establish law in his diocese (see c. 391). However, he cannot validly issue a law contrary to higher law (see c. 135, §1). He can also issue general executory decrees which more precisely determine the methods of applying the law (c. 31 §1) and instructions which explain the precepts of laws and determine the methods of fulfilling them (c. 34 §1).

¹¹⁶ See Chapter Two of the thesis, pages 81-82; see also Chapter Three of the thesis, pages 163-165; Chapter Four of the thesis, pages 225-227.

¹¹⁷ It is in accordance with the nature, purpose, spirit, character, and tradition of the Congregation of the Dominican Sisters of Saint Rose of Lima to urge the members to deny themselves, take up their cross, and carry around in their body the death of Jesus, so that they may merit the glory of the resurrection for

specific days, in addition to the days obligatory for all the faithful as determined by universal law in canon 1245.

The supreme moderator, at the request of a superior of a religious house, may also petition the diocesan bishop where the religious house is located to dispense the community from the norms of the Constitutions, for instance, the norm on wearing the habit at the participation at Mass and the Morning and Evening Prayer of the Liturgy of the Hours,¹¹⁸ the norm on participating in the Eucharistic sacrifice daily,¹¹⁹ and the norm on celebrating the Liturgy of the Hours in common (at least the Morning and Evening Prayer)¹²⁰ because of the hardships encountered in a missionary territory.

The supreme moderator, at the request of an individual religious may petition the diocesan bishop where the house to which the religious has been attached is situated, for a dispensation from a norm(s) of the Congregation's constitutions if that norm(s) become a burden for the individual because of a genuine inability to observe the obligations of

themselves and for the souls. Besides on the days determined in universal law, the Dominican Sisters of Saint Rose of Lima observe fast and abstinence also on: 1. "All Fridays of the year; all Wednesdays and Fridays in the season of Lent." 2. "On the vigil of the day of the anniversary of the erection of the Congregation (1 January), the liturgical feast days of St. Dominic and St. Rose of Lima" (CDSSRL, *Constitutions*, art. 59, 26; cf. CDSSRL, *Directory*, art. 47, 36).

¹¹⁸ See *Constitutions*, art. 58, 52.

¹¹⁹ *Constitutions*, art. 47.2 states: "Every day, the Sisters are to make every effort to participate in the Eucharistic Sacrifice and to adore the Lord himself present in the sacrament" (CDSSRL, *Constitutions*, 46).

¹²⁰ See CDSSRL, *Constitutions*, art. 49.2, 48.

religious life, such as, the community life, the celebration of the Liturgy of the Hours together with other members¹²¹ due to ill health or apostolate works entrusted to her.

In order to facilitate the process of requesting and granting dispensations, some norms determining a simple procedure could be proposed on the part of the Congregation in a form of an addition to the Directory or other levels of proper norms of the Congregation (binding exclusively the institute members), and also on the part of the bishop if he would find it beneficial, especially in the case of frequent requests for dispensation.

On the part of the Congregation such a norm could require that the local superior, after having consulted with all the members of the community, request a dispensation for a member or members of her house, expressing to the superior general, clearly and in detail, the difficulties in faithfully observing a particular norm. The superior general, acting with the general commission, will consider the facts and reasons for granting the dispensation, taking into account the spiritual good of the local community or of the particular religious, as the case may be, and determine the just cause for granting the dispensation to be forwarded in the petition addressed to the competent bishop. The superior general, acting with the consent of the general commission, will petition the bishop to grant the dispensation. The petition should provide the bishop with the determination of the persons for whom the dispensation is sought, the period of time for which the favour is requested,

¹²¹ *Constitutions*, art. 49.2 requires all members “to celebrate the Liturgy of the Hours together, especially the Morning Prayer and Evening Prayer” (see CDSSRL, *Constitutions*, 48).

the relevant circumstances, and the assessment of the present and possible future effects of the dispensation.

In the case, when an individual religious requests a dispensation, the religious must express her intention clearly in writing and send her petition to the local superior who is to transmit it along with her personal opinion and the opinion of her council to the superior general who will, together with the general commission, consider the facts, reasons and the spiritual good of the petitioner. Then, the superior general, with the consent of the general commission, petitions the diocesan bishop where the house to which the religious has been attached is situated. Again, the petition is to provide the bishop with the determination of the person for whom the dispensation is sought, the period of time for which the favour is requested (for instance, the time of the presence of the religious or the duration of the religious' ministry in the particular church, or as long as the circumstances demand it), the relevant circumstances, and the assessment of the present and possible future effects of the dispensation.

It may be advisable that a template for successive steps of the procedure be developed, in a form of a fill-in questionnaire, possibly also elaborated in a word processing system.

Before granting a dispensation, both the diocesan bishop of principal seat for the entire Congregation and the diocesan bishop for a house or an individual religious who are subject to him are to consider the petition and satisfy themselves with the existence of a just and reasonable cause for granting the favour. Therefore, they should be sufficiently

informed about the expected advantage to the Congregation, the local community, or the spiritual good of the petitioning religious, in accordance with canons 87, §1; 90, §1; 595, §2. Consequently, bishops might determine some norms regarding this subject matter, most likely corresponding with the issues already pointed to as advantageous on the part of the proper legislation of the Congregation, but issued in virtue of their authority as diocesan bishops. It could take a form of a particular law, or general administrative decree, or instruction.

In the rescript of dispensation, the bishop may address other matters to foster the charism and work of the Congregation, referring to the petitioning community or the individual religious, or to exhort them to make every effort to observe faithfully their Constitutions to help the Congregation and the local community grow and flourish according to the spirit of the founders and sound traditions. Especially, the individual religious benefitting from the dispensation may be encouraged to live a holy life and bear witness to the Gospel by urging them to observe the spirit of the norms from which they have been dispensed in another way, for instance, to pray faithfully the Liturgy of the Hours personally instead doing it together with the community; to receive Holy Communion and adore the Lord present in the Eucharist in the days when they will not attend Mass; and to wear a distinct blouse instead of the habit.

The rescript of dispensation is made known to the formal petitioner, i.e., the superior general, then communicated to the respective community or individual(s). It should be kept in mind that the rescript of dispensation, whether given to the Congregation,

particular community, or individual religious, should be kept in the archive of the relevant community and the archive of the Congregation.

5.2.1.2. Norms on Granting Written Consent for Erection of a Religious House (cf. c. 609, §1).

The law provides for a process of erecting a house of a religious institute, whether of pontifical or of diocesan right. The competent authority to erect a house is the superior of the institute determined by the proper law, acting with the previous written consent of the diocesan bishop.¹²² Article 139.1c of the CDSSRL *Constitutions* determines that the competent authority to erect a new house of the Congregation is the superior general with the consent of the general commission.¹²³

It is necessary to distinguish two different scenarios regarding the process of erection of a house. It may happen that the process is initiated by the Congregation which desires to extend its mission to a particular diocese, by petitioning the diocesan bishop for his consent to establish a religious house in his particular Church. It may also happen that the initiative comes from a diocesan bishop inviting the Congregation to help his particular Church with evangelical works proper to the Institute. In the latter case, responding to the invitation of the pastor of the particular Church to address the needs of the People of God, the Congregation, represented by the superior general or by her delegates should consider

¹²² See c. 609, §1; see also Chapter Three of the thesis, pages 108-117; Chapter Four of the thesis, pages 235-237.

¹²³ See Chapter Four of the thesis, pages 235-236.

a personal visit to assess the primary target, the apostolic and charity activities that can be offered to the people, especially those who did not have an opportunity to learn about God, how to earn money to support the new house and its activities, how to secure the necessary support of the parish priest, and what challenges related to location, culture, language, local government and local people may be encountered.

After the initial assessment, the superior general and the general commission would appoint a committee to examine and evaluate all the facts, circumstances, challenges, advantages and disadvantages of establishing a house in that particular Church. The committee will also propose suitable safeguards that all what is required to carry out the religious life of the members of the prospective house according to the proper purpose and spirit of the Congregation, the support of the diocesan bishop and the parish priest, the conditions imposed by the bishop (if any), specific requirements, recommendations or suggestions of the diocesan authorities, and the objective circumstances of time and place are taken into account.

The current policy of the Congregation is that the superior general requests the bishop to allow two sisters to live and work for a time period of at least two years. After that probation time, if at all possible, the superior general would make an appointment with the diocesan bishop to address the Congregation's intention in establishing a new house in his diocese, and at the same time, send the bishop a written request for his formal consent. At such a meeting, the superior general should consider such issues as: the right to lead a life according to the character and proper purposes of the institute and to exercise the works proper to the institute (implicitly included in the consent in accordance with canon 611),

a sufficient institutional separation between a religious house and parish/apostolic or charity works, stressing the rightful autonomy of each party in its own sphere, the distinct characteristics of the Institute's way of life, the manner of internal governance, the specific features of formation of members, the location of the community dwelling (the physical house, to be bought or built anew), the means of providing for the existential needs of the members of the new house community, the avenues of cooperation and coordination between the religious and the parish priest in the care of souls and other spiritual works, especially those proper to the Congregation, the determination of the parameters of involvement of the personnel of the house in the pastoral plan of the particular Church and/or parish. In this regard, brotherly relations between the religious and the parish priest should be fostered from the very beginning by the bishop and the religious superior in order to increase mutual trust, understanding and respect, apostolic solidarity, fraternal harmony, and ecclesial communion. The question of some requirements of the religious life could also be addressed at that time, for instance, the right to have an oratory in which the Eucharist is to be celebrated and reserved so that it is truly the center of the community (see c. 608). Also, at such a meeting, the bishop may bring out his suggestions and remarks to promote the desired sense of collaboration in the spirit of ecclesial communion in order to create the conditions for a fruitful, spiritual and pastoral cooperation according to the needs of the diocese. He will also have an opportunity to refer to whatever was presented by the religious superior in accordance with the above-mentioned outline.

Before giving a written consent to establish a religious house in the diocese, the diocesan bishop or a person delegated by him, i.e., vicar general, episcopal vicar for

religious or the parish priest where the new house of the Congregation will be established, should consider very carefully the advantage to the entire Church and to his diocese in particular, the expected contribution or usefulness of the religious to the diocese/parish, the stability and suitable safeguards of the institute regarding providing the suitable religious personnel for accepted works, the location of the proposed community dwelling, the financial resources for maintaining the house community and the institute's ability to give witness of Christian life and fulfil the requirements of the specific service promised to the particular Church for an extended period of time. It would be opportune, in view of facilitating the initial encounter between the diocesan and religious authorities that the bishop establishes a suitable questionnaire, to be answered in advance by the religious superiors.

After having completed the examination and evaluation of the request, the bishop could bring the Congregation's intention to the college of consultors or/and the presbyteral council to seek their advice. If the diocesan bishop is satisfied with the prospect of the potential contribution or usefulness of the Congregation to the diocese, he would issue a written consent according to the norm of canon 609, §1. The diocesan bishop should also, at that time, consider very seriously his right to impose conditions, to be attached to the consent, with regard to the precise manner of the exercise of the works proper to the institute in his diocese and the details regarding the physical house of the religious community, its purchase or new construction (see c. 611, 2°).

After receiving the consent of the diocesan bishop, issued in writing, the superior general with the consent of the general commission issues a formal decree to erect the

house in accord with canon 609, §1, and subsequently appoint the local superior and assign other members to the new house. At the beginning of the establishment, the superior general should extend her special care to the members of that new house, offering her companionship and encouragement, and foster and promote their witness of consecrated life and mission. In addition, the Congregation must be watchful that the newly established house does not lack necessary financial resources until it becomes self-sufficient.

5.2.1.3. Norms on Visitation of Individual Religious Houses (cf. c. 628, §2, 2^o) and Works of Apostolate or Charity (cf. c. 683, §1)

The universal law gives the diocesan bishop the right and duty to visit all individual houses, including the generalate and provincialate, of religious institutes of diocesan right (see c. 628, §2, 2^o)¹²⁴ and oratories where the Christian faithful habitually attend, all schools, and other works of religion or charity entrusted to religious institutes, whether exempted or non-exempted, of pontifical or of diocesan right, located in his territory (see c. 396, §1).¹²⁵

There is no norm in the CDSSRL's Constitutions, Directory, or Guidelines related to the right of the diocesan bishop to visit religious houses or works of religion or charity, whether spiritual or temporal entrusted to the Congregation. In order to help the members of the Congregation understand this right and duty of the diocesan bishop and assure that they are properly disposed towards the visitor, it may be advisable that some norms

¹²⁴ See Chapter Three of the thesis, pages 134-138.

¹²⁵ Ibid., pages 148-150.

determining the practical aspects of hospitality extended to the bishop on such an occasion, the responsibility of the members to respond to all inquiries with truth and charity if they are questioned by the bishop, the prohibition of anyone and in any way to dissuade members of the visited community from fulfilling this obligation or to impede the scope of the visitation (see c. 628, §3), sharing of the bishop's report from the visitation with the members involved, etc., be added to the Directory or Guidelines. Likewise, on the part of the bishop, in order to facilitate the fulfillment of this important duty, some norms determining the frequency of visits, their purpose and the process, could be proposed if he would find it convenient.

The visitation is a special time of renewal for individuals and communities. It can be carried out in a variety of ways: fraternal visitation, ordinary visitation, and special visitation. For the ordinary visitation of the individual religious houses of the Congregation and oratories where the Christian faithful habitually attend, schools, and works of religion or charity entrusted to the Congregation and located in his diocese, an interval not greater than four years is suggested. However, in the case of necessity or when useful, namely due to an occurrence of a grave scandal or disorder which called for an intervention, the bishop should conduct a special visitation.

The time will be set by the diocesan bishop who should inform the superior general if it concerns the generalate, and the local superior if it concerns the community, or the sister in charge if it concerns the works of religion or charity entrusted to the Congregation. The purpose of the visitation and its proposed schedule should be presented at least two weeks in advance in order for the concerned superior or the religious member to

accommodate the community schedule or the individual's calendar and make suitable preparations to welcome the visitor.

This obligation can be carried out by the bishop in person or through his delegate. This delegation must be clearly indicated in writing and will be shown to the competent superior or the sister who is in charge the entrusted works. It should be kept in mind that the bishop or his delegate must respect and safeguard the right to autonomy of life and governance of the CDSSRL according to the universal law as per canon 586, §2.

Regarding the religious house during the time of visitation, the bishop or his delegate may:

- (1) investigate any laxity in religious discipline by questioning the regularity of the religious life in accord with the CDSSRL's Constitutions, Directory and Guidelines;
- (2) examine the spiritual provisions, namely, the prayer schedule of the house; and
- (3) examine the financial stability and the administration of the goods belonging to the houses of the CDSSRL.

The process for visiting a religious house should be implemented as follows:

- (1) the visitor will have a general meeting with all members and read the delegation letter if he is delegated by the diocesan bishop;

- (2) the visitorator will meet with individual sisters to listen to their concerns if he deemed necessary;¹²⁶
- (3) the visitorator will meet with the superior to bring the concerns to her attention;
- (4) the visitorator will hold a general meeting with all members of the community following the personal interviews to summarize his findings and provide guidance.

For visitation of works of religion or charity entrusted to the Congregation, the process will be simpler, that is, the visitorator will examine account books (including a statement of income and expenses for each year and the balance sheet) and other documents that will give him additional information. The administrator of the work must prepare for the visitorator a brief report on her administrative activities, personnel, important transactions and the financial condition of the work, the results achieved as well as difficulties, problems, concerns, and challenges experienced by the sister in the course of her duties. During such a visit, the visitorator may meet with other coordinators and staff if he deemed necessary.

The visitorator must keep in mind that the confidential matters shared with him in the interviews cannot be revealed. At the final general meeting, the visitorator should encourage both the superior and the community members to fulfill faithfully the obligations of their vocation, the observance of the vows, the attendance at spiritual exercises, and their

¹²⁶ The bishop or his delegate has the right and duty to question any of the religious whom he wishes. The religious are bound to respond to all inquiries with truth and charity (see c. 628, §3).

dedication to the works of apostolate. At that time, moreover, the visitorator may also provide reflections on his own experience regarding the contributions of the members of the community to the apostolic and charitable works in the diocese and identify the specific challenges. If he discovered grave abuses or violations of law, whether on the part of the member(s) or the superior, he should remind them about their duties and make any necessary fraternal corrections to help them to reform, repair the scandal, and restore justice. If, however, grave abuses or violations of law have been discovered on the occasion of a visitation of churches and oratories which the Christian faithful habitually attend, schools, and other works of religion or charity entrusted to religious, the diocesan bishop can make provisions on his own authority after the religious superior has been warned in vain (see c. 683, §2).

If the visitorator is a delegated individual, he must report all matters to the diocesan bishop. It should be noted that if there is a written report from the visitation prepared by the bishop or his delegate, it is to be shared with the visited communities or individuals. Otherwise, a record of what had been addressed by the visitorator in the final general meeting must be provided, in detail and with clarity, by the secretary of the community. It is to be signed, if possible, by the visitorator and by the secretary. The copies of the written record are to be kept in the archives of relevant offices (one in the archives of the diocesan curia and the other in the archives of the visited community).

5.2.1.4. Norms on Entrusting Works of Religion or Charity to a Religious Institute (cf. cc. 675-677; 681-682) and on Conferring an Ecclesiastical Office on a Religious (cf. cc. 681 – 682).

Works of religion or charity entrusted by the diocesan bishop to a religious institute¹²⁷ and members of religious institutes appointed to ecclesiastical offices in the particular Church¹²⁸ are subject to the authority of the diocesan bishop and fulfill their tasks under his direction according to canons 681, §1 and 682, §1. A written agreement between the diocesan bishop and the competent superior is required in accordance with canon 681, §2. This means that there are two types of contracts or agreements in this regard: general ones involving the institute as such, and specific ones regarding the particular member of the institute appointed to an office in the particular Church.

Article 74 of the CDSSRL *Directory* stipulates that a written agreement is made between the local diocesan bishop and the superior general in the case when works of religion or charity are entrusted by the diocesan bishop to the Congregation. On the other hand, *Directory*, art. 76 addresses the works of apostolate performed by the religious serving in the parish(es). In such cases, the *Directory* does not require a written agreement, but calls for a dialogue and mutual consultation between the parish priest and the local superior in order to achieve a harmony between the pastoral duties of a religious and the discipline of the community.

¹²⁷ See Chapter Three of the thesis, pages 139-141. See also Chapter Four of the thesis, pages 239-242.

¹²⁸ See Chapter Three of the thesis, pages 188-191.

Both the universal law and proper norms of the Congregation are silent on the consultation of the council and of the member(s) to be assigned to a particular work or an ecclesiastical office. In order to facilitate the process of preparing the written agreement, some norms determining requirements, remuneration, benefits, and other relevant aspects could be proposed on the part of the Congregation in a form of an addition to the Directory or Guidelines of the Congregation and also on the part of the bishop if he finds it beneficial for cooperation and collaboration.

Upon the presentation by the superior general or with her assent in the case in which the sister is proposed for an office on the initiative of the diocesan authorities, the diocesan bishop may appoint CDSSRL's sisters to ecclesiastical offices. It would be opportune to introduce a norm into CDSSRL *Directory* concerning the initial step before presenting or assenting to the candidate: the superior general would be obliged to seek the views of the general council on the given case, and then to consult with the chosen candidate.

Before entrusting particular works or appointing a candidate to a certain ecclesiastical office, both the diocesan bishop and the superior general need to discuss matters related to the case. Then, an agreement will be drafted based on the nature of the entrusted work or office. The agreement must expressly and accurately specify: (1) the work to be accomplished, (2) the religious to be assigned to it, and (3) financial arrangements, e.g., stipend or salary, housing payment, travel and transportation, equipment and furnishings, health insurance and retirement benefits, etc. In such an agreement, moreover, both parties should stipulate clearly and in detail the hours of service, holidays, vacations, continuing education, annual retreat and sabbatical provisions, in order

to avoid misunderstandings, legal uncertainties and disputes which might arise in the future. Regarding the financial arrangements, in keeping with the canonical equity mentioned in canon 1286, the diocesan bishop should determine a just and honest wage for religious who are appointed to ecclesiastical offices to provide fittingly for their own needs and a fitting support of the Congregation.¹²⁹

It should be taken for granted that the agreement concerning the works entrusted to the institute should not be entered in perpetuity, but for a definitive period of time (three, five, or ten years, depending on each case). The agreement should be subject to periodic review, providing for the right of either party to terminate it for stated causes and with a timely prior notice.

Canon 681, §2 and the CDSSRL *Directory*, nos. 74 and 76 do not refer to what should be done when agreement is broken by one party. There should be an explicit stipulation in this regard, for instance, when the institute finds itself in the situation of being objectively unable to continue with the entrusted works, due to the shortage of available qualified members. The competent superior of the Congregation should sincerely make known to the bishop the facts and problems that are hindering the continuation of the task. As for the bishop, he should consider sympathetically the request of the superior and seek a suitable solution for the welfare of the People of God. If one party is not satisfied with the other party's conduct, both parties can enter into a mutual dialogue to renegotiate or

¹²⁹ The author proposes this particular item to be included in agreements since very few Vietnamese bishops give consideration to this subject matter.

cancel the agreement or, when the agreement comes to its end, the parties can refuse to renew it. When the controversy cannot be resolved by mutual consultation, one could resort to mediation or conciliation procedures, also in the course of possible hierarchical recourse (see c. 1733) or a contentious process (see cc. 1713-1716).

The norm of canon 682, §2 concerning the removal of a religious from office entrusted to her stipulates that she may be removed at the discretion either of the entrusting authority after having informed the religious superior or of the religious superior after having informed the one entrusting. No consent of the other party is required, however, the agreement might stipulate the time notice period, unless there is a necessity to act swiftly. However, the diocesan bishop can remove the appointed religious after having informed the superior general who presented the religious for office. Likewise, for a just cause, and after making known her intention to the diocesan bishop beforehand, the superior general with the consent of her council can remove a sister, subject to her authority, from an office to which she had been appointed by the diocesan bishop.

5.2.1.5. Other Areas of Potential Regulations on the Authority and Obligations of the Diocesan Bishops towards Religious Institutes of Diocesan Right

The proposals of norms and/or instructions delineated above in Subsection 5.2.1 concern the areas of the interactions between the diocesan bishops and superiors of religious institutes of diocesan right which seem to be most relevant, at least in the context of the Church in Vietnam. These recommendations for the normative initiatives of diocesan or religious authorities have been formulated on the basis of the reflection in the preceding

chapters of the thesis and they touch on the possible areas of difficulties resulting in misunderstanding and confusion and, eventually, even distrust.

Due to the limited scope of the thesis, other potential areas for canonical regulations on the authority and obligations of the diocesan bishops towards religious institutes of diocesan right will not be treated in detail. However, these matters of potential interest will be listed below, just in case the competent authorities perceive the need for any of them:

- 1) Norms on approving ordinary confessors (cf. c. 630, §3) and appointing chaplains for religious communities (cf. c. 576, §1).
- 2) Norms on financial report, since the universal law does not mention how a financial report's content is to be formulated, and how often it is to be drafted (cf. c. 637).
- 3) Norms on conditions for giving the written consent for alienation or for any other business transaction in which the patrimonial condition of a religious institute of diocesan right can be affected or worsen (cf. c. 638, §4).
- 4) Norms on exercising external apostolate of the members of religious institutes, e.g., matters regarding the care of souls, the public exercise of divine worship, and other works of the apostolate (cf. cc. 678, 680-682).
- 5) Norms on prohibition a religious from residing in the diocese (cf. c. 679).
- 6) Norms on fostering coordination and collaboration among religious institutes and individual religious engaged in the mission of the particular church and in parishes (cf. c. 680).
- 7) Norms on defining the authority and obligations of the diocesan bishop with

regard to separation of a religious from the institute (cf. cc. 686, §1; 686, §3; 687; 688, §2; 691, §2; 700).

- 8) Norms on the exercise of preaching ministry (cf. c. 772, §1).
- 9) Norms on Catholic religious formation in schools (cf. 804, §1).
- 10) Norms on Catholic schools established and run or entrusted to religious institutes or employing members of religious institutes (cf. 806, §1).
- 11) Norms on conditions for giving mandate for religious to teach theological subjects in institutes of higher studies (cf. c. 812), permitting the publications in writing, the use of instruments of social communication, and taking part in radio or television programs dealing with questions of religion and moral (cf. c. 831, §1; also cf. c. 772, §2).
- 12) Norms on establishing, dedicating and blessing an oratory, and converting it to profane use (cf. cc. 1223; 1206-1207; 1224, §2).
- 13) Norms on permitting begging for alms for any pious ecclesiastical institute or purpose (cf. c. 1265, §1).
- 14) Norms on requirements for accepting non-autonomous foundations by religious institutes (cf. c. 1304) and obligations assumed for a long period of time (cf. c. 1303, §1, 2^o).
- 15) Norms on requirements for establishment and administering pious trusts (cf. c. 1302) and requirements for accepting pious foundations by a juridic person of a religious institute (cf. c. 1303, §1).

Some of the above proposed areas of possible regulations may call for the attention of competent authorities in particular circumstances of time and place. On the other hand, they would not normally call for any stipulations other than those already foreseen in universal law. Moreover, experience and common sense would warn of any undue proliferation of norms as this could bring the opposite effect, effectively crippling the relations between the diocesan bishops and religious institutes of diocesan right due to the lack of flexibility and an overwhelming number of detailed regulations. “Legislative economy” is, therefore, an important universal principle.

5.2.2. Revisions of the Proper Law of the Congregation of Saint Rose of Lima to Respond to the Current Demands

After having studied the provisions of the CDSSRL’s proper law regarding the internal authority of the CDSSRL and the authority of the diocesan bishop, a conclusion can be drawn that the CDSSRL’s proper law attempted to address these matters. However, as it has been stated before, some of the stipulations of the proper law of the Congregation are either unclear or inapplicable; there are also several *lacunae* in the law. Consequently, there are many difficulties in its application. Therefore, tensions had occurred and have persisted within the Congregation because of the manner in which superiors exercise their authority over the members of the Institute, and also controversies between the diocesan bishops and religious superiors arose. The following revisions of the CDSSRL’s proper laws are, therefore, suggested.

5.2.2.1. Norms on Approval of the Directory, Guidelines of the General Chapter and Confirmation of Changes in the Directory

For religious institutes of diocesan right, the universal law defines clearly that the diocesan bishop of the principal seat has the authority to approve the constitutions and confirm any subsequent changes legitimately introduced into them,¹³⁰ except in matters in which the Apostolic See has intervened (c. 595, §1). For other codes of the proper law, known as directories, statutes, guidelines, etc., their enactment or approval is reserved to the internal competent authority of the institute; this authority needs to be specified in the proper law of each institute.¹³¹ The statutes or directories may not contradict either the universal law or constitutions of the institute. In particular, directories interpret in detail and clarify the practical application of the norms of the constitutions.

CDSSRL *Constitutions*, art. 117.1 stipulates: “The Guidelines of the General Chapter, which include official decisions of the general chapter are established by consent of an absolute majority of the capitulars. The Guidelines must be signed by the superior general, the editors, and the secretaries, and be presented to the diocesan bishop of the principal seat for his confirmation.”¹³² In addition, the CDSSRL *Directory*, art. 128.1 stipulates: “A norm of the Directory can be amended, abrogated, or subrogated *only* when

¹³⁰ Having consulted the bishops of the other dioceses where the institute has houses.

¹³¹ See Chapter Four of the thesis, pages 222-225; see cc. 631, §1; cf. 587, §4.

¹³² *Constitutions*, art. 117.1: “Công vụ Tổng hội gồm những quyết định chính thức của tổng hội được đa số phiếu chấp thuận. Công vụ có chữ ký của Bề trên Tổng quyền, các Hiệu đính viên và Thư ký Tổng hội, được đệ trình lên Đức Giám mục nhà Trung ương của Hội dòng để xin chuẩn y” (CDSSRL, *Constitutions*, 96).

it is approved by the general chapter and confirmed by the diocesan bishop of principal seat.”¹³³

Compared with the universal law, the CDSSRL’s proper law gives the diocesan bishop of principal seat some additional authority over the Congregation, that is, to confirm the Directory and approve any subsequent changes in it and to confirm Guidelines of the General Chapter. Several issues and questions arise from this additional authority. Is this consistent with the universal norms and practices of other religious institutes? Can the bishop carry out this task without any limits on his discretionary power? How should the Congregation resolve the issue if the bishop protracted the approval for six months or more? Or what to do if he does not approve or confirm these particular books of proper law (or some their parts or articles) deeming it not appropriate? In such cases, should the burden associated with waiting for his confirmation be placed uniquely on the Congregation?

While the respect for just autonomy of the Congregation recognized by canon 586, §1 may underline the norm of canons 631, §1 and 587, §4, in view of easing unnecessary burdens for both the diocesan bishop of principal seat and the Congregation, it is advisable to revise *Constitutions*, art. 117.1 as follows: “The Guidelines of the General Chapter, which include official decisions of the general chapter are established and approved by consent of an absolute majority of the capitulars. The Guidelines must be signed by the superior general, the editors, and the secretaries.” In addition, *Directory* art. 128.1 should

¹³³ *Directory*, art. 128.1: “Muốn sửa đổi, hủy bỏ hay thêm bớt khoản Nội quy nào phải được tổng hội chấp thuận và được Đức Giám mục nhà Trung ương chuẩn y” (CDSSRL, *Directory*, 68-69).

be revised as follows: “A norm of the Directory can be amended, abrogated, or subrogated *only* by the general chapter.”

5.2.2.2. Norms on Approval of the Resignation, Removal, and Privation of the Office of the Members of the General Commission and General Council

The universal law expressly states that a resignation, whether it requires acceptance or not, in order to be valid must be made to the authority to whom it pertains to make provision of the office in question (see c. 189, §1). For removal from an office, it can be effected either by a decree issued legitimately by competent authority or by the law itself according to canon 194 (see c. 192) while the privation of the office, as a penalty for a delict, can be imposed only according to the norm of law (see c. 196, §1).

Regarding the resignation and removal of office of members of the general commission and general council,¹³⁴ the CDSSRL’s proper law requires the confirmation of the diocesan bishop of principal seat. As determined in art. 127.1 of the CDSSRL *Constitutions*:

For very important reasons, a General Councilor may resign or be dismissed according to the consideration of the Commission of the Congregation, accepted by the bishop of the principal seat.¹³⁵

Article 135.2 of the CDSSRL *Directory* states:

[...] in urgent situations where exist a serious damage to the reputation or the common

¹³⁴ See Chapter Four of the thesis, pages 232-234.

¹³⁵ Art. 127.1: “Khi có lý do quan trọng, một chị Tổng Cố vấn có thể xin từ nhiệm hay bị bãi nhiệm theo sự thẩm định của Hội đồng Hội dòng và được Đức Giám mục nhà Trung ương chấp thuận” (CDSSRL, *Constitutions*, 104).

good of the Congregation:

- c. The superior general, with the consent of the general commission, can issue a decree of removal of a member of the general commission or the general council. Such decree must be confirmed by the diocesan bishop of principal seat.
- d. In the process of making decision, the superior general is not required to convoke that member or obtain her consent.¹³⁶

It should be noted that the CDSSRL's proper law does not require the confirmation by any ecclesiastical authority when the above mentioned officers are elected or appointed,¹³⁷ but their resignation or removal of the office require the confirmation of the diocesan bishop of principal seat.¹³⁸ However, universal law does not require approval or confirmation of the resignation and removal of office of the general officers of a religious institute by a competent ecclesiastical authority external to the institute.

Regarding resignation, the questions arise if the bishop's intervention could be anything more than the verification of the necessary conditions for a valid resignation from the office, in accordance with canon 188: "A resignation made out of grave fear that is inflicted unjustly or out of malice, substantial error, or simony is invalid by the law itself." It does not seem appropriate that he considers the sister's motivations to offer resignation. What should be done if the bishop does not confirm? Should the sister continue to carry out her task even though it could be for her a burden? It is therefore reasonable that the

¹³⁶ *Directory*, art. 135.2: "[...] Khi khẩn thiết và có phương hại nặng đến danh dự hoặc ích lợi chung của Hội dòng thì: a. Với quyết nghị của Hội đồng Hội dòng, Bề trên Tổng quyền có thể bãi nhiệm một thành viên Hội đồng Hội dòng hoặc Tổng Cố vấn và được Đức Giám mục nhà Trung ương chấp nhận. b. Nếu việc bãi nhiệm liên quan tới thành viên nào thì Bề trên Tổng quyền không phải triệu tập chị và không cần phải có sự đồng ý của chị" (CDSSRL, *Directory*, 72).

¹³⁷ See *ibid.*, art. 137.1c, 74.

¹³⁸ See *ibid.*, art. 135.2a, 72.

competent authority to whom the general officer, i.e., member of the general commission or the general council who was elected or appointed according to the norms of proper law, communicates her resignation to the authority carrying out the appointment.¹³⁹ Therefore, in keeping with the universal norms, it is suggested to add the following article to the CDSSRL's proper law:

If a general councilor or a member of the general commission resigns when the general chapter is in session, the resignation is submitted to the general chapter and the resignation is accepted by a majority of affirmative votes of the capitulars in the general chapter; if the general chapter is not in session, the resignation is submitted to the superior general who has authority to accept it after obtaining the consent of the general commission. The acceptance is to be communicated in writing to the person resigning.

The resignation of a general councilor or a member of the general commission will therefore be accepted by the general chapter if it takes place in the general chapter, and by the superior general if the general chapter is not in session. However, before an acceptance is made, the superior general must obtain the consent of the general commission and consider very carefully all the circumstances related to the person and office before deciding whether to grant or defer the confirmation. The person resigning will be notified of the decision by the superior general in writing. Thus, the authority intervening in the case of the resignation of a general officer would be solely the one internal to the Congregation.

For removal from office of members of the general commission and general council from office, it is recommended that article 135.2 of the CDSSRL *Directory* be revised as

¹³⁹ Cf. cc. 538, §3; 401, §1.

follows:

[...] in urgent situations where exist a serious damage to the reputation or the common good of the Congregation:

- a. The superior general, with the consent of the general commission, can issue a decree of removal of a member of the general commission or the general council. The removal will be effective at the time the decree of removal is notified to the member.
- b. In the process of making the decision, the superior general is not required to convoke that member or obtain her consent.¹⁴⁰
- c. Before issuing the decree of removal, the superior general and the general commission must verify carefully the facts and the existence of grave causes for the removal.

An officer can also be removed by the law itself (see cc. 194 and 695). The competent authority to issue the declaration of the fact is the superior general, acting with the consent of the general commission.¹⁴¹ Before issuing the declaration of *ipso facto* removal, the superior general and the general commission must verify carefully the facts of the case.

The following section could, therefore, be added to article 135.2 of the CDSSRL

Directory:

- d. In the case of removal from office by virtue of the law itself, the superior general acting with the consent of the general commission must verify carefully the facts of the case and issue promptly the declaration.

The question of privation from office should also be referred to in the Directory. It

¹⁴⁰ *Directory*, art. 135.2: “[...] Khi khẩn thiết và có phương hại nặng đến danh dự hoặc ích lợi chung của Hội dòng thì: a. Với quyết nghị của Hội đồng Hội dòng, Bề trên Tổng quyền có thể bãi nhiệm một thành viên Hội đồng Hội dòng hoặc Tổng Cố vấn và được Đức Giám mục nhà Trung ương chấp nhận. b. Nếu việc bãi nhiệm liên quan tới thành viên nào thì Bề trên Tổng quyền không phải triệu tập chi và không cần phải có sự đồng ý của chi” (CDSSRL, *Directory*, 72).

¹⁴¹ See *ibid.*

would be sufficient to do so in a summary way:

Members of the general commission and general council can also lose their office by privation which is a punishment for a delict and may be effected only in accordance with the demands of penal law.

In the case of privation of the office as a penalty for a canonical crime, it requires an intervention of the competent ecclesiastical authority, particularly the local ordinary¹⁴² of the diocese where the house to which the religious has been attached is situated for religious institute of diocesan right¹⁴³ who can initiate a judicial penal process at the request of religious superiors.¹⁴⁴

5.2.2.3. Norms on Confirmation of the Decree of Dismissal (*Constitutions*, art. 175; cf. cc. 694, §3; 700).

The universal law provides that the supreme moderator along with the council of an institute of diocesan right can issue a decree of dismissal of a member or a declaration of dismissal by virtue of the law itself, whether a religious in perpetual or in temporal vows, if the member violates the norms of canons 694-696.¹⁴⁵

The revised canon 694, §3 stipulates that an *ipso facto* dismissal of a religious who has been illegitimately absent from the religious house for twelve consecutive months,

¹⁴² Privation is a penal measure, it must be imposed by an ordinary by a decree following an administrative process or by judgment of a tribunal (see cc. 1721, §1). It cannot be just issued by the superior in a lay institute since she is not ordinary in the sense of canon 134, §1.

¹⁴³ Cf. c. 700.

¹⁴⁴ See c. 1721, §1.

¹⁴⁵ See Chapter Three of the thesis, pages 183-187; see also Chapter Four of the thesis, pages 245-246.

taking into account that the location of the religious is unknown (see c. 694, §1, 3^o), in order to be juridically constituted must be confirmed by the Holy See or, for institutes of diocesan right, by the bishop of the principal seat.¹⁴⁶

Canon 700 determines that the decree of dismissal does not have effect unless it has been confirmed by the Holy See or, if it concerns an institute of diocesan right, by the bishop of the diocese where the house to which the religious has been attached is situated.

The CDSSRL's *Constitutions* art. 175.1 stipulates:

The superiors must observe the process of dismissal according to canons 694, 697, 698, 699 and 700 concerning the collection or completion of the proofs, giving the sister full opportunity for self-defense, issuing the decree of dismissal by the competent authority and the confirmation of the decree.¹⁴⁷

The above-mentioned article is not precise as to indicate the competent authority to confirm the decree of dismissal. There is a possibility that two different issues can be misunderstood, especially by those less familiar with canon law, leading people to believe that the competent authority issuing the decree of dismissal of a sister is the same as the authority who confirms the decree or the competent authority who confirms the decree is a superior of the Congregation. It is suggested that this norm should be taken into

¹⁴⁶ The motu proprio *Communis vita* of Pope Francis, issued on 19 March 2019, and in effect from 10 April 2019, introduced an *ipso facto* dismissal of religious who were illegitimately absent from their religious house for 12 consecutive months, taking into account that the location of the religious is unknown. On 8 September 2019, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life issued Circular Letter on the Apostolic Letter Motu Proprio *Communis vita* to clarify the conditions for dismissal. See the official English translation in D. MILLER, P. COONEY, and M.A. SOUCKAR (eds.), *Roman Replies and CLSA Advisory Opinions 2020*, Washington, DC, Canon Law Society of America, 2020, 24-27.

¹⁴⁷ Art. 175.1: “Các vị hữu trách phải tiến hành thủ tục trục xuất theo Giáo luật các điều 694, 697, 698, 699 và 700 về vấn đề điều tra, thu thập chứng liệu, cho tu sĩ được quyền biện hộ, thẩm quyền ban hành và phê chuẩn nghị định trục xuất” (CDSSRL, *Constitutions*, 138).

consideration and revision in accordance with canons 694, §§ 1 and 3; 699, §1 and 700 of the Code of Canon Law.

Moreover, the CDSSRL's proper norms do not refer to the newly revised norm of canon 694 regarding the case of an *ipso facto* dismissal of a religious illegitimately absent from the religious house for twelve consecutive months. This *lacuna* should be clearly addressed in the proper law of the CDSSRL in order to remind the members to observe their obligation of common life and to remind the superior general to obtain the consent of the council before issuing the statement of the case so that the dismissal may be juridically constituted in accord with canon 694, §2.

Both universal law and CDSSRL's proper norms do not identify the process for the bishop to make a confirmation. Some questions may be asked, namely, how will the confirmation be made without bias? Can there be envisaged a meeting between the bishop and the dismissed sister? These issues need to be examined and considered very carefully before confirming the decree of dismissal; therefore, it is suggested that the CDSSRL's *Constitutions* art. 175.1 be revised as follows:

1. In a case of *ipso facto* dismissal as mentioned in canon 694, §1, 1°-2°, after the proofs have been collected, the superior general, with the consent of the general council, is to issue without any delay a declaration of the facts so that the dismissal is established juridically (see c. 694, §2).
2. In order for an *ipso facto* dismissal of a religious who has been illegitimately absent from the religious house for twelve consecutive months, taking into account that the location of the religious is unknown (see c. 694, §1, 3°) to be juridically constituted, the statement of the case by the superior general with her council must be confirmed by the bishop of the principal seat of the Congregation (see c. 694, §3).
3. In cases of mandatory and facultative dismissal as mentioned in canons 695-696, the superior general must observe the process of dismissal in accordance with canons 695, 697, and 698. For validity, she has to proceed collegially with the members of the general council (cf. CDSSRL, *Directory*, Index 1, 144). After the dismissal has been

decided through secret ballot, the superior general is to issue a decree of dismissal with the reasons in law and in fact expressed at least summarily (see c. 699, §1). The decree of dismissal does not have effect unless it has been confirmed by the bishop of the diocese where the house to which the religious has been attached is situated. To be valid, the decree must indicate the right which the dismissed possesses to make recourse to the competent authority within ten days from receiving notification. The recourse has suspensive effect (see c. 700).

Regarding the confirmation of the decree of dismissal, it is recommended that after receiving the decree of dismissal and all the acts related to the case (cf. c. 700) from the superior general, the bishop should carefully examine the merits of the case, the proofs, the procedures followed, and the decision of the religious superior general and the general council. He should confirm the decree of dismissal only after having been completely satisfied with all of the above. In such a way, the bishop can ensure that there were no biased or subjective judgments on the part of the superior general and the councilors. It is his responsibility to make certain that the rights of the religious are respected.

Admittedly, the CDSSRL could introduce other norms mirroring the matters dealt with (or possibly to be dealt with) in Section 5.2.1 of the present thesis. Again, however, the “legislative economy” is of a paramount importance, determining what is feasible and truly benefitting the institute in its mission for the (particular) Church.

CONCLUSION

This chapter, based on practical concerns related to the particular milieu of the Church in Vietnam, brings out some practical approaches in the task of facilitating the relationship between the diocesan bishops and religious superiors of CDSSRL. Annual meetings and structures for mutual dialogue between the diocesan bishops and religious

superiors were singled out as particularly promising avenues for mutual exchange of experience, ideas, opinions, and concerns. Understanding, acceptance and mutual respect were the desired attitudes in these encounters aimed at fostering and promoting sincere cooperation and collaboration in the works of apostolate, charity, and other common initiatives in safeguarding human dignity.

Particularly, the issue of resolving or at least minimizing the persisting difficulties and tensions between the diocesan bishops and religious superiors in Vietnam was considered. In response to the peculiarity of ecclesial and cultural perspective of Vietnam, some concrete means of mediation (involvement of the *nuncio*) were proposed in search of equitable solutions.

Furthermore, in order to understand and respect the right, dignity, and the authority of each other, as well as to foster better relationship and collaboration, and to facilitate the administrative matters involving both the diocesan bishop(s) and religious superiors of the CDSSRL, the study proposed several canonical solutions, expressed in the form of norms in the particular law of the diocese or the proper law of the Institute, to clearly define the authority and obligations of the bishops towards religious institutes of diocesan right. It can be expected that once the particular law of the diocese(s) and the proper law of the CDSSRL specify clearly the authority and obligations of diocesan bishops and religious superiors in matters of common interest, they will be readily acknowledged and followed by both bishops and religious superiors in view of promoting common good, preserving and safeguarding the autonomy of life of the religious institute, fostering its relationship with the local Church, and cooperating in the work of evangelization.

However, those above-mentioned proposals will remain just theoretical elaborations for the purposes of this academic work, unless implemented by both relevant parties. Therefore, in order to achieve also their practical purpose, a sincere effort of each party, helped by God's grace is necessary. As we believe that God will do great things and accomplish also those which seem to be impossible for us (see Mt 19:26; see also Lk 1:37).

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The purpose of this study was to examine the canonical authority of the diocesan bishop over the Congregation of the Dominican Sisters of Saint Rose of Lima, subject to his special care as per canons 594 and 595 of the 1983 Code of Canon Law. In Chapter One, the notion of the just autonomy of the religious institutes as described in canon 586, §1 was studied. This autonomy is fully acknowledged by the Church. It is not a favor or a privilege granted by the competent ecclesiastical authority, but it derives from the nature of the consecrated life and is enjoyed by each religious institute from the time of its canonical erection, in accordance with canons 579 and 589. The just autonomy of religious institutes includes having their own discipline recognized in the Church, the right to organize their internal life, to live the consecrated life in accordance with the nature, purpose, spirit, character, and sound traditions of their institutes, the right to organize formation and training of their own members and to manage their own property, freedom in selection of their own superiors, their appointment, transfer and removal in accordance with the universal and proper laws. This autonomy is to be promoted and protected by all members, but especially by chapters and superiors (see cc. 631, §1; 618; 578) and respected, preserved, and safeguarded by the local ordinaries (see c. 586, §2).

The obligation of the local ordinary stated in canon 586, §2 has no foundation in the 1917 Code, but instead reflects *Lumen gentium*, no. 45 and *Mutuae relationes*, nos. 9c-d, 28, 52 which stipulate the duty of the ecclesiastical hierarchy to preserve and safeguard the autonomy of institutes of consecrated life in order to ensure that they may grow and flourish in accordance with the spirit of the founder(s) or foundress(es), with due regard

for unity and harmony in carrying out the apostolate. However, that just autonomy can never be understood as total independence from ecclesiastical authority since religious institutes are subject to the external ecclesial authority in the spirit of *communio* with the Church.

In Chapter Two, we examined all of the pertinent legislation which explicitly or implicitly determines the authority of the diocesan bishop of the principal seat in affairs beyond the competence of the superiors of a religious institute of diocesan right. This authority involves the following matters: (1) approval of the institute's constitutions (see c. 595, §1); (2) confirmation of changes in the constitutions (see c. 595, §1); (3) dispensations from the norms of the constitutions for cases affecting the entire institute (see c. 595, §2); (4) transfer of the principal house of a religious institute of diocesan right from one diocese to another; (5) merging or uniting with another religious institute or institutes (see c. 582); and (6) presiding at the election of the supreme moderator (see c. 625, §2).

Regarding the transfer of the principal house of a religious institute of diocesan right from one diocese to another, the universal law does not explicitly address the role of the diocesan bishop of the principal seat. Therefore, the thesis advocated the involvement of both diocesan bishops - the diocesan bishop *a quo* who will lose his special rights and duties in relation to the institute and the diocesan bishop *ad quem* who will thereby assume special rights and duties towards the institute, relinquished by the diocesan bishop *a quo*.

Moreover, for the matter of mergers and unions with another religious institute or institutes, in the *ius vigens* expressly reserved to the Apostolic See only, the thesis pointed to the need of taking into account the common practice of CICLSAL. It appears that CICLSAL requires the *nihil obstat* of the diocesan bishop of the principal seat who must thus be involved in the process, in order to assure that the institutes being merged or united are not significantly different in spirit, nature, goals, culture, and apostolate and therefore can successfully adjust to the life together in a single institute.

In Chapter Three, we addressed the authority of the local diocesan bishop regarding the subjection of the religious institute of diocesan right to his special care as per canon 594 in matters determined by universal law. Again, the authority of the local diocesan bishops over religious institutes of diocesan right present in their dioceses are granted by universal law to express the spirit of *communio* between the institutes and the pastors of particular Churches, united in one mission of Christ and His Church on earth. The current norms express a balance between the rights of the diocesan authority and the authentic charismatic characteristics of religious institutes. Religious exist *for the Church* and *for the world*, so they are called to build up the Church and to wake the world up by being living witnesses of Christ and his gospel through their love, joy, simple way of life, faithfulness, unity, forgiveness, mercy. Bishops, on the other hand, must respect the proper authority of the institutes and protect religious life in conformity with their unique charisms.

The *ius vigens* recognizes the authority of the diocesan bishop in matters pertaining to both the institute and an individual member that exceed the competence of superiors of the religious institutes of diocesan right in order to protect the rights of religious institutes

and of individual religious, as well as to promote and foster the responsibilities of both the diocesan bishop and the institute, regarding its organizational structures, internal affairs, and apostolate. In fact, the Code of Canon Law acknowledges the just autonomy of the religious institutes as described in canon 586, §1 by giving ample room for the proper law of institutes. Nevertheless, the study noted that the *ius vigens* seems to favor the diocesan bishops by granting them extensive prerogatives even though some matters could and should be reserved to the internal authority of the institute, namely, regarding alienation of temporal goods (see c. 638, §4), pious foundations entrusted to a religious institute (see c. 1304), permission for management of the goods of lay persons (see cc. 672; 285, §4), and administration of pious trusts (see c. 1302).

The study then turned to examine the current proper law of the CDSSRL. In Chapter Four, we studied the norms issued by the internal authority of the CDSSRL. The CDSSRL's authority is exercised both collegially (general chapter and general commission) and personally by superiors (with the assistance of their councils). The internal authority preserves the unity in charity of the Congregation, protects the patrimony of the Congregation, fosters the fidelity to the charism, promotes the Institute's mission, cares for the members, fosters participation, collaboration, cooperation and sense of co-responsibility of each member, and encourages all members to search for the will of God since both superiors and members have to live in an unconditional submission to the divine will. The CDSSRL's proper law calls for the superiors of the Congregation to exercise their authority in the spirit of service, to respect other's individual dignity as daughters of God, and to listen and dialogue for the common good of the Congregation and the Church.

It appears, however, that the proper law of the CDSSRL contains some provisions which are not compatible with the norms of universal law. Those instances were identified in view of possible future interventions by the competent authorities, both within the Congregation and external to it. Although a doctoral thesis has as its purpose an academic presentation of a given subject matter, nevertheless this thesis lays foundations for a future practical endeavor of redrafting the proper law of the Congregation.

At the same time, we studied the CDSSRL's proper law in view of clearly delineating the prerogatives of the diocesan bishop of the principal seat and the diocesan bishops of dioceses where the houses of the Congregation are located. This study discovered that some of the current norms are either unclear or inapplicable. This causes confusion in applying the law on the part of the superiors and the members. In addition, we found some *lacunae* with respect to the exercise of the authority of the diocesan bishop over the Congregation and individual sisters, namely, concerning visitation of individual houses and works of apostolate or charity entrusted to the Congregation, granting consent for establishment of schools and alienation of temporal goods, issuing permissions for acceptance of pious foundations or management of lay person's goods, confirmation of the decree of dismissal, granting a mandate to teach theological disciplines in institutes of higher studies, and according permissions for publishing of writings. Consequently, both the Congregation and its members have not properly acknowledged the right and duty of diocesan bishops in such matters.

Finally, in light of the Code of Canon Law and the Church's authentic teaching, Chapter Five proposed some practical means for fostering a better relationship, healthy and

harmonious, and a mutual collaboration between diocesan bishops and DSSRL's superiors. Setting up meetings between the diocesan bishop(s)/local ordinaries and religious superior(s) provides both parties with opportunities to express their opinions and points of view on matters of concern, such as pastoral works, charity activities, formation, evangelization, etc. Urging mutual dialogue between the local bishops and religious superiors in the spirit of respect and collaboration for the purpose of building up a common good of the Church and of the Christian faithful through the work of evangelizations and in many common areas of service to human life is another promising way of fostering the relationship and cooperation between local bishops and religious.

Should the approaches proposed in Chapter Five fail to resolve the tensions between diocesan bishop(s) and religious institutes, the study proposed the intervention of the papal legate (nuncio) who is the best neutral authority to mediate in such circumstances.

Recommendations

Due to some unclear and/or inapplicable norms and *lacunae* discovered in the CDSSRL's proper law, many difficulties and unnecessary tensions between superiors and the Institute's members and between the local bishops and the religious superiors have arisen and persisted, especially in relation to the proper understanding of just autonomy of life of the Congregation, particularly in governance and apostolate. The author postulated, therefore, that *lacunae* should be clearly addressed and changes to the CDSSRL's proper law introduced to meet new and exceptional social, political, educational, and economic conditions. In other words, changes in the CDSSRL's proper law should provide for greater

flexibility in exceptional cases and situations to facilitate faithful observance of the proper law without having to petition a dispensation from the superior general or from the diocesan bishop. The most commonly requested changes concern the community life, especially the norm on wearing the habit at the participation at Mass and the Morning and Evening Prayer of the Liturgy of the Hours, the norm on participating in the Eucharistic sacrifice daily, and the norm on celebrating the Liturgy of the Hours together with other members.

At the same time, the author highly recommends an appropriate revision of particular laws to define the authority and obligations of the diocesan bishop toward lay religious institutes of diocesan right under his jurisdiction, in accordance with universal law and the current local situation.

The author also suggests a reconsideration, in the eventual revision of the Code of Canon Law, of the norms determining the extent of the authority of diocesan bishop over lay religious institutes of diocesan right and individual religious by specifying the following matters:

- (1) The transfer of the principal house of a religious institute of diocesan right from one diocese to another.

This matter, not explicitly addressed in the *ius vigens*, had caused many difficulties and conflicts between the institutes and the bishops *ad quem* with respect to the authority and obligations of the diocesan bishops who had often expressed their displeasure or apposition to such a move. Regarding this reality, the author suggests to add a norm specifying the competence of the diocesan bishops in this regard; for instance, the need for

permission of the diocesan bishop where the principal house is located and the consent of the diocesan bishop of the diocese to which the principal house of the institute is to be relocated.

- (2) The competent authority to grant the permission for religious in lay institutes of diocesan right for management of lay person's goods (cc. 672; 285, §4).

Canon 672 expressly stipulates that the competent authority to grant the permission for religious in lay institutes of pontifical right to manage a lay person's goods is the proper major superior. However, the norm does not address the case of religious in lay institutes of diocesan right. It is a *lacuna*; therefore, the author suggests a further study of this issue. It does not seem necessary for local ordinaries to intervene if the matter only involve the internal governance of the institute. In the author's opinion, in cases of necessity, a religious of an institute of diocesan right may be granted the permission to manage the goods of an elderly or incapacitated parent or close relative by his/her proper major superior. Therefore, the author suggests that canon 672 be revised as follows:

from "Religious are bound by the prescripts of cann. 277, 285, 286, 287, and 289, and religious clerics additionally by the prescripts of can. 279, §2; in lay institutes of pontifical right, the proper major superior can grant the permission mentioned in can. 285, §4;"

to "Religious are bound by the prescripts of cann. 277, 285, 286, 287, and 289, and religious clerics additionally by the prescripts of can. 279, §2; in lay institutes, the proper major superior can grant the permission mentioned in can. 285, §4.

(3) Finally, in order to avoid any confusion in exercising authority of both diocesan bishops and religious superiors in matters pertaining to either the institute or an individual member, the author highly recommends a future reconsideration of canons 595, §2; 609, §1; 616, §1; 686, §1; and 686, §3. In these canons, the legislation uses the term “diocesan bishop,” but it does not expressly specify which subject matters are reserved to the diocesan bishop of the principal seat, and which to the diocesan bishop of the diocese of the place in which the house is located. Therefore, canons 595, §2; 609, §1; 616, §1; 686, §1; and 686, §3 should be revised as follows:

- a) Canon 609, §1. From “Houses of a religious institute are erected by the authority competent according to the constitutions, with the previous written consent of the diocesan bishop;”

to “Houses of a religious institute are erected by the authority competent according to the constitutions, with the previous written consent of the diocesan bishop *where the house will be erected.*”

- b) Canon 616, §1. From “The supreme moderator can suppress a legitimately erected religious house according to the norm of the constitutions, after the diocesan bishop has been consulted. The proper law of the institute is to make provision for the goods of the suppressed house, without prejudice to the intentions of the founders or donors or to legitimately acquired rights;”

to “The supreme moderator can suppress a legitimately erected religious house according to the norm of the constitutions, after the diocesan bishop *of the place in*

which the house is located has been consulted. The proper law of the institute is to make provision for the goods of the suppressed house, without prejudice to the intentions of the founders or donors or to legitimately acquired rights.”

- c) Canon 686, §1. From “With the consent of the council, the supreme moderator for a grave cause can grant an indult of exclaustation to a member professed by perpetual vows, but not for more than three years, and if it concerns a cleric, with the prior consent of the ordinary of the place in which he must reside. To extend an indult or to grant it for more than three years is reserved to the Holy See, or to the diocesan bishop if it concerns institutes of diocesan right;”

to “With the consent of the council, the supreme moderator for a grave cause can grant an indult of exclaustation to a member professed by perpetual vows, but not for more than three years, and if it concerns a cleric, with the prior consent of the ordinary of the place in which he must reside. To extend an indult or to grant it for more than three years is reserved to the Holy See, or to the diocesan *bishop of the diocese where the house to which the religious has been attached is situated* if it concerns institutes of diocesan right.”

- d) Canon 686, §3. From “At the petition of the supreme moderator with the consent of the council, exclaustation can be imposed by the Holy See on a member of an institute of pontifical right, or by a diocesan bishop on a member of an institute of diocesan right, for grave causes, with equity and charity observed;”

to “At the petition of the supreme moderator with the consent of the council, exclaustation can be imposed by the Holy See on a member of an institute of pontifical right, or by a diocesan bishop *of the diocese where the house to which the religious has been attached is situated* on a member of an institute of diocesan right, for grave causes, with equity and charity observed.”

It is a sincere desire of the author that with the help of this study, the CDSSRL’s superiors and diocesan bishops acknowledge their respective rights and obligations and properly exercise them in accordance with the universal, particular, and proper laws, in view of promoting a closer relationship by cooperating in the work of evangelization and in common areas of service to human life in the spirit of respect, dialogue, mutual acceptance and cooperation for the common good of the Church and of souls.

BIBLIOGRAPHY

I - SOURCES

1. General Documentations

Acta Apostolicae Sedis, Commentarium officiale, Typis polyglottis Vaticanis, 1909–.

APOSTOLIC SIGNATURA, “Canon 1400, §2 – Controversies from an Act of Administrative Power,” in *Roman Replies and CLSA Advisory Opinions 1991*, K. VANN and L. JARRELL (eds.), Washington, DC, CLSA, 1991, 37.

BENEDICT XVI, Apostolic Letter Issued Motu Proprio on the Service of Charity *Intima Ecclesiae natura*, 11 November 2012, in AAS, 104 (2012), 1001, English translation in *L’Osservatore Romano*, 10 December 2012, 5.

_____, Message for the 47th World Communications Day, 12 May 2013, http://w2.vatican.va/content/benedict-xvi/en/messages/communications/documents/hf_ben-xvi_mes_20130124_47th-world-communications-day.html.

_____, Motu Proprio on the Service of Charity *Intima Ecclesiae natura*, 11 November 2012, art. 7.2, in AAS, 104 (2012), 1001, in *L’Osservatore Romano*, English edition, 10 December 2012.

_____, Post-Synodal Apostolic Exhortation in the Word of God in the Life and Mission of the Church *Verbum Domini*, 30 September 2010, in AAS, 102 (2010), 681-787, English translation in *Origins*, 40 (2010-2011), 417-455.

Canon Law Digest, vols. 1–6, Milwaukee and New York, Bruce Pub. Co., 1934–1969, vols. 7–10, Chicago, Canon Law Digest, 1975–1986, vols. 11–, Washington, DC, CANON LAW SOCIETY OF AMERICA, 1991–.

CATHOLIC BISHOPS’ CONFERENCE OF VIETNAM, *A Directory of the Catholic Church in Vietnam*, religion Publishing House, 2012.

_____, *General Directory for Catechesis*, Hà Nội, Tôn Giáo Publication, 2017.

_____, *Sống Đạo Theo Cung Cách Việt Nam*, Hà Nội, Religion Publishing House, 2004.

CATHOLIC CHURCH, SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTE, *The Procedure to Follow in the Dismissal of a Woman Religious Who Has Taken Perpetual Vows*, Dossiers, 7, Ottawa, Canadian Religious Conference, 1977.

Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctus, Libreria editrice Vaticana, 1995, English translation *Code of Canons of the Eastern Churches: Latin-English Edition, New English*

Translation, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, DC, Canon Law Society of America, 2001.

Codex iuris canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus, Rome, Typis polyglottis Vaticanis, 1917, English translation E.N. PETERS (ed.), *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001.

Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus, Libreria editrice Vaticana, 1989, English translation *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the Canon Law Society of America, Washington, DC, Canon Law Society of America, 2001.

CONGREGATION FOR BISHOPS, *Directory for the Pastoral Ministry of Bishop Apostolorum successores*, 22 February 2004, Rome, Libreria editrice Vaticana, 2004.

CONGREGATION FOR CATHOLIC EDUCATION, *Consecrated Persons and Their Mission in Schools: Reflections and Guideline*, 28 October 2002, in *The Journal of Catholic Education*, 7 (2003), 1-24.

_____, Letter *Siamo certi*, 15 October 1996 (original in Italian, 14 December 1996), published in English by the Congregation, prot. 483/96/13.

_____, *The Catholic School on the Threshold of the Third Millennium*, 28 December 1997, Città del Vaticano, Libreria editrice Vaticana, 1996, in *The Journal of Catholic Education*, vol. 2 (1998), Los Angeles, Loyola Marymount University, 4-14.

CONGREGATION FOR EVANGELIZATION OF THE PEOPLES, Private Letter to Bishop Simon Văn Hiền Nguyễn – Bishop of Sài Gòn Archdiocese, art. 662/56, Rome, 10 April 1956.

_____, “Requirements for the Erection of a Religious Institute of Diocesan Rite,” rescript (private), n.d., in F.S. PEDONE and P.D. COUNCE (eds.), *Roman Replies and CLSA Advisory Opinions 2006*, Washington, DC, CLSA, 2006, 15-16.

CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, “Acts of Extraordinary Administration,” rescript (private), n.d., in S.A. EUART (ed.), *Roman Replies and CLSA Advisory Opinions 2010*, Washington, DC, CLSA, 2010, 39-40.

_____, “Apostolic Visitation of Institutes of Women Religious in the United States,” rescript (private), n.d., in J.A. ALESANDRO and T.J. GREEN (eds.), *Roman Replies and CLSA Advisory Opinions 2015*, Washington, DC, CLSA, 2015, 37-50.

- _____, Circular Letter on the Apostolic Letter *Motu Proprio Communis vita* to clarify the conditions for dismissal, 8 September 2019, English translation in D. MILLER, P. COONEY, and M.A. SOUCKAR (eds.), *Roman Replies and CLSA Advisory Opinions 2020*, Washington, DC, Canon Law Society of America, 2020, 24-27.
- _____, “Definition for an Indult of Separation *Ad Experimentum*,” rescript (private), n.d., in S.A. EUART (ed.), *Roman Replies and CLSA Advisory Opinions 2010*, Washington, DC, CLSA, 2010, 34.
- _____, Directives on Formation in Religious Institutes *Potissimum institutioni*, 2 February 1990, in AAS, 82 (1990), 470-532, English translation Directives on Formation in Religious Institutes, in *Origins*, 19 (1990), 677, 679-699.
- _____, “Imposed Exclaustration,”—rescript (private), n.d., in S.A. Euart (ed.), *Roman Replies and CLSA Advisory Opinions 2011*, Washington, DC, CLSA, 2011, 27.
- _____, “Indult of Departure or Decree of Dismissal,” rescript (private), n.d., in A.J. ESPELAGE (ed.), in *Roman Replies 2003*, Washington, DC, CLSA, 2003, 13-15.
- _____, Instruction on Consecrated Life in the Third Millennium *Starting Afresh from Christ*, 19 May 2002, Vatican City, Libreria editrice Vaticana, 2002, English translation in *Origins*, 32 (2002-2003), 129, 131-148.
- _____, “Instruction on Fraternal Life in Community *Congregavit nos*, 2 February 1994, in *Enchiridion Vaticanum*, vol. 14, 220-283, English translation in *Origins*, 23 (1994), 693, 695-722.
- _____, Instruction on Inter-Institute Collaboration for Formation *Attenta alla condizioni*, 8 December 1998, in *Enchiridion Vaticanum*, vol. 17, 1339-1373, English translation in *CLD*, vol. 14, 591-623.
- _____, Instruction on the Service of Authority and Obedience *Faciem tuam*, 11 May 2008, in *Iustitia*, 108 (2011), 187-238 and *Origins*, 38 (2008-2009), 65-83.
- _____, “Merger of an Institute of Diocesan Right with an Institute of Pontifical Right,” rescript (private), n.d., in A.J. ESPELAGE (ed.), *Roman Replies and CLSA Advisory Opinions 2005*, Washington, DC, CLSA, 2005, 8-10.
- _____, “Merger of Religious Institutes: Documents Required,” in PEDONE, F.S., and J.I. DONLON [eds.], *Roman Replies and CLSA Advisory Opinions 2002*, Washington, DC, CLSA, 2002, 8.

- _____, “Report of the State and Life of a Religious Institute,” rescript (private), n.d., in PEDONE, F.S., and P.D. COUNCE (eds.), *Roman Replies and CLSA Advisory Opinions 2006*, Washington, DC, CLSA, 2006, 17-18.
- _____, “Requirements for the Erection of a Religious Institute of Diocesan Right,” rescript (private), n.d., in PEDONE, F.S., and P.D. COUNCE (eds.), *Roman Replies and CLSA Advisory Opinions 2006*, Washington, DC, CLSA, 2006, 15-16.
- _____, Rescript (private), 25 July 2011, Prot. No. 22367/2011.
- _____, Rescript on the Erection of a Public Association of the Faithful as a Religious Institute of Diocesan Right (private), n.d., in A.E., SHARON, and J.A. ALESANDRO, [eds.], *Roman Replies and CLSA Advisory Opinions 2013*, Washington, DC, CLSA, 2013, 31-33.
- _____, Response, 1 July 2020, prot. no. Sp.R. 2452/20, in D. MILLER, P. COONEY, and M.A. SOUCKAR (eds.), *Roman Replies and CLSA Advisory Opinions 2020*, Washington, DC, Canon Law Society of America, 2020, 13-15.
- _____, “Support for a Separated Member of a Religious Institute,” rescript (private), n.d., in S.A. EUART (ed.), *Roman Replies and CLSA Advisory Opinions 2009*, Washington, DC, CLSA, 2009, 23.
- _____, “Transfer from a Religious Institute to a Secular Institute,” rescript (private), n.d., in PEDONE, F.S., and P.D. COUNCE (eds.), *Roman Replies and CLSA Advisory Opinions 2006*, Washington, DC, CLSA, 2006, 18-19.
- _____, Union of Several of Religious Institutes, rescript (private), n.d., in J.J. KOURY and M.V. SHIOBHAN [eds.], *Roman Replies and CLSA Advisory Opinions 2007*, Washington, DC, CLSA, 2007, 15-17.
- CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES AND THE CONGREGATION FOR BISHOPS, Directives for Mutual Relations between Religious and Bishops in the Church *Mutuae relationes*, 14 May 1978, in AAS, 70 (1978), 472-506, English translation in *CLD*, vol. 9, 296-340.
- CONGREGATION FOR THE CLERGY, General Directory for Catechesis *Ad normam decreti*, 11 April 1971, in AAS, 64 (1972), 97-176; English translation in *FLANNERY2*, 529-605.
- _____, *General Directory for Catechesis*, 23 March 2020, Washington, DC, USCCB, 2020.
- _____, “Instruction on certain questions regarding the collaboration of the lay faithful in the ministry of priests *Ecclesia de mysterio*, 15 August 1997, in AAS, 89 (1997), 852-877,

English translation in *Sacred Music*, vol. 124, Church Music Association of America, 1997, 15-31.

_____, *Instruction on the Pastoral Conversion of the Parish Community in the Service of the Evangelizing Mission of the Church*, 20 July 2020, The Holy See Press, 20 July 2020.

CONGREGATION FOR THE DOCTRINE OF THE FAITH, Decree regarding the Censorship of Books by Pastors of the Church *Ecclesiae pastorum*, 19 March 1975, in AAS, 67 (1975), 281-284, in *L'Osservatore Romano*, English edition, 24 April 1975, 4-7.

_____, *Instruction on Some Aspects of the Use of the Instruments of Social Communication in Promoting the Doctrine of the Faith*, no. 13, in *Communicationes*, 24 (1992), 18-27, English translation in *Origins*, 22 (1992), 95.

FRANCIS, Apostolic Constitution on Ecclesiastical Universities and Faculties *Veritatis gaudium*, 29 January 2018, English translation in <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2018/01/29/180129c.html>.

_____, Apostolic Exhortation on the Call to Holiness in Today's World *Gaudete et exsultate*, 19 March 2018, English translation, *Rejoice and Be Glad: On the Call to Holiness in Today's World; Apostolic Exhortation Gaudete et Exsultate*, New York/ Mahwah, NJ, Paulist Press, 2018.

_____, Apostolic Exhortation on the Proclamation of the Gospel in Today's World *Evangelii gaudium*, 21 December 2012, in AAS, 105 (2013), 1019-1137, English translation in USCCB, *The Joy of the Gospel Evangelii gaudium*, Washington, DC, USCCB, 2013.

_____, Apostolic Letter Motu Proprio Amending Canon 579 of the Code of Canon Law *Authenticum charismatis*, 1 November 2020, in *L'Osservatore Romano*, English edition, 6 November 2020, http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20201101_authenticum-charismatis.html (10 November 2020).

_____, Encyclical Letter on Fraternity and Social Friendship *Fratelli tutti*, 3 October 2020, English translation *Fratelli tutti*, Indy Publisher, IN, Royal Press, 26 October 2020.

_____, Message for the 48th World Day of Social Communications, 1 June 2014, http://w2.vatican.va/content/francesco/en/messages/communications/documents/papa-francesco_20140124_messaggio-comunicazioni-sociali.html.

- _____, Message for the 50th World Day of Social Communications, 1 June 2016, http://w2.vatican.va/content/francesco/en/messages/communications/documents/papa-francesco_20160124_messaggio-comunicazioni-sociali.html.
- _____, motu proprio *Communis vita*, 19 March 2019, English translation http://w2.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190319_communis-vita.html (10 July 2019).
- _____, motu proprio Amending Canon 579 of the Code of Canon Law *Authenticum charismatis*, 01 November 2020, in *L'Osservatore Romano*, English edition, 6 November 2020.
- _____, Post-Synodal Apostolic Exhortation on Love in the Family *Amoris laetitia*, 19 March 2016, in AAS, 108 (2016), 365-366, English translation in USCCB, *The Joy of Love: on Love in the Family*, New York, Paulist Press, 2016.
- _____, Rescript *Ex audientia*, 11 May 2016, in AAS, 108 (2016), English translation in https://www.vatican.va/roman_curia/secretariat_state/parolin/2016/documents/rc_seg-st_20160511_parolin-rescritto-can579cdc_en.html.
- _____, Speech in the Meeting with Superiors General of Religious Institutes in Rome, 27-29 November 2013, in *La Civiltà Cattolica*, 3 January 2014, 6.
- JOHN PAUL II, Address given 24 November 1978, in *Jean Paul II aux religieuses et religieux*, vol. I, 1978-1980, S. Pern, 1981.
- _____, Apostolic Constitution on Ecclesiastical Universities and Faculties *Sapientia Christiana*, 15 April 1979, in AAS, 71 (1979), 469-499, English translation in *Origins*, 9 (1979-1980), 1-39.
- _____, Apostolic Constitution on Catholic Universities *Ex corde Ecclesiae*, 15 August 1990, in AAS, 82 (1990), 1475-1509, English translation in *CLD*, vol. 12, 511-534.
- _____, Apostolic Constitution on the Roman Curia *Pastor bonus*, 28 June 1988, in AAS, 80 (1988), 841-930, English translation *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, DC, Canon Law Society of America, 1999, 683-751.
- _____, Apostolic Exhortation on the Vocation and Mission of the Lay Faithful in the Church and in the World *Christifideles laici*, 30 December 1988, in AAS, 81 (1989), 393-521, English translation in *Origins*, 18 (1988-1989), 561, 563-595.

- _____, Apostolic Exhortation to Men and Women Religious on Their Consecration in the Light of the Mystery of the Redemption *Redemptionis donum*, 25 March 1984, in AAS, 76 (1984), 513-546, English translation *Apostolic Exhortation Redemptionis donum of His Holiness John Paul II: To Men and Women Religious on Their Consecration in the Light of the Mystery of the Redemption*, Ottawa, CCCB, 1984.
- _____, Apostolic Exhortation on Jesus Christ Alive in His Church the Source of Hope for Europe *Ecclesia in Europa*, 28 June 2003, Libreria editrice Vaticana, 2003.
- _____, Apostolic Letter Motu proprio *Ad tuendam fidem*, 28 May 1998, in AAS, 90 (1998), 457-461, English translation in *Origins*, 28 (1998-1999), 113-116.
- _____, Apostolic Letter *Novo millennio ineunte*, 6 January 2001, in AAS, 93 (2001), 266-309, English translation *Novo Millenio Ineunte*, Boston, MA, St. Paul Books & Media, 2003.
- _____, Encyclical Letter on the Permanent Validity of the Church's Missionary Mandate *Redemptoris missio*, 7 December 1990, in AAS, 83 (1991), 249-340, English translation in *Bulletin of Missionary Research*, 15 (1991), 50.
- _____, Letter to the Bishops of the United States, 3 April 1983, in *Origins*, 13 (1983-1984), 129, 131-133.
- _____, *Message for the 1999 World Day of Peace*, 01 January 1999, in AAS, 91 (1999), 377-388, English translation in https://w2.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_14121998_xxxii-world-day-for-peace.html.
- _____, Motu proprio *Apostolos Suos*, 21 May 1998, in AAS, 90 (1998), 641-658, English translation in *Origins*, 28 (1998), 152-158.
- _____, Post-Synodal Apostolic Exhortation on Catechesis in Our Time *Catechesi tradendae*, 16 October 1979, in AAS, 71 (1979), 1277-1340, English translation in *FLANNERY2*, 762-814.
- _____, Post-Synodal Apostolic Exhortation on the Bishop, Servant of the Gospel of Jesus Christ for the Hope of the World *Pastores gregis*, 16 October, in AAS, 96 (2004), English translation *Servant of the Gospel of Jesus Christ for the Hope of the World Pastores gregis*, Ottawa, Canadian Conference of Catholic Bishop, 2003.
- _____, Post-synodal Apostolic Exhortation on the Consecrated Life and Its Mission in the Church and the World *Vita consecrata*, 25 March 1996, in AAS, 88 (1996), 377-486, English translation in *Origins*, 25 (1996), 681; 683-719.

- _____, *Visible Signs of the Gospel: Messages of John Paul II on Consecrated Life*, Compiled and indexed by the Daughters of St. Paul, Boston, MA, St. Paul Editions, 1980.
- LEO XIII, Apostolic Constitution on Religious Orders *Conditae a Christo*, 8 December 1900, in ASS, vol. XXIII (1900-1901), 341-347, English translation in I. LANSLOTS, *Handbook of Canon Law for Women Under Simple Vows*, 9th ed., rev. and enl., New York, F. Pustet, 1920, Appendix A, 246-258.
- PAUL VI, Allocution to Certain Superiors General *Magno gaudio*, 23 May 1964, in AAS, 56 (1964), 565-571, English translation in CLD, vol. 6, 425-433.
- _____, Apostolic Constitution *De Episcoporum muneribus*, 15 June 1966, in AAS, 58 (1966), 467-472. English translation in CLD, vol. 6 (1963-1967), 394-400.
- _____, apostolic exhortation *Evangelii nuntiandi*, 8 December 1975, in AAS, 68 (1976), 5-76, English translation in FLANNERY2, 711-761.
- _____, Apostolic Exhortation on the Renewal of Religious Life according to the Teaching of the Second Vatican Council *Evangelica testificatio*, 29 June 1971, in AAS, 63 (1971), 496-526, English translation in FLANNERY1, 680-706.
- _____, Apostolic Letter on the Implementation of the Decrees Christus Dominus, Presbyterorum ordinis and Perfectae caritatis *Ecclesiae Sanctae I*, 6 August 1966, in AAS, 58 (1966), 757-775, English translation in FLANNERY1, 591-610.
- _____, Encyclical Letter on the Paths of the Church *Ecclesiam suam*, 6 August 1964, in AAS, 56 (1964), 609-659, English translation in *The Pope Speaks*, 10 (1964), 253-292.
- _____, Motu proprio *Episcoporum muneribus*, 15 June 1966, in AAS, 58 (1966), 467-472. English translation in in CLD, vol. 6, 394-400.
- _____, Motu proprio *Pastorale munus*, 30 November 1963, in AAS, 56 (1964), 5-12. English translation in CLD, vol. 6, 370-378.
- _____, Norms for Implementing the Decree on the Church's Missionary Activity *Ecclesiae Sanctae III*, 6 August 1966, in AAS, 58 (1966), 782-787, English translation in FLANNERY1, 857-862.
- _____, Norms for Implementing the Decree on the Up-to-Date Renewal of Religious Life *Ecclesiae Sanctae II*, 6 August 1966, in AAS, 58 (1966), 775-782, English translation in FLANNERY1, 624-633.

PIUS XII, Address to the Superiors General of Religious Women, 15 September 1952, in AAS, 44 (1952), 823-826.

_____, Allocution to Superiors General of Religious Orders of Congregations of men, 11 February 1958, in AAS, 50 (1958), 153-161.

_____, Apostolic Constitution on Secular Institutes *Provida Mater Ecclesia*, 2 February 1947, in AAS, 39 (1947), 114-124, English translation in *CLD*, vol. 3, 135-146.

_____, encyclical letter *Mystici Corporis Christi*, 29 June 1943, in AAS, 35 (1943), 193-248, English translation, J. BLUETT, *The Mystical Body of Christ*, Washington, DC, The America Press, 1962.

PONTIFICAL COMMISSION FOR THE AUTHENTIC INTERPRETATION OF THE CODE OF CANON LAW, authentic interpretation of c. 127 §1, 14 May 1985, in AAS, 77 (1985), 771, English translation in *CLD*, vol. 11, 16.

_____, *Codex iuris canonici. schema Patribus commissions reservatum*, Rome, Libreria editrice Vaticana, 1980, English translation in E. McDONOUGH, *Ready Reference for the 1980 Schema of Canons on Institutes of Consecrated Life*, Columbus, OH, Springs Press, Saint Mary of the Springs, 1981.

_____, Principia quae *Codicis iuris canonici* recognitionem dirigant, in *Communicationes*, 1 (1969), 77-85, English translation in USCCB, *Schema of Canons on Institutes of Life Consecrated by Profession of the Evangelical Counsels (Draft)*, prepared under the auspices of the Office of United States Catholic Conference, Washington, DC, USCCB, 1977.

_____, reply concerning dominative power, 26 March 1952, in AAS, 44 (1952), 497, English translation in *CLD*, vol. 3, 73.

_____, reply concerning the vote of a superior with that of the council, in AAS, 77 (1985), 771, English translation in *Roman Replies* 1986, Washington, DC, CLSA, 1986, 91.

_____, Response on 20 June 1987, in AAS, 79 (1987), 1249, English translation in *CLD*, vol. 12, 446.

ROMAN CATHOLIC BISHOP OF DIOCESE OF CALGARY, *RC Diocese of Calgary. Strengthening Parish Communities. Model Code of Conduct for Priests, Deacons, Religious Clerics, Sisters and Brothers, Pastoral Ministers, Administrators, Staff and Volunteers*, Calgary 2010, in <https://www.catholicyc.ca/uploads/6/5/5/7/65570685/model-code-of-conduct-03-17-11.pdf> (02 May 2021).

SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTE, Decree *Ad instituenda experimenta*, 4 June 1970, in AAS, 62 (1970), 549-550, English translation in *CLD*, 7 (1968-1972), 80-82.

_____, Decree *Dum canonicarum legum*, 8 December 1970, in AAS, 63 (1971), 318-319, English translation in *CLD*, 7 (1968-1972), 531-533.

_____, “Documents Necessary for Erection of Diocesan-law Congregation or to Obtain Decree of Praise,” rescript (private), 1970. English translation in *CLD*, vol. 7, 458.

_____, Essential Elements in the Church’s Teachings on Religious Life as Applied to Institutes Dedicated to Works of Apostolate, 31 May 1983, Vatican City, 1983, in *Origins*, 13 (1983), 133-142.

_____, Instruction on the Renewal and Adaptation of Formation for Living the Religious Life *Renovationis causam*, 6 January 1969, in AAS, 61 (1969), 103-120, English translation in *FLANNERY1*, 63-655.

_____, “May the Temporarily Professed Be Granted Active and Passive Voice in the Election of Delegates to the General Chapter and May They Be Appointed Local Superiors?” in *Informationes SCRIS*, 1 (1976), 71-73.

_____, relying concerning the authority of the general chapter, 27 June 1973, Prot. No. 43931/73, English translation in *CLD*, vol. 9, 342.

_____, rescript (private), 31 May 1983, English translation in *CLD*, vol. 10, 43-82.

_____, rescript (Provincial Chapter: Temporarily Professed as Delegates), July 1973, in *CLD*, vol. 8, 341.

_____, Rescript on the Documents Necessary for Erection of Diocesan-law Congregation or to Obtain Decree of Praise (private), 1970, English translation in *CLD*, vol. 7, 458.

SECOND VATICAN COUNCIL, Constitution on the Sacred Liturgy *Sacrosanctum concilium*, 4 December 1963, in AAS, 56 (1964), 97-134, English translation in *FLANNERY1*, 1-36.

_____, Declaration on Education *Gravissimum educationis*, 28 October 1965, in AAS, 58 (1966), 728-739, English translation in *FLANNERY1*, 725-737.

_____, Decree on the Apostolate of Lay People *Apostolicam actuositatem*, 18 November 1965, in AAS, 58 (1966), 837-864, English translation in *FLANNERY1*, 766-798.

_____, Decree on the Church’s Missionary Activity *Ad gentes*, 7 December 1965, in AAS, 58 (1966), 947-990, English translation in *FLANNERY1*, 813-856.

_____, Decree on the Pastoral Office of Bishops in the Church *Christus Dominus*, 28 October 1965, in AAS, 58 (1966), 673–696, English translation in *FLANNERY1*, 564-590.

_____, Decree on the Up-to-date Renewal of Religious Life *Perfectæ caritatis*, 28 October 1965, in AAS, 58 (1966), 702–712, English translation in *FLANNERY1*, 611–623.

_____, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964, in AAS, 57 (1965), 5-67, English translation in *FLANNERY1*, 350-426.

_____, Pastoral Constitution on the Church in the Modern World *Gaudium et spes*, 7 December 1965, in AAS, 58 (1966), 1025-1115, English translation in *FLANNERY1*, 903-1001.

_____, The Declaration on Religious Liberty *Dignitatis humanae*, 7 December 1965, in AAS 58 (1966), 929-941, English translation in *FLANNERY1*, 799-812.

SYNOD OF BISHOPS, 9TH ORDINARY GENERAL ASSEMBLY, *The Consecrated Life and Its Role in the Church and the World: Lineamenta*, Libreria editrice Vaticana, [Ottawa], Canadian Conference of Catholic Bishop, 1992.

The Catechism of the Catholic Church, Collegeville, MN, The Liturgical Press, 1994.

THE DIOCESE OF ROCKFORD, Pastoral Guidelines for the Use of Technology and Social Media, January 2011, in <https://www.rockforddiocese.org/pdfs/socialmedia/Pastoral%20Guidlines.pdf> [02 May 2021]).

THE SACRED CONGREGATION OF RELIGIOUS, Rescript on Qualified Exclaustration for Priest Religious Who Asks for Reduction to the Lay State (private), n.d., Formula, in *CLD*, vol. 4, 240-242 (dated simply 1954).

THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *The Permission to Publish: A Resource for Diocesan and Eparchial Bishops on the Approvals Needed to Publish Various Kinds of Written Works*, Washington, DC, USCCB Publishing, 2004.

2. History and Constitutions

PHẠM, N. C., Decree of Erection of the Dominican Sisters of Búi Chu Congregation, 30 April 1951.

NGUYỄN, PAUL V. B., Decree of Erection of the Congregation of the Dominican Sisters of Saint Rose of Lima, 1 January 1973, Hồ Chí Minh City.

THE DOMINICAN SISTERS OF SAINT ROSE OF LIMA, *Guidelines of the General Chapter X*, Hồ Chí Minh City, 2017.

_____, *The Constitutions*, Hồ Chí Minh City, 2004.

_____, *The Directories*, Hồ Chí Minh City, 2017.

II - BOOKS

ABBASS, J., *The Consecrated Life: A Comparative Commentary of the Eastern and Latin Codes*, Ottawa, Faculty of Canon Law, Saint Paul University, 2008.

_____, *Two Codes in Comparison*, 2nd rev. ed., Rome, Pontificio Istituto Orientale, 2007.

ABBO, J.A. and J.D. HANNAN, *The Sacred Canons: A Concise Presentation of the Current Disciplinary Norms of the Church*, St. Louis, London, B. Herder Book Co., 1952, 2 vols.

ABBOTT, W. (ed.), *Documents of Vatican II*, New York, America Press, 1966.

ABIDEMI, A. J., *The Authority of the Diocesan Bishop and the Decisions of the Conference of Bishops in the Light of Recent Studies: An Appraisal of c. 155 §4*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 1996.

ANDREE, D., *Mutuae relationes: The Relationship between Diocesan Bishops and Major Superiors of Clerical Institutes of Pontifical Right in the United States*, JCD thesis, Rome, Universitas S. Thomae in Urbe, Rome, 2016.

ANDRÉS, D.J., *Il Diritto dei Religiosi: Commento al Codices Versione della Seconda Edizione Spagnola*, Rome, Editrice Commentarium pro Religiosis, 1984, 438-439.

ARMATO, M.M., *The Canonical Establishment of a Religious Institute: Process and Procedures*, Piscataway, NJ, Dominical Sisters of Divine Providence, 1999.

- ASUZU, B., *Communicaitons Strategy in the New Era of Evangelization (Case for the Catholic Church of Nigeria)*, Rome, 1987.
- AYERIDAGA, A.J., *The Diocesan Bishop as the Chief Administrator of a Particular Church: With Particular Reference to Ghana*, Tesi Urbaniana, Serie diritto canonico, no. 119, Rome, Editrice Pontificia Universitas Urbaniana, 1995.
- AYMANATHIL, J., *Personal Authority of the Religious Superior in the Legislation of the Church: An Extract from the Doctoral Dissertation*, Tesi Salesiana, Serie diritto canonico, no. 255, Rome, Editrice Pontificia Studiorum Universitas Salesiana, 1989.
- AYUBAN, E. L., *Selected Canonical Issues Related to Religious Life, Vol. 2: Practical Cases, Questions and Answers*, Quezon City, Claretian Communications Foundation, 2016.
- BAIR, M., *Fusion and Union of Institutes of Consecrated Life in Light of the Code of Canon Law*, JCD thesis, Ottawa, Saint Paul University, 1993.
- BARNHISER, J., *A Study of the Structure of the General Chapter of Three, Nineteenth-Century Diocesan Communities of Women Religious in the United States*, JCL thesis, Washington, DC, The Catholic University of America, 1974.
- BARRETT, E., *The Abuses of Ecclesiastical Property Contemplated in Canon 2346*, JCD thesis, Rome, Pontifical University of Saint Thomas Aquinas, 1960.
- BATTELLI, G., *Religious Life in the Light of the New Canon Law*, Nairobi, 1993.
- BEAL, J.P., J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CANON LAW SOCIETY OF AMERICA, New York and Mahwah, NJ, Paulist Press, 2000.
- BENJAMIN, S., *The Autonomy of a Public Association Founded to Become a Religious Institute*, JCD thesis, Rome, Pontificia Università Gregoriana, 2014.
- BOUSCAREN, T.L., and A.C. ELLIS, *Canon Law: A Text and Commentary*, 3th rev. ed., Milwaukee, WI, The Bruce Publishing Company, 1957.
- BOWE, T., *Religious Superioresses*, Canon Law Studies, no. 228, Washington, DC, The Catholic University of America Press, 1946.
- BROWN, W.A., *The Unification of Provinces in a Religious Institute with Particular Reference to the Situation of the Missionary Oblates of Mary Immaculate in the United States*, JCD thesis, Ottawa, Saint Paul University, 2001.

- CAPARROS, E. et al. (eds.), *Code of Canon Law Annotated*, 2nd rev. ed., Montréal, Wilson & Lafleur Limitée, 2004.
- CARRAGHER, M., *The Office of Prior Provincial in the Proper Law of the Order of Preachers*, JCL thesis, Washington, DC, The Catholic University of America, 1985.
- CATHOLIC BISHOPS' CONFERENCE OF VIETNAM, *Niên Giám Giáo Hội Công Giáo Việt Nam 2016 (The Almanac of the Catholic Church of Vietnam)*, Hà Nội, Tôn Giáo Publication, 2016.
- CHAMBERLAIN, G. and P. HOWELL (eds.), *Empowering Authority: The Charisms of Episcopacy and Primacy in the Church Today*, Kansas City, MO, Sheed and Ward, 1990.
- CHARLES, A., *A Commentary on the New Code of Canon Law*, vol. VI: *Administrative Law*, 2nd ed., St. Louis, MO, Herder, 1923.
- CHOPRA, P.N., ed., *Religious and Communities of India*, New Delhi, 1982.
- CIFATTE, C., *Procedures for the Dismissal of Clerical Non-Exempt and Lay Religious in Perpetual Vows*, JCL thesis, Washington, DC, The Catholic University of America, 1977.
- CLANCY, P., *The Local Religious Superior*, Canon Law Studies, no. 175, Washington, DC, The Catholic University of America Press, 1943.
- CLEARY, J.F., *Canonical Limitations on the Alienation of Church Property*, Canon Law Studies, no. 100, Washington, DC, The Catholic University of America Press, 1936.
- COGAN, P.J. (ed.), *Selected Issues in Religious Law*, Washington, DC, The Canon Law Society of America, 1997.
- COLLINS, *Latin Concise Dictionary*, HarperCollins Publishers, New York, 2003.
- CONGAR, Y., *Power and Poverty in the Church Administration*, J. NICHOLSON (trans.), Baltimore, MA, Helicon, 1964.
- CONNOLLY, T.J., *Juridical Relationships between Parish Priests and Clerical Religious*, Tesi Urbaniana, Serie diritto canonico, no. 7, Rome, Editrice Pontificia Universitas Urbaniana, 1957.

- CONNORS, K., Canonical Implications for Emerging Forms of Associations of the Faithful with Religious Institutes, JCL thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 2007.
- _____, The Role of the Major Superior with Particular Reference to Apostolic Women's Religious Institutes in the United States, JCD thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 2012.
- CORIDEN, J.A., T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985.
- COTTER, E.M., *The General Chapter in a Religious Institute with Particular Reference to IBVM, Loreto Branch*, Bern, Peter Lang, 2008.
- CREUREN, J. and A. ELLIS, *Religious Men and Women in Church Law*, Milwaukee, WI, Bruce Publishing Co., 1957.
- CREUSEN, J. G., F.E. EDWARD, and C. ADAM, *Religious Men and Women in the Code*, English ed., Milwaukee, WI, Bruce, 1940.
- CUNNINGHAM, T., The Canonical Suppression of Religious Houses, JCD thesis, Washington, DC, The Catholic University of America, 1979.
- CUSACK, B.A., A Study of the Relationship between the Diocesan bishop and Catholic Schools Below the Level of Higher Education in the US – Canons 801-806, dissertation, Washington, DC, The Catholic University of America, 1988.
- CUVA, A., *De iuridicis relationibus inter ordinarios locales et religiones clericales exemptas ad cultum attinet*, Rome, Pontifical Lateran University, 1956.
- DAO, I.T., The Role of Local Superior in Institutes of Lay Religious, JCD thesis, Rome, Pontificia Universitas Urbaniana, 2006.
- DARCY, C., The Institute of the Sisters of Mercy of the Americas: The Canonical Development of the Proposed Governance Model, JCD thesis, Ottawa, Saint Paul University, 1991.
- DASAN, S., The Autonomy of the Diocesan Bishop: The “Omnis Potestas” and Its Restrictions according to the 1983 Code, JCD thesis, Leuven, Kath. University, 2002.
- DAUGHTERS OF SAINT PAUL (comp.), *Religious Life in the Light of Vatican II*, Boston, MA, St. Paul Editions, 1967.

- DE PAOLIS, V, *La Vita Consacrata Nella Chiesa*, Edizione rivista e ampliata a cura di vincenzo, Venezia, Mosca Marcianum Press, 2011.
- DE ROSE, A., *The Church as Communion in the Code of Canon Law of 1983*, Tesi Urbaniana, Serie diritto canonico, no. 124, Rome, Editrice Pontificia Universitas Urbaniana, 1995.
- DEMERS, F., *Temporal Administration of the Religious House in a Non-exempt Clerical Pontifical Institute*, Canon Law Studies, no. 396, Washington, DC, The Catholic University of America Press, 1961.
- DOHENY, W.J., *Church Property: Modes of Acquisition*, Canon Law Studies, no. 41, Washington, DC, The Catholic University of America Press, 1927.
- DORAN, J., *Just Autonomy of Religious Institutes and Episcopal Authority from the Second Vatican Council to the Ninth Ordinary Synod of Bishops on Consecrated Life*, JCD thesis, Ottawa, Saint Paul University, 1998.
- Đỗ, Q.C., *Dòng Mến Thánh Giá Những Năm Đầu (Lovers of the Holy Cross in the First Years)*, Hồ Chí Minh City, Tôn Giáo Publication, 2008.
- EGBUNA, M.P., *The Right to Acquire, Possess, Administer and Alienate Ecclesiastical Goods in Religious Institutes*, JCD thesis, Rome, Pontificia Università Gregoriana, 1993.
- ESSWEIN, A.A., *Extrajudicial Penal Powers of Ecclesiastical Superiors*, Canon Law Studies, no. 127, Washington, DC, The Catholic University of America Press, 1941.
- FANFANI, L., *De Jure Religiosorum, ad Normam Codicis Juris Canonici*, Augustae Taurinorum, 1920.
- FANFANI, L.G. and K.D. O'ROURKE, *Canon Law for Religious Women*, Dubuque, IA, the Priory Press, 1961.
- FARRELL, B.F., *The Rights and Duties of the Local Ordinary regarding Congregations of Women Religious of Pontifical Approval*, Canon Law Studies, no. 128, Washington, DC, The Catholic University of America Press, 1941.
- FERNANDO, R.L., *Management of Governance Structures in Religious Institutes of Active Life: Applied to the Salesian Society of St. John Bosco*, Tesi Salesiana, Serie diritto canonico, no. 611, Rome, Editrice Pontificia Studiorum Universitas Salesiana, 2006.

- FIIRITER, B., *The Temporal Goods of the Particular Church in the 1983 Code: Acquisition, Administration and Alienation*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 2009.
- FLANAGAN, B., *The Canonical Erection of Religious Houses*, Canon Law Studies, no. 179, Washington, DC, The Catholic University of America Press, 1943.
- FLANNERY, A. (gen. ed.), *Vatican Council II: The Conciliar and Post-Conciliar Documents*, vol. 1, new rev. ed., Northport, NY, Costello Pub. Co., 1996.
- _____, (gen. ed.), *Vatican Council II: More Post Conciliar Documents*, vol. 2, new rev. ed., Northport, NY, Costello Publishing Co., 1998.
- FLANNERY, A. and L. COLLINS, *Light for My Path: The New Code of Canon Law for Religious: Digest, Source Material, Commentary*, RLR Series, 2, Dominican Publications, 1983.
- FLEMING, D. and E. McDONOUGH (eds.), *The Church and Consecrated Life: The Best of the Review*, St. Louis, MO, 1996.
- FREY, W., *The Act of Religious Profession*, Canon Law Studies, no. 63, Washington, DC, The Catholic University of America Press, 1932.
- GAMBARI, E., *Religious Life According to Vatican II and the New Code of Canon Law*, translated by the Daughters of St. Paul, Boston, MA, St. Paul Editions, 1986.
- _____, *Religious Women in Canon Law*, Philadelphia, PA, Peter Reilly, 1960.
- GESER, F., *The Canon Law Governing Communities of Sisters*, St. Louis, MO, Herder, 1938.
- GIEGBEFUMWEN, S.E., *The Role of the Constitutions of a Religious Institute of Diocesan Right to Define Its Relationship with the Bishop: A Particular Reference to the Institute of the Sisters of the Sacred Heart of Jesus (Nigeria)*, JCD thesis, Ottawa, Saint Paul University, 2014.
- GIÁO HỘI CÔNG GIÁO VIỆT NAM, *Niên Giám 2004 (Catholic Church in Việt Nam – Year Book 2004)*, Hà Nội, Tôn Giáo Publication, 2004.
- GREEN, T.J., *A Manual for Bishops: Rights and Responsibilities of Diocesan Bishops in the Revised Code of Canon Law*, Washington, DC, NCCB Publications, 1992.
- GRIBBLE, R., *Apostolic Religious Life in America Today: A Response to the Crisis*, Washington, DC, The Catholic University of America Press, 2011.

- GROGAN, V., *The Canonical Implementation of the Renewal of Religious Formation, Government, and Internal Discipline Since the Second Vatican Council in the Order of Friars Minor in the United States*, Canon Law Studies, no. 483, Washington, DC, The Catholic University of America Press, 1974.
- HANLEN, M. and M.D. GALLAGHER, *Development in the Understanding and Practice of Governance in Apostolic Religious Institutes with Special Reference to the Significance of Vatican Council II*, Ottawa, Faculty of Canon Law, Saint Paul University, 2004.
- HANNAN, J.D., *The Canon Law of Wills*, Canon Law Studies, no. 86, Washington, DC, The Catholic University of America Press, 1934.
- HANNAN, P., *The Apostolate of Women Religious in the Particular Church Since the Second Vatican Council: Juridical Relationships with Bishops According to the 1983 Code of Canon Law*, JCD thesis, Ottawa, Saint Paul University, 1989.
- HANSON, B., *Authority and Obedience in the Vatican II Documents for Religious*, JCL thesis, Washington, DC, The Catholic University of America, 1975.
- HAYES, E., *Rightful Autonomy of Life and Charism in the Proper Law of the Norbertine Order*, Canon Law Studies, no. 532, Washington, DC, The Catholic University of America Press, 1990.
- _____, *The Rightful Autonomy of Institutes of Consecrated Life: An Investigation of Canon 586*, JCL thesis, Washington, DC, The Catholic University of America, 1987.
- HEMBERGER, R., *Consultation in the 1983 Code of Canon Law*, JCL thesis, Washington, DC, The Catholic University of America, 1985.
- HESTON, E. L., *The Alienation of Church Property in the United States*, Canon Law Studies, no. 132, Washington, DC, The Catholic University of America Press, 1941.
- HITE, J. et al., *Religious Institutes, Secular Institutes, Societies of Apostolic Life: Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985.
- HORNBY, A.S., *Oxford Advanced Learner's Dictionary of Current English*, 6th ed., Oxford, Oxford University Press, 2000.
- HOTZE, J.V., *The Erection of a Religious institute of Diocesan Right – Canon 579*, JCL thesis, Washington, DC, The Catholic University of America, 1997.
- HYNOUS, M., *The Relationship Between Religious and the Hierarchy Since the Second Vatican Council*, JCD thesis, Rome, Pontificia Universitas Gregoriana, 1969.

- JADA, E.P., *The Pastoral Ministry of the Diocesan Bishop*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 2008.
- JARRELL, L., *The Development of Legal Structures for Women Religious Between 1500 and 1900: A Study of Selected Institutes of Religious Life for Women*, Canon Law Studies, no. 513, Washington, DC, The Catholic University of America Press, 1985.
- JAYARANI, M.L.J., *Patrimony of the Congregation of the Franciscan Sisters of the Immaculate Heart of Mary According to Canon 578*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 2004.
- JOHNSON, J., *The Power of Governance of the Diocesan Bishops in the Latin and Oriental Codes: a Comparative Study*, Tesi Urbaniana, Serie diritto canonico, no. 101, Rome, Editrice Pontificia Universitas Urbaniana, 1993.
- JOYCE, M. et al. (eds.), *Procedural Handbook for Institutes of Consecrated Life and Society of Apostolic Life*, Washington, DC, CLSA, 2001.
- JUNG, J., *Transactions Which May Worsen the Patrimonial Condition of a Public Juridic Person in the United States: A Study of Canon 1295*, Canon Law Studies, no. 553, Washington, DC, The Catholic University of America Press, 1998.
- KAIN, S. E., *Written Agreements between Bishops and Religious for Entrusted Diocesan Works*, Canon Law Studies, no. 550, Washington, DC, The Catholic University of America Press, 1996.
- KAITARATH, A.L., *The Autonomy and Hierarchical Dependence of Religious Institutes according to the Code of Canon Law*, JCD dissertation, Rome, Pontificia Universitas Urbaniana, 2002.
- KALLUMKAL, J., *The Patrimony of an Institute According to the Code of Canon Law*, JCD thesis, Rome, Pontificia Università Lateranense, 1989.
- KASIRYE, K.A., *Authority and the Power of Governance in Institutes of Consecrated Life and Societies of Apostolic Life: A Juridical-Theological Study of C. 596*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 2002.
- KHANYILE, A., *The Relationship between the Diocesan Bishop and Religious Institutes Working in the Diocese with Particular Reference to the Situation in South Africa*, JCD thesis, Ottawa, Saint Paul University, 1998.
- KHOURY, J., *Vie consacrée: essai de commentaire des canons 573-709*, Rome, Pontificia Università Gregoriana, 1985.

- KIMARYO, R., *Religious General Chapters as Agents of Renewal (Theologico-Canonical Study)*, Tesi Gregoriana, Serie diritto canonico, Rome, Pontificia Università Gregoriana, 1997.
- KING, J., *The Canonical Procedure in Separation Cases*, Canon Law Studies, no. 325, Washington, DC, The Catholic University of America Press, 1952.
- KOCHUPURACKAL, J., *Religious Authority and Power in the Particular Law of the Little Flower Congregation*, JCD thesis, Rome, Pontificium Institutum Orientale, 1994.
- KOLUTHARA, V., *Rightful Autonomy of Religious Institutes in the Code of Canons of the Oriental Churches (CCEO) and in the Code of Canon Law (CIC)*, JCD thesis, Rome, Pontificium Institutum Orientale, 1994.
- KOWAL, W., *Participation in the Governance of the Congregation of the Oblates of Mary Immaculate*, JCL thesis, Ottawa, Faculty of Canon Law, Saint Paul University, 1993.
- _____, *Understanding Ecclesiastical Laws: Canon 17 in Light of Contemporary Hermeneutics*, Lewiston, NY, The Edwin Mellen Press, 2000.
- KOWALSKI, R., *Sustenance of Religious Houses of Regulars*, Canon Law Studies, no. 199, Washington, DC, The Catholic University of America Press, 1944.
- KOZLOWSKI, M., *A Canonical Analysis of the Authority Exercised by the Diocesan Bishop and the Religious Superior over the Religious Pastor qua Pastor*, Canon Law Studies, no. 582, Washington, DC, The Catholic University of America Press, 2016.
- LAHEY, J., *Faithful Fulfillment of the Pious Will: A Fundamental Principle of Church Law as Found in the 1983 Code of Canon Law*, Canon Law Studies, no. 521, Washington, DC, The Catholic University of America Press, 1987.
- LANSLOTS, I.D., *A Handbook of Canon Law for Congregations of Women under Simple Vows*, 6th ed., New York, F. Pustet, 1911.
- LARKIN, P., *The Relationship of Religious to the Local Ordinary*, JCL thesis, Washington, DC, The Catholic University of America, 1969.
- LAUNAY, A., *Histoire De La Mission Du Tonkin. Documents Historiques. I, 1658-1717*, Paris, Maisonneuve, 1927.
- LEWIS, G., *Chapters in Religious Institutes*, Canon Law Studies, no. 181, Washington, DC, The Catholic University of America Press, 1943.

- LYNCH, T., *Contracts between Bishops and Religious Congregations*, Canon Law Studies, no. 239, Washington, DC, The Catholic University of America Press, 1946.
- LYONS, M., *Congregation of the Sisters of Mercy (Ireland): Analysis of the Governance Structures*, JCD thesis, Ottawa, Saint Paul University, 2002.
- _____, *Governance Structures of the Congregation of the Sisters of Mercy: Becoming One*, Lewiston, NY, The Edwin Mellen Press, 2005.
- MACPHERSON, I., *The Exercise of Authority in Apostolic Religious Institutes of Women According to the 1983 Revised Code of Canon Law*, JCD thesis, Ottawa, Saint Paul University, 1984.
- MADALAIMUTHU, P., *Religious in Their Relation with Diocesan Bishop and Diocesan Clergy: with a Special Reference to the Indian Context*, Tesi Urbaniana, Serie diritto canonico, no. 265, Rome, Editrice Pontificia Universitas Urbaniana, 1997.
- MARTIN, T.A., *The Relationship of Religious Institutes of Diocesan Right to the Local Bishop: A Comparative Study of the 1917 Code, the Second Vatican Council and the 1983 Code*, JCD thesis, Rome, Pontificia Studiorum Universitas a S. Thoma Aq. in Urbe, 1987.
- MARZOA, A., J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, 2004.
- MASTERMAN, R., (ed.), *Religious Life: A Mystery in Christ and the Church: A Collated Study According to Vatican Council II and Subsequent Papal and Ecclesial Documents*, New York, Alba House, 1975.
- MCCORMICK, R.E., *Confessors of Religious*, Canon Law Studies, no. 33, Washington, DC, The Catholic University of America Press, 1926.
- MCDERMOTT, R.M., *The Consecrated Life: Cases, Commentary, Documents, Readings*, Alexandria, VA, CLSA, 2006.
- _____, *Two Rules of Poverty: The Administration of Property in the Society of Jesus*, JCL thesis, Washington, DC, The Catholic University of America, 1977.
- MCDONOUGH, E., *Ready Reference for the 1980 Schema of Canons on Consecrated Life (with 1983 UPDATE)*, Columbus, OH, Springs Press, 1983.
- _____, *Religious in the 1983 Code: New Approaches to the New Law*, Chicago, IL, Franciscan Herald Press, 1985.

- MCGRATH, R., *The Local Superior in Non-Exempt Clerical Congregations*, Canon Law Studies, no. 351, Washington, DC, The Catholic University of America Press, 1954.
- MCMANUS, J. E., *The Administration of Temporal Goods in Religious Institutes*, Canon Law Studies, no. 109, Washington, DC, The Catholic University of America Press, 1937.
- MENEZES, V.M., *The Executive Power of the Diocesan Bishop According to the 1983 Code of Canon Law*, JCD thesis, Ottawa, Saint Paul University, 2003.
- MERKE, J.A., *A Different Touch: A Study of Vows in Religious Life*, Collegeville, MN, Liturgical, 1998.
- MERRIAM-WEBSTER, INC., *Merriam-Webster's Collegiate Dictionary*, 11th ed., Springfield, MA, 2003.
- MODDE, M., *Canonical and Pastoral Aspects of Suppression and Unification of Communities of Women Religious in the United States of America*, JCL thesis, Washington, DC, The Catholic University of America, 1977.
- MOLINARI, P. and P. GUMPEL, *Chapter VI of the Dogmatic Constitution Lumen gentium on Religious Life: The Doctrinal Content in the Light of the Official Documents*, Rome, 1987.
- MORRISEY, F. and CANADIAN RELIGIOUS CONFERENCE [RESEARCH DEPT.], *The Drawing up of Constitutions in the Light of the New Canon Law for Religious*, Ottawa, Canadian Religious Conference, 1978.
- NEVILLE, G., *The Religious Superior's Council in the 1983 Code of Canon Law*, JCD thesis, Ottawa, Saint Paul University, 1988.
- NGUYỄN, D.P., *The Spiritual Patrimony of an Institute of Consecrated Life*, Tesi Urbaniana, Serie diritto canonico, no. 66, Rome, Editrice Pontificia Universitas Urbaniana, 1989.
- NGUYỄN, V.B.C., *Sổ Tay Công Giáo Việt Nam 2011 (Directory of the Catholic Church in Vietnam)*, Hồ Chí Minh City, Tôn Giáo Publication, 2011.
- NGUYỄN, D.V.C., *Hạnh Tích Các Thánh Tử Đạo Việt Nam (Martyr Saints of Vietnam)*, New Orleans, 2005.
- NGUYỄN, V.T., *Lịch Sử Giáo Hội Việt Nam (History of the Catholic Church in Vietnam)*, 4 vols., St. Joseph Seminary Press, 1994.

- NNABUGWU T.I., *The Teaching Office of the Church with Regard to the Use of the Instruments of Social Communication in the Light of canon 747 §1 and 882*, JCD thesis, Rome, Pontificia Universitas Urbaniana, 1994.
- NWAGWU, M.G.A. *Autonomy and Dependence of Religious Institutes of Diocesan Law on the Local Ordinary*, Rome, 1985.
- _____, *Autonomy and Dependence of Religious Institutes of Diocesan Law on the Local Ordinary: A Comparative Analysis of the Legislation Concerning Them in the Codes of Canon Law of 1917 and 1983*, Frankfurt am Main, Peter Lang, 1987.
- O'MURCHU, D., *Reframing Religious Life: An Expanded Vision for the Future*, Claretian Publications, Quezon City, Philippines, 1995.
- _____, *Religious Life: A Prophetic Vision – Hope and Promise for Tomorrow*, Ave Maria Press, Notre Dame, 1991.
- OKURE, M.L., *Church Authority as Service with Particular Attention to Consecrated Life*, JCD thesis, Rome, Pontificia Università Gregoriana, 2002.
- O'LEARY, C., *Religious Dismissed After Perpetual Profession*, Canon Law Studies, no. 184, Washington, DC, The Catholic University of America Press, 1943.
- OLHEISER, M., *From Autonomy to Federations: An Historical Survey of Constitutional Development in Benedictine Monasteries with a Case History of Modern Federation*, JCL thesis, Washington, DC, The Catholic University of America, 1977.
- OSUIGWE, B.C., *Shared Responsibility of Bishops in Building Up the Local Church in Nigeria*, Tesi Urbaniana, Serie diritto canonico, no. 66, Rome, Editrice Pontificia Universitas Urbaniana, 1988.
- PEDONE, S., "Ipso Facto" Dismissal from a Religious Institute: Analysis of Canon 694, JCL thesis, Washington, DC, The Catholic University of America, 1987.
- PFALLER, B., *The Ipso Facto Effected Dismissal of Religious*, Canon Law Studies, no. 259, Washington, DC, The Catholic University of America Press, 1948.
- PHAN, T.T., *Giải Thích Giáo Luật – Hội Dòng Tận Hiến và Tu Đoàn Tông Đồ (Commentary on the Code of Canon Law – Religious Institutes of Consecrated Life and Societies of Apostolic Life)*, Hồ Chí Minh City, Học Viện Đaminh Gò Vấp Publisher, 2012.

- PINHEIRO, A., *Bishop-Religious Relationship in the Apostolic Activities of the Diocese According to the Code of Canon Law*, JCD thesis, Rome, Pontifical Lateran University, 1986.
- PIRONIO, E., *Joyful in Hope*, Middlegreen, Clough, England, St. Paul Publications, 1980.
- POWER, T., *Latae sententiae* Penalties in the 1917 Code of Canon Law, JCL thesis, Washington, DC, The Catholic University of America, 1987.
- QUINN, S., *Relation of the Local Ordinary to Religious of Diocesan Approval*, Canon Law Studies, no. 283, Washington, DC, The Catholic University of America Press, 1949.
- REILLY, T.F., *The Visitation of Religious*, Canon Law Studies, no. 112, Washington, DC, The Catholic University of America Press, 1938.
- RENKEN, J.A., *Church Property: A Commentary on Canon Law Governing Temporal Goods in the United States and Canada*, Ottawa, Faculty of Canon Law, Saint Paul University, 2009.
- RIESNER, A., *Apostates and Fugitives from Religious Institutes*, Canon Law Studies, no. 168, Washington, DC, Catholic University of America Press, 1942.
- ROVIRA, J., *Religious Commitment Today: Crises, Challenges and Hopes*, Claretian Publications, Quezon City, Philippines, 1988.
- RUESSMANN, M., *Exclaustration: Its Nature and Use under Current Law*, JCD thesis, Rome, Pontificia Università Gregoriana, 1994.
- SCHNEIDER, E., *The Status of Secularized Ex-Religious Clerics*, Canon Law Studies, no. 284, Washington, DC, The Catholic University of America Press, 1948.
- SHEA, P., *Exclaustration of Religious in the New Code: An Analysis of Canons 686-687*, JCL thesis, Washington, DC, The Catholic University of America, 1988.
- SHEEHY, G. et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995.
- SMITH, M. T., *The Penal Law for Religious*, Canon Law Studies, no. 169, Washington, DC, The Catholic University of America Press, 1935.
- STAMP, D., *The Alienation of Temporal Goods in Clerical Religious Institutes*, JCD thesis, Ottawa, Saint Paul University, 1993.

- SUGAWARA, Y., *Religious Poverty: From Vatican Council II to the 1994 Synod of Bishops*, JCD thesis, Rome, Pontificia Università Gregoriana, 1997.
- SWEENEY, B.J.A., *The Patrimony of an Institute in the Code of Canon Law: A Study of Canon 578*, JCD thesis, Rome, Angelicum University, 1994.
- The Jerusalem Bible*, J. ALEXANDER (ed.), London, Doubleday and Company, 1966.
- THEROUX, P., *The Consultation of Diocesan Bishops and Religious Superiors According to Canon 678 § 3 of the 1983 Code of Canon Law*, JCL thesis, Washington, DC, The Catholic University of America, 1986.
- THOMAS, P., *Exclaustration in the Code of Canon Law*, JCD thesis, Ottawa, Saint Paul University, 1993.
- TURNER, S. J., *The Vow of Poverty*, Canon Law Studies, no. 54, Washington, DC, The Catholic University of America Press, 1929.
- UNION OF SUPERIORS GENERAL, *Consecrated Life Today, Charisms in the Church for the World*, International Congress, Rome, 22-27 November, 1993, Final Document, Rome, Casa Generalizia della Societa San Paolo, 1993.
- USCCB, *Co-Workers in the Vineyard of the Lord, A Resource for Guiding the Development of Lay Ecclesial Ministry*, Washington, D.C., USCCB, 2005.
- VADAKUMTHALA, A., *Lay Person as Care-Taker of a Parish: A Juridical and Theological Study of Canon 517 § 2*, Tesi Urbaniana, Serie diritto canonico, no. 114, Rome, Editrice Pontificia Universitas Urbaniana, 1993.
- VESILIND, P. A., *Peace engineering: when personal values and engineering careers converge*, Lakeshore Press, 2005.
- VIERA, M., *Religious in Diocesan Ecclesiastical Office: Analysis of Canon 682 §§ 1, 2*, JCL thesis, Washington, DC, The Catholic University of America, 1987.
- VITHAYATHIL, H., *Contract between Diocesan Bishops and Missionary Institutes: An Analysis and Commentary on Canon 790 § 1, 2 in a Historical and Doctrinal Context*, JCL thesis, Washington, DC, The Catholic University of America, 1987.
- VORGRIMLER, H. (ed.), *Commentary on the Documents of Vatican II*, New York, Herder and Herder, 1967-1969, 5 vols.
- VROMANT, G., *De bonis Ecclesiae temporalibus ad usum preaesertim missionariorum et religiosorum*, ed. altera, aucta et emendata, Louvain, 1934.

WOYWOD, S., *A Practical Commentary on the Code of Canon Law*, rev. and enlarged ed. by C. SMITH, New York, Joseph F. Wagner, Inc., 1957.

III - ARTICLES

ABBASS, J., "Departure from Religious Institutes in the Latin and Eastern Catholic Churches," in *Studia canonica*, 32 (1998), 97-128.

_____, "Dismissal from Religious Institutes of the Latin and Eastern Catholic Churches," in *Comm. Rel. Miss.*, 78 (1997), 361-392.

_____, "Forms of Consecrated Life Recognized in the Eastern and Latin Codes," in *Comm. Rel. Miss.*, 76 (1995), 5-38.

_____, "Transfer to Another Religious Institute in the Latin and Eastern Catholic Churches," in *Commentarium pro religiosus*, 84 (2000), 121-151.

ALARCÓN, M.L, Commentary on cc. 1299-1310, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004, 1993, 1005-1016.

AMALADOSS, M., "The Religious and Mission," in *Vidyajyoti Journal of Theological Reflection*, 57 (1993), 705-718.

AMMAIKUNNEL, J., "Exclaustration: A Comparative Study," in *Ephrem's Theology Journal*, 13 (2009), 146-166.

ANDRÉS, D.J., Commentary on Canon 608, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1583-1585.

_____, Commentary on Canon 609, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1586-1589.

_____, Commentary on Canon 610, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1590-1593.

_____, Commentary on Canon 611, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1594-1597.

- _____, Commentary on Canon 616, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1611-1615.
- _____, Commentary on Canon 625, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1644-1646.
- _____, Commentary on Canon 628, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1653-1655.
- _____, Commentary on Canon 630, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1659-1661.
- ANESTO, V.A., "On Obedience and Mission," in *Review for Religious*, 48 (1989), 65-73.
- ARBUCKLE, G.A., "Evaluating General and Provincial Chapters," in *Review for Religious*, 47 (1988), 176-191.
- _____, "Participative Leadership for Refounding: Reflections," in *Review for Religious*, 50 (1991), 357-367.
- ARRIETA, J.I., Commentary on cc. 129-196, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004, 112-157.
- _____, Commentary on cc. 617-630, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004, 498-508.
- ARTHUR, ESPELAGE J., "Canon 679 – Expulsion of Accused Religious from Diocese by Bishop," in A.J. ESPELAGE (ed.), in *Roman Replies 2003*, Washington, DC, CLSA, 2005, 190-192.
- AYBAN, E. L., "Charism and Foundation: Canonical Aspects in the Establishment of Institutes of Consecrated Life," in *Philippine Canonical Forum*, 9 (2007), 29-50.
- _____, "Imposed Exclaustration: A Case Study," in *Studia canonica*, 98 (2017), 91-103.
- BAIR, M. and J. HITE, "The Merger and Union of Religious Institutes," in P. COGAN (ed.), *Selected Issues in Religious Law*, Washington, DC, CLSA, 1997, 50-56.
- BARNABA, T. L., "Constitutions and Canon Law," in *the Way Supplement*, 50 (1984), 47-60.

- BEAL, J.P., "Hierarchical Recourse: Procedure at the Local Level," in *Proceedings of the Annual Convention of the Canon Law Society of America*, 62 (2000), 93-106.
- _____, "Lay People and Church Governance: Oxymoron or Opportunity," in *Together in God's Service: Toward a Theology of Ecclesial Lay Ministry*, Washington, USCCB, 1998, 103-129.
- BEYER, J., "Life Consecrated by the Evangelical Councils: Conciliar Teaching and Later Developments," in R. LATOURELLE (ed.), *Vatican II, Assessment and Perspectives: Twenty-five Years After (1962-1987)*, vol. 3, New York, Paulist Press, 1989, 64-89.
- _____, "Religious and Local Church," in *The Way Supplement*, 50 (1984), 80-98.
- _____, "Religious in the New Code and Their Place in the Local Church," in *Canon Law Society of Great Britain and Ireland, Newsletter* (September 1982), 119-132.
- _____, "*Risposte a quesiti e dubbi sul nuovo diritto degli Istituti di vita consecrate*," in *Vita consecrata*, 21 (1986), 785-786.
- BONFILS, J., "*Mutuae relationes*, Ten Years Later," in *Consecrated Life*, 17 (1993), 122-134.
- BOUCHER, R., "Experiences and Propositions of a Bishop," in *Consecrated Life*, 17 (1993), 3-9.
- BUCKLEY, M.J., "The Charism and Identity of Religious Life," in *Review for Religious*, 44 (1985), 654-664.
- CALIGIURI, A.M., "The Ecclesial Dimension of Ministry," in *Review for Religious*, 39 (1980), 428-433.
- CALVO, J., Commentary on cc. 673-683, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004, 1993, 459-463.
- CITO, D., Commentary on Canon 812, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 261-267.
- COGAN, P., "Exclaustration and Social Security and Pension Benefits," in F.S. PEDONE and P.D. COUNCE (eds.), *Roman Replies and CLSA Advisory Opinions 2006*, Washington, DC, CLSA, 2006, 56-57.
- COGHLAN, D., "Collaborative Leadership in Apostolic Ministry: Behavior and Assumptions," in *Review for Religious*, 47 (1988), 47-55.

- COMYNS, J., "The Relations of the Religious Pastor to the Local Ordinary," in *The Jurist*, 15 (1955), 186-204.
- CONFOY, M., "Religious Life in the Vatican II Era: "State of Perfection" or Living Charism?" in *Theological Studies*, 74 (2013), 321-46.
- CONN, J. J., "Bishops and the Apostolates of Religious," in *CLSA Proceedings*, 63 (2001), 49-83.
- CORIDEN, J. A., "Catholic Education (cc. 793-821)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 564-577.
- _____, "Catholic Universities and Other Institutes of Higher Studies (cc. 807-814)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 475-488.
- _____, "Instruments of Social Communication and Books in Particular (cc. 822-832)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 977-986.
- _____, "Lay Persons and Power of Governance, in *The Jurist*, 59 (1999), 335-347.
- COTTER, E., "Canon 631 and the Juridic Act," in V.G. D'SOUZA (ed.), *In the Service of Truth and Justice: Festschrift in Honour of Prof. Augustine Mendonça Professor Emeritus*, Bangalore, St Peter's Pontifical Institute, 2008, 365-388.
- COYLE, K., "Formation for Mission: An Asian Perspective," in *Review for Religious*, 48 (1989), 74-85.
- CROWLEY, L., "Reflections of a Bishop on Religious Communities," in *Review for Religious*, 38 (1979), 21-27.
- D'SOUZA, V., "Erection of A Religious Institute of Diocesan Right: Law and Praxis," in *Studies in Church Law*, 1 (2005), 78-81.
- DALY, E.F., "The Needed Mandate to Teach," in *CLSA Proceedings*, 46 (1984), 114-129.
- DE MÛELENAERE, M., "Cultural Adaptation and the Code of Canon Law," in *Studia canonica*, 19 (1985), 31-60.
- DE PAOLIS, V., "Associations Founded with the Intent of Becoming Religious Institutes," in *Consecrated Life*, 21 (1999), 158-183.

- _____, Commentary on Canon 675, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1805-1808.
- _____, Commentary on Canon 679, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1819-1820.
- _____, “Gli istituti de vita consacrata nella Chiesa,” in G. GHIRLANDA, V. DE PAOLIS, and A. MONTAN (eds.), *Il Codice del Vaticano II, La vita consacrata*, Bologna, Edizioni Dehoniane, 1983, 78-85.
- _____, “Temporal Goods of the Church in the New Code with Particular Reference to Institutes of Consecrated Life,” in *The Jurist*, 43 (1983), 343-360.
- DEELEY, R. P., “An Interpretation of Canon 812,” in *CLSA Proceedings*, 50 (1988), 70-85.
- DELANEY, A., “Bishops and Religious: The Document *Mutuae relationes*,” in *The Furrow*, 34 (1983), 233-241.
- DOMINIC, A., “Authority: An Imitative Charism,” in *Review for Religious*, 53 (1994), 703-710.
- _____, “Charism, Charisms, and Faddism,” in *Review for Religious*, 53 (1994), 43-57.
- D'SOUZA, V.G., “Automatic Dismissal of the Religious from the Religious Institute on the Ground of Marriage,” in *Studies in Church Law*, 6 (2010), 445-452.
- DUNN, B.K., “Rights and Responsibilities of a Diocesan Bishop Regarding a Society of Apostolic Life of Diocesan Right,” in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 1999, 160-163.
- EARL, B., “Different Models of Authority in Dismissal from Religious Life,” in *Angelicum*, 85 (2008), 1143-1152.
- EICHTEEN, B. M., “Merger Issues and Ways to Address Them,” in *Review for Religious*, 57 (1998), 394-406.
- EICHTEEN, B. M., “Religious Life Governance: Personal and Organizational Experiences of Power,” in *Review for Religious*, 54 (1995), 868-880.
- ELLIS, A. C., “The General Chapter of Affairs in a Religious Congregation,” in *Review for Religious*, 1 (1942), 253-258.

- _____, "The General Chapter of Elections in a Religious Congregation," in *Review for Religious*, 1 (1942), 146-156.
- ESPELAGE, A.J., "Canon 679 – Expulsion of Accused Religious from Diocese by Bishop," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2005, 190-193.
- EUART, S.A., "Catholic Education (cc. 793-821)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 953-976.
- _____, "Catholic Universities and Other Institutes of Higher Studies (cc. 807-814)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 960-971.
- _____, "Reflections on the Code's Responses to the Council's Call for Unity in Diversity," in *CLSA Proceedings*, 56 (1994), 1-17.
- FOGARTY, G., "The Bishop versus Religious Orders: The Suppressed Decrees of the Third Plenary Council of Baltimore," in *The Jurist*, 33 (1973), 384-398.
- FORD, N., "Why Religious Revised the Constitutions," in *Review for Religious*, 42 (1983), 218-225.
- FORNES, J., Commentary on Canon 1078, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1159-1161.
- FULWEILER, A., "Degrees of Voluntary Separation and Congregational Responsibility," in *CLSA Proceedings*, 45 (1983,) 193-200.
- FUTRELL, J. C., "Discovering the Founder's Charism," in *The Way Supplement*, 14 (1971), 62-70.
- _____, "The Future of Authority in the Religious Community," in *Review for Religious*, 57 (1998), 662-628.
- GALANTE, J., "The Relationship of the Diocesan Bishop and Institutes of Pontifical Right," in *CLSA Proceedings*, 56 (1994), 90-96.
- GALLACHER, M., "The Future of Small Religious Institutes: Merging and Other Issues," in *CLSA Proceedings*, 57 (1995), 201-215.

- GALLAGHER, C., "The Church and Institutes of Consecrated Life," in *The Way Supplement*, 50 (1984), 3-15.
- GALLAGHER, J., "Individualism and Religious Life," in *Review for Religious*, 54 (1995), 585-589.
- _____, "The Future of Small Religious Institutes: Merging and Other Issues," in *CLSA Proceedings*, 57 (1995), 201-215.
- GALLEN, J. F., "Authority and Autonomy," in *Review for Religious*, 43 (1984), 594-599.
- _____, "The General Chapter of Affairs," in *Review for Religious*, 33 (1974), 294-307.
- GAMBARI, E., "How to Read Mutuae relationes," in *Doctrine and Life Supplement*, 19 (1979), 21-28.
- GANGOITI, B., "The Power of Major Superiors to Dispense from Common Laws and from the Laws of Their Own Institute," in *Consecrated Life*, 15 (1990), 85-99.
- GANTLEY, M.J., "The Rights of a Diocesan Bishop with Regard to a Parish Entrusted *pleno iure* to a Religious Institute," in S.M. VERBEEK (ed.), *CLSA Advisory Opinions 2009*, Washington, DC, CLSA, 2009, 79-84.
- GARCÍA-PEÑUELA, J.M., Commentary on Canon 1303, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 4/1, 2004, 165-175.
- _____, Commentary on Canon 1304, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 4/1, 2004, 176-178.
- GEUSINGER, R.J., "Procuring and Archiving Documents in the Practice of Religious Law Internal to an Institute: A Procurator General's Perspective," in *Comm. Rel. Miss.*, 88 (2007), 295-317.
- GHIRLANDA, G., "Relations between Religious Institutes and Diocesan Bishops," in *Consecrated Life*, 14 (1989), 37-71.
- GILBERT, E., "Separation from Religious Institutes," in *The Jurist*, 44 (1984), 456-468.
- GLENDINNING, C.J., "The Appropriate Use of Sacred Places," in J.A. ALESANDRO and T.J. GREEN (eds.), *Roman Replies and CLSA Advisory Opinions 2013*, Washington, DC, CLSA, 2013, 109-112.

- GOLDEN, P.L., "Approval of an Institute's Constitutions, in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2000, 159-160.
- GONZÁLEZ, J., "Exclaustration," in *Boletín Eclesiástico de Filipinas*, 91 (2004), 559-569
- _____, "Dismissal from a Religious Institute," in *Boletín Eclesiástico de Filipinas*, 91 (2004), 110-124.
- _____, "Some Clarification on Religious Vows," in *Boletín Eclesiástico de Filipinas*, 91 (2004), 124-131.
- _____, "Temporary Profession and Exclaustration," in *Boletín Eclesiástico de Filipinas*, 99 (2008), 187-192.
- GOTTEMOELLER, D., "Vita Consecrata: The Post-Synodal Exhortation on Consecrated Life," in *CLSA Proceedings*, 58 (1996), 176-186.
- GRAHAM, G., "The Power of Bishops in Recent Documents," in *The Jurist*, 25 (1968), 425-448.
- GRAHAM, J., "The Relation between Religious Institutes and the Diocese," in *CLSA Proceedings*, 60 (1998), 82-90.
- GREEN, T.J., "Rights and Duties of Diocesan Bishops," in *CLSA Proceedings*, 45 (1983), 18-36.
- _____, "The Diocesan Bishop in the Revised Code: Some Introductory Reflections," in *The Jurist*, 42 (1982), 320-347.
- _____, "The Pastoral Governance Role of the Diocesan Bishop: Foundations, Scope and Limitations," in *The Jurist*, 49 (1989), 472-506.
- _____, "The 2004 Directory on the Ministry of Bishops: Reflections on Episcopal Governance in a Time of Crisis," in *Studia canonica*, 41 (2007), 117-151.
- _____, "The Bishop in His Relationship to Religious," in *A Manual for Bishops*, Washington, DC, United States Catholic Conference, 1983, 67-71.
- GRIFFIN, B.F., "Chaplain (cc. 564-572)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 736-740.
- GUTIERREZ, A., "The New Code of Canon Law and the Internal Law of Institutes of Consecrated Life," in *Consecrated Life*, 9 (1984), 81-97.
- HAMER, J., "The Bishop and Religious Life," in *Consecrated Life*, 10 (1986), 57-60.

- HARMER, C. M., "Chapters Present and Future," in *Review for Religious*, 53 (1994), 120-129.
- HAYES, J., "Religious and the Diocesan Administration," in *Studia canonica*, 3 (1969), 251-258.
- HEREFORD, A., "Merging Religious Institute," in J.A. ALESANDRO and T.J. GREEN (eds.), *CLSA Advisory Opinions 2011*, Washington, DC, CLSA, 2011, 90-94.
- _____, "Minimum Requirements for Vowed Religious in Governance of Congregation," in J.A. ALESANDRO and T.J. GREEN (eds.), *CLSA Advisory Opinions 2016*, Washington, DC, CLSA, 2016, 94-96.
- HESTON, E. L., "The Element of Stable Capital in Temporal Administration," in *The Jurist*, 2 (1942), 120-133.
- HEYOUSLUN, H., "The Competence of the Diocesan Bishop over the Religious in Penal Matters," in *Philippine Canonical Forum*, 11 (2009), 217-237.
- HILL, R.A., "A House is More Than a House," in *Review for Religious*, 48 (1989), 136-141.
- _____, "Authority and Obedience in Consecrated Life," in *CLSA Proceeding*, 45 (1983), 221-229.
- _____, "Autonomy of Life," in *Review for Religious*, 46 (1987), 137-141.
- _____, "Clarification of Dismissal: Canon 700," in *Review for Religious*, 46 (1987), 782-786.
- _____, "Combining Religious Institutes," in *Review for Religious*, 47 (1988), 141-144.
- _____, "Complementary Competencies: Bishops, Superiors and Apostolates," in *Bulletin on Issues of Religious Law*, 4 (1985), 9 -14.
- _____, "Denial of Profession," in *Review for Religious*, 47 (1988), 934-939.
- _____, "Departure of a Religious Priest or Deacon," in *Review for Religious*, 46 (1987), 935-938.
- _____, "Exclaustration: Voluntary and Involuntary," in *Review for Religious*, 47 (1988), 298-302.
- _____, "Financial Patrimony," in *Review for Religious*, 44 (1985), 140-144.
- _____, "Mutual Rights and Obligations of Bishops and Major Superiors Regarding Public Ministry," in *Bulletin on Issues of Religious Law*, 14 (1997), 1-8.
- _____, "Property Issues for religious," in *CLSA Proceedings*, 48 (1986), 139-142.

- _____, "The Apostolate of Institute (cc. 673-683)," in J. HITE, et al., *A Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, 197-220.
- _____, "The Apostolate of Institutes (cc. 673-683)," in J. HITE et al. (eds.), *Religious Institutes, Secular Institutes, Societies of Apostolic Life: Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, 197-220.
- _____, "The Local Superior," in *Review for Religious*, 44 (1985), 297-300.
- _____, "The Role of Councils and Councils Revisited," in *Review for Religious*, 45 (1986), 140-144.
- _____, "The Troubling Religious," in *Review for Religious*, 48 (1989), 459-463.
- HITE, J. F., "Religious Houses and Their Erection and Suppression (cc. 607-616)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 471-476.
- _____, "The Governance of Institutes (cc. 617-640)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 475-488.
- _____, "The Obligations and Rights of Institutes and Their Members (cc. 662-672)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 500-512.
- HOGAN, W. F., "Canonical Room for Charisms," in *Review for Religious*, 52 (1993), 596-601.
- _____, "Chapters and Structures," in *Review for Religious*, 48 (1989), 26-30.
- _____, "Exclaustration of the Troublesome Religious," in *The Jurist*, 24 (1964), 55-61.
- HOLLAND, S., "Apostolic Visitation of Religious: Why and How?" in *Studies in Church Law*, vol. I (2005), 475-484.
- _____, "Canonical Dismissal from Institutes of Consecrated Life and Societies of Apostolic Life," in *Studies in Church Law*, vol. II (2006), 61-84.
- _____, "Departure from an Institute (cc. 686-693)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 854-864.

- _____, "Dismissal of Members (cc. 694-704)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 864-874.
- _____, "Internal Governance in Consecrated Life," in *CLSA Proceedings*, 45 (1983), 37-48.
- _____, "New Institutes, Merger, and Suppression," in *Procedural Handbook for Institutes of Consecrated Life and Societies of Apostolic Life*, Washington, DC, CLSA, 2001, 31-52.
- _____, "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 453-469.
- _____, "Policies When a Member Leaves the Religious Institute," in *Formationes*, 26 (2002), 125-138.
- _____, "Religious and Bishops as Custodians of Communion," in *The Jurist*, 62 (2002), 312-340.
- _____, "Select Questions in Religious Law: Admission, Separation, Approbation," in *CLSA Proceedings*, 44 (1984), 121-141.
- _____, "Seperation of Members from the Institute (cc. 684-704)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 851-873.
- _____, "The Episcopal Vicar for Religious," in *The Way Supplement*, 50 (1984), 99-112.
- _____, "Visitation in Religious Institutes: A Service of Communion," in *CLSA Proceedings*, 61 (1999), 161-178.
- _____, "What Is Meant by the 'Personal Authority' of Religious Superiors?" in P. COGAN (ed.), *Selected Issues in Religious Law*, Washington, DC, CLSA, 1997, 10-11.
- HUELS, J. M., "Ecclesiastical Laws (cc. 7-22)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 55-86.
- _____, "Exercising an Apostolate in the Name of the Community," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1994-2000*, Washington, DC, CLSA, 1999, 189-192.

- _____, "Introductory Canons [1-6]," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 49-55.
- _____, "Sacred Places (cc. 1205-1243)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 1425-1442.
- _____, "The Correction and Punishment of a Diocesan Bishop," in *The Jurist*, 49 (1989), 507-542.
- _____, "The Power of Governance and Its Exercise by Lay Persons: A Juridical Approach," in *Studia canonica*, 35 (2001), 59-96.
- _____, "Unlawful Denial of Perpetual Profession," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1994-2000*, Washington, DC, CLSA, 1998, 185-186.
- HYNOUS, D. M., "Canon 686: The Right of Religious to Exclaustration," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1984-1993*, Washington, DC, CLSA, 1993, 197-199.
- JANICKI, J.A., "Chaplains (cc. 564-572)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 445-449.
- JARAMILLO, E.C., "Religious on Exclaustration Joining Different Congregation," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2004, 185-186.
- JUKES, J., "A Commentary on the *Notae directivae* for the Mutual Relations Between Bishops and Religious in the Church," in *Clergy Review*, 63 (1978), 412-411; and 64 (1979), 21 -30.
- KANE, A.M., "Women Religious: Widows of the Church, Women of Hope," in *Review for Religious*, 54 (1995), 399-402.
- KASLYN, R. J., "Accountability of Diocesan Bishops: A Significant Aspect of Ecclesial Communion," in *The Jurist*, 67 (2007), 109-152.
- _____, "Procedures for Governance in General," in *Procedural Handbook for Institutes of Consecrated Life and Society of Apostolic Life*, Washington, DC, CLSA, 2001, 1-30.
- KELLY, D., "Diriment Impediments in General (cc. 1073-1082)," in G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*,

prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 588-598.

KELLY, M. T., "Collaboration: Key Concept for Religious and Bishops in the Diocese," in *CLSA Proceedings*, 45 (1983), 92-99.

KENNEDY, R. T., "Contracts and Especially Alienation (cc. 1290-1298)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 1492-1508.

_____, "The Acquisition of Goods (cc. 1259-1272)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 1459-1473.

_____, "Pious Wills in General and Pious Foundations (cc. 1299-1310)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 1508-1525.

KIESLING, C., "Religious Life: God's and our Purpose," in *Review for Religious*, 45 (1986), 493-501.

KNEALE, B., "Superiority of the Religious Life," in *Review for Religious*, 47 (1988), 503-511.

KNIGHT, D.M., "Wowed Witness in a Church Intent on Love," in *Review for Religious*, 53 (1994), 182-188.

KOZLOWSKI, J.C., "Understanding the *Ius Vigens* of the Mandatory Dismissal Process," in *The Jurist*, 75 (2015), 387-427.

KRAEMER, B., "Future Directions in Ministry," in *Review for Religious*, 44 (1985), 9-17.

KURT, M., "Protection of Rights: Experiences with Hierarchical Recourse and Possibilities for the Future," in *The Jurist*, 69 (2009), 646-702.

KURUMBATH, S., "Canonical Basis of Statutes and Constitutions of Religious Institutes according to CCEO and CIC," in *Eastern Legal Thought*, 110 (2013), 124-172.

LAGHI, P., "Priorities for Religious," in *Review for Religious*, 42 (1983), 161-165.

LAVERONE, K.J., "Can a Diocesan Bishop Prohibit a Religious from Residing in His Diocese?" in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2004, 188-190.

- LEDUC, J., "Principles of Common Law and the 1977 Schema of Canons on Institutes of Life Consecrated by Profession of the Evangelical Counsels," in *Studia canonica*, 14 (1980), 405-422.
- LEE, B., "A Socio-Historical Theology of Charism," in *Review for Religious*, 48 (1989), 124-135.
- LEGRAND, H., "'One Bishop per City': Tensions around the Expression of the Catholicity of the Local Church since Vatican II," in *The Jurist*, 52 (1992) 369-400.
- LEONARD, J.L., "Temporal Goods Canons 634-640," in J. HITE et al., *Religious Institutes, Secular Institutes, Societies of Apostolic Life: Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, 99-114.
- LINSCOTT, M., "Leadership, Authority, and Religious Government," in D.L. FLEMING and E. McDONOUGH (eds.), *The Church and Consecrated Life*, *Review for Religious*, St. Louis, MO, Herder, 1996, 150-177.
- _____, "The Consecrated Lives of Apostolic Religious Today," in *Review for Religious*, 47 (1988), 3-23.
- LOZANO, J., "Founder and Community: Inspiration and Charism," in *Review for Religious*, 37 (1978), 214-236.
- MACDONALD, D., "Sharing a Founder's Motivation," in *Review for Religious*, 48 (1989), 117-121.
- MARKEY, J.J., "Towards a Trinitarian Model of Religious Life," in *Review for Religious*, 48 (1989), 22-35.
- MARKHAM, D. J., "Leadership for the Common Good," in *Review for Religious*, 57 (1998), 34-47.
- MARTIN DE AGAR, J.T.M., Commentary on cc. 1205-1243, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004, 933-956.
- MATULICH, L., "Consecrated life – the Right Fit," in *Homiletic and Pastoral Review*, 96 (2006), 42-45.
- MCCANN, M., "The Process of Exclaustration," in *Sisters Today*, 49 (1978), 532-538.
- MCCARTY, S., "Enlarging Perspectives for the Future of Religious Life," in *Review for Religious*, 49 (1990), 15-21.
- MCDERMOTT, M.R., "Apostolorum Successores and the Episcopal Vicar for Consecrated Life," in *Studia canonica*, 39 (2005), 241-273.

- _____, “Approval of Changes in Constitutions of a Religious Institute of Diocesan Right,” in *The Consecrated Life Cases, Commentary, Documents, Readings*, Alexandria, VA, CLSA, 2006, 45-49.
- _____, “Associations of the Faithful Becoming Religious Institutes or Societies of Apostolic Life: Responsibilities of Diocesan Bishops (Canon 579),” in *The Jurist*, 73 (2013), 439- 462.
- _____, “Canon 702, §2 – Equity and Charity to Separated Members,” in P. COGAN (ed.), *Selected Issues in Religious Law*, Washington, DC, CLSA, 1997, 85-89.
- _____, “Community Life Supports Mission – Reflections on *Vita fraterna*,” in *Commentarium pro religiosis*, 86 (2001), 189-205.
- _____, “Consecrated Life and Its Role in the Church and the World: The *Lineamenta* for the 1994 Synod of Bishops,” in *The Jurist*, 53 (1993), 239-262.
- _____, “Co-Workers in the Vineyard of the Lord: A Canonical Analysis,” in *The Jurist*, 67 (2007), 432-460.
- _____, “Ecclesiastical Authority and Religious Autonomy: Canon 679 under Glass,” in *Studia canonica*, 38 (2004), 461-480.
- _____, “External and Internal Reconfiguration of Religious Institutes (Canons 582 and 581 CIC),” in *Comm. Rel. Miss*, 86 (2005), 57-81.
- _____, “General Chapter of the Whole,” in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1994-2000*, Washington, DC, CLSA, 1997, 171-173.
- _____, “Governance in Religious Institutes: Structures of Participation and Representation Canons 631-633,” in *The Jurist*, 69 (2009), 442-471.
- _____, “Governance in Religious Life,” in *Review for Religious*, 39 (1980), 441-447.
- _____, “Governance Subsequent to the Merger of a Province,” in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2003, 172-174.
- _____, “Institutes of Consecrated Life and Societies of Apostolic Life (cc. 573-746),” in J. BEAL, J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 741-743.
- _____, “Norms Common to All Institutes of Consecrated Life (cc. 573-606),” in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon*

- Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 743-770.
- _____, "Religious Houses and Their Erection and Suppression (cc. 608-616)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 772-780.
- _____, "Restrictions on the Authority of a Diocesan Bishop for an Institute of Diocesan Right," in *The Consecrated Life Cases, Commentary, Documents, Readings*, Alexandria, VA, CLSA, 2006, 49-53.
- _____, "Separation of Members from the Institute (cc. 684-704)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 512-524.
- _____, "Stewards of Gifts to Be Shared: The Vow of Poverty in Religious Life," in *Studies in Church Law*, 3 (2007), 95-128.
- _____, "The Apostolate of Institutes (cc. 673-683)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 843-850.
- _____, "The Authority of the Apostolic See and the Diocesan Bishop over Institute of Consecrated Life - Canon 576," in *The Consecrated Life Cases, Commentary, Documents, Readings*, Alexandria, VA, CLSA, 2006, 1-3.
- _____, "The Governance of Institutes (cc. 617-640)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York/Mahwah, NJ, Paulist Press, 2000, 780-805.
- _____, "The Vigilance of the Diocesan or Eparchial Bishop: Diocesan/Eparchial Right Institutes/ *Sui Iuris* Monasteries/ Hermits/ Ascetics/ Virgins/ Windows," in *Studies in Church Law*, vol. VIII (2012), 141-174.
- _____, "Two Approaches to Consecrated Life: *The Code of Canons of the Eastern Churches* and the *Code of Canon Law*," in *Studia canonica*, 29 (1995), 193-239.
- _____, "*Vita consecrate: A Vocation for the Third Millennium*," in *Review for Religious*, 55 (1996), 454-461.
- MCDONOUGH, E., "An Apostolic Exhortation to Religious: *Redemptionis Donum*, in *Review for Religious*, 53 (1994), 932-936.

- _____, "Authority in Institutes of Consecrated Life," in *Review for Religious*, 55 (1996), 204-208.
- _____, "Automatic Dismissal," in *Review for Religious*, 61 (2002), 546-551.
- _____, "Basic Governance Structures in Religious Institutes," in *Review for Religious*, 49 (1990), 928-933.
- _____, "Canonical Considerations of Autonomy and Hierarchical Structure," in *Review for Religious*, 45 (1986), 669-690.
- _____, "Canonical Federation," in *Review for Religious*, 64 (2005), 429-435.
- _____, "Chapters and Other Meetings," in *Review for Religious*, 64 (2005), 96-101.
- _____, "Conclusion: Discretionary Dismissal," in *Review for Religious*, 62 (2003), 204-210.
- _____, "Constitutions," in *Review for Religious*, 50 (1991), 456-460.
- _____, "Directives for the Relationship between Bishops and Religious: *Mutuae relationes*," in *Review for Religious*, 53 (1994), 467-472.
- _____, "Discretionary Dismissal," in *Review for Religious*, 62 (2003), 96-102.
- _____, "Dispensation and Dismissal," in P. COGAN (ed.), *Selected Issues in Religious Law*, Washington, DC, CLSA, 1997, 42-47.
- _____, "Effects of Departure," in *Review for Religious*, 62 (2003), 316-322.
- _____, "Exclaustration: Canonical Categories and Current Practice," in *The Jurist*, 49 (1989), 568-606.
- _____, "Exclaustration: Further Consideration," in *Review for Religious*, 61 (2002), 202-210.
- _____, "General Chapters: Current Legislation," in *Review for Religious*, 54 (1996), 431-435.
- _____, "General Chapters: Historic Background," in *Review for Religious*, 55 (1996), 320-325.
- _____, "Involuntary Departure," in *Review for Religious*, 61 (2002), 430-434.
- _____, "Involuntary Exclaustration," in *Review for Religious*, 51 (1992), 625-631.
- _____, "Life Consecrated by Profession of the Evangelical Counsels," in *Review for Religious*, 57 (1998), 94-99.

- _____, "Lumen gentium's Chapter 6: Religious," in *Review for Religious*, 52 (1993), 927-932.
- _____, "Mandatory Dismissal," in *Review for Religious*, 61 (2002), 649-655.
- _____, "Mergers, Unions, Federations and Confederations," in *Review for Religious*, 63 (2004), 204-210.
- _____, "Natural and Purpose of General Chapters," in *Consecrated Life*, 2 (1976), 175-185.
- _____, "Relationship between Bishop and Religious: Mutual Rights and Duties," In *Selected Issues in Religious Law*, 69-76.
- _____, "Religious Houses-Acquisition of Rights," in *CLSA Proceedings*, 46 (1984), 149-160.
- _____, "Religious Superiors and Government," in *The Way Supplement*, 50 (1984), 61-70.
- _____, "Separation of Members from the Institute: Canons 684-709" in J. HITE, et al., *A Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, 221-273.
- _____, "The Conciliar Decree *Perfectae caritatis*," in *Review for Religious*, 53 (1994), 142-148.
- _____, "The *Potestas* of Religious Superiors according to Canon 596," in *Review for Religious*, 55 (1996), 87-91.
- _____, "The *Potestas* of Religious Superiors: Background for Canon 596," in *Review for Religious*, 54 (1995), 934-940
- _____, "The Protection of Rights in Religious Institutes," in *The Jurist*, 46 (1986), 164-204.
- _____, "The Troubling Religious: Further Considerations," in *Review for Religious*, 48 (1989), 618-624.
- _____, "Voluntary Departure," in *Review for Religious*, 61 (2002), 313-319.
- _____, "Voluntary Exclaustration," in *Review for Religious*, 51 (1992), 461-469.
- _____, "General Chapters: Historical Background," in *Review for Religious*, 55 (1996), 320-325.

- MCINTYRE, J.P., "Dispensations (cc. 85-93)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 126-135.
- McKENZIE, L., "Religious Signing Civil Contracts," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2005, 187-188.
- MENDONÇA, A., "Dismissal of a Religious from the Religious Institute for the Delict of Abortion," in *Studies in Church Law*, 3 (2007), 425-436.
- _____, "Entrusting of a Parish to a Religious Institute and Appointment of a Religious Priest as Parish Priest," in *Forum*, 16 (2005), 111-159.
- _____, "The Bishop as the Mirror of Justice and Equity in the Particular Church: Some Practical Reflections on Episcopal Ministry," in *CLSGBI Newsletter*, 135 (2003), 5-29.
- MODDE, M.M., "Religious Houses and Governance (cc. 607-633)," in J. HITE, et al., eds., *A Hand Book on Canon 573-746*, Collegeville, MN, Liturgical Press, 1985, 59-98.
- MOFFETT, P. S., "Viewing Chapters as 'Authoring' our Congregations' Narratives," in *Review for Religious*, 63 (2004), 169-181.
- MORRISEY, F. G., "Agreement between Diocesan Bishop and Religious Institutes," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 2001-2005*, Washington, DC, CLSA, 2005, 193-195.
- _____, Commentary on Canon 631, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1663-1667.
- _____, Commentary on Canon 632, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1668-1669.
- _____, Commentary on Canon 637, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1679-1680.
- _____, Commentary on Canon 638, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA [eds.] and E. CAPARROS [gen. ed. of English translation], *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1688

- _____, Commentary on Canon 700, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1879-1881.
- _____, “Canonical Destined to Become Religious Institute,” in *Informationes*, 26 (2000), 88-109.
- _____, “Contemporary Issues Relating to Constitutions and Other Parts of the Proper Law of Religious Institutes,” in *Legal Education for Leadership of Religious Institutes*, Ottawa, Saint Paul University, July, 2018, 1-30.
- _____, “Conveyance of Ecclesiastical Goods,” in *CLSA Proceedings*, 38 (1976), 123-137.
- _____, “Institutes of the Consecrated Life,” in J. HITE and J. WARD (eds.), *Readings, Cases, Materials in Canon Law: A Text Book for Ministerial Students*, Collegeville, MN, 1990, 300-315.
- _____, “Ordinary and Extraordinary Administration,” in *The Jurist*, 48 (1988), 709-726.
- _____, “Pious Dispositions in General and Pious Foundations (cc. 1299-1310),” in G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 738-747.
- _____, “The Alienation of Temporal Goods in Contemporary Practice,” in *Studia canonica*, 29 (1995), 293-316.
- _____, “The Spirit of the Proposed New Law for Institutes of Consecrated Life,” in *Studia canonica*, 9 (1975), 77-94.
- MÖRSDORF, K, “Decree on the Bishops’ Pastoral Office in the Church,” in H. VORGRIMLER, *Commentary on the Documents of Vatican II*, New York, Herder & Herder, vol. 2, 1968, 165-300.
- MUNLEY, A., “Hearts Afire: Leadership in the New Millennium,” in *Review for Religious*, 57 (1998), 48-59.
- MYERS, J.J., “Pious Wills in General and Pious Foundations (cc. 1299-1310),” in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 883-890.
- MYERS, “The Acquisition of Goods (cc. 1259-1272),” in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 864-870.

- NACHINGURU, C.R., "The Canonical Erection of Religious Houses of the Order of Capuchin Friars Minor in Tanzania, in *Laurentianum*, 50 (2009), 207-213.
- NOBEL, M.A. "To Proclaim the Gospel Online – Challenges and Difficulties: Towards a Possible Diocesan Protocol for Ministers of the Divine Word in the Online Environment," in *The Canonist*, 10 (2019), 87-126.
- O'BRIEN, A., "The Role of Active Apostolic Women Religious," in *Review for Religious*, 48 (1989), 213-219.
- O'CONNOR, D.F., "Constitutions and the Revised Code of Canon Law," in *Review for Religious*, 42 (1983), 506-513.
- _____, "Obligations and Rights: Canons 662-672, 277, 285-287, 289, 279, §2," in J. HITE et al., *A Handbook on Canon 573-746*, Collegeville, MN, Liturgical Press, 1985, 169-196.
- _____, "Some Observations on Revised Constitutions," in *Review for Religious*, 39 (1979), 771-779.
- O'HARA, E.M. "Issue of Aggregation, Merger and Dissolution," in *CLSA Proceedings*, 49 (1987), 155-168.
- _____, "Norms Common to All Institutes of Consecrated Life – Canons 573-606," in J. HITE, J. et al., *A Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, 31-57.
- ÖRSY, L.M., "A Theology of the Local Church and Religious Life," in *Review for Religious*, 36 (1977), 666-682.
- PADBERG, J.W., "In the Midst of the Times: Religious Life and the Ever-Present Experience of the World," in *Review for Religious*, 53 (1994), 166-181.
- PASQUALE, G., "Autonomia e corresponsabilità dei religiosi nel Codex Ius Canonici," in *Commentarium pro religiosis et missionariis*, 76 (1995), 259-312.
- PENACOBÁ, E., Commentary on Canon 1223, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1826-1829.
- _____, Commentary on Canon 1224, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1830-1832.

- PERLASCA, A., "Associations Founded with the Intent of Becoming Institutes of Consecrated Life or Societies of Apostolic Life: Further Reflections," in *Consecrated Life*, 30 (2010), 89-109.
- PHILOMINDAS, M., "Administrative and Judicial Measures of Diocesan Bishop toward the Religious in Apostolate," in *Indian Theological Studies*, 35 (1998), 46-66.
- PIRONIO, E., "Reflections on General Chapters: A Salvific, Ecclesial and Family Event," in *L'Osservatore Romano*, English edition, 16 September 1976, 9-10.
- PROVOST, J.H., "Just Penalty for Disobedience," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1994-2000*, Washington, DC, CLSA, 2002, 444-445.
- PUNDERSON, J.R., "Hierarchical Recourse to the Holy See: Theory and Practice," in *CLSA Proceedings*, 62 (2000), 19-47.
- RADCLIFFE, T., "Towards a Spirituality of Government," in *Religious Life Review*, 36 (1997), 199-213.
- RAMOS, F. J., Commentary on Canons 686-687, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1838-1846.
- _____, Commentary on Canons 688-689, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1847-1851.
- RAYAPPAN, A., "Consecrated Persons and Bishops in the 1983 Code: The Essentials for an Edifying Relationship," in *Indian Theology Studies*, 43 (2006), 45-61.
- READ, G.V., "Chaplains (cc. 564-572)," in SHEEHY, G. et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 310-313.
- RENKEN, J.A., "Chaplain in Canon Law," in *Studia canonica*, 45 (2011), 191-223.
- _____, "Donations and Stable Patrimony," in S.M. VERBEEK (ed.), *CLSA Advisory Opinions 2009*, Washington, DC, CLSA, 2009, 127-132.
- RICHSTATTER, T., "Oratories and Private Chapels (cc. 1223-1229)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 849-850.

- RINCÓN-PÉREZ, T., Commentary on Canon 579, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1483-1485.
- _____, Commentary on Canon 582, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1490-1494.
- _____, Commentary on Canon 586, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1499-1503.
- _____, Commentary on cc. 573-606, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004, 409-478.
- _____, Commentary on cc. 634-640, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004, 510-515.
- _____, Commentary on cc. 684-704, in E. CAPARROS et al. (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitée, 2004, 542-557.
- RINERE, E., "Dialogue between Bishops and Religious," in *Review for Religious*, 45 (1986), 368-375.
- RUFFING, J., "Leadership a New Way: Women, Power, and Authority," in *Review for Religious*, 53 (1994), 326-339.
- RUSSELL, J.F., "Religious Chrism and Pastoral Ministry," in *Review for Religious*, 48 (1989), 380-390.
- SAID, M., "Particular Law of Institutes in the Renewal of Consecrated Life," in *Review for Religious*, 36 (1977), 924-947.
- SANTOS, S. E., "The Diocesan and Pontifical Approval of an Institute of Consecrated Life," in *Consecrated Life*, 15 (1990) 41-63.
- SCHNEIDERS, S. M., "Congregational Leadership and Spirituality in the Postmodern Era," in *Review for Religious*, 57 (1998), 6-33.
- SCOTT, L.G., "Bishop Forbidding a Religious from Speaking in the Diocese," in A.J. ESPELAGE (ed.), *CLSA Advisory Opinions 1994-2000*, Washington, DC, CLSA, 1999, 196-197.

- SMITH, R., "Chapters (cc. 631-633)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 794-797.
- _____, "Departure from the Institute (cc. 686-693)," in J. CORIDEN, T.J. GREEN, and D.E. HEINTSCHEL (eds.), *The Code of Canon Law: A Text and Commentary*, New York and Mahwah, NJ, Paulist Press, 1985, 514-518.
- _____, "Election of Major Superiors," in COGAN [ed.], *Selected Issues in Religious Law*, 17-25.
- _____, "Superiors and Councils (cc. 617-630)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 794. See also KIMARYO, 780-794.
- _____, "Temporal Good and Their Administration (cc. 634-640)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 797-806.
- _____, "The Governance of Institutes (cc. 617-640)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 780-805.
- _____, "The Obligations and Rights of Institutes and Their Members (cc. 662-672)," in J. BEAL, J.A. CORIDEN, and T.J. GREEN, (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CLSA, New York and Mahwah, NJ, Paulist Press, 2000, 828-842.
- SOETE, A. M., "A Vowed Response to the Postmodern World, in Review for Religious," 59 (2000), 601-607.
- SOFIELD, L., "Canon Law and Collaboration," in *CLSA Proceedings*, 71 (2009), 12-24.
- ST. AMANT, K., "When Computers and Cultures Collide: Rethinking Computer Mediated Communication according to International and Intercultural Communication Expectations," in *Journal of Business and Technical Communication*, 16 (2002), 196-214.
- STEVENS, M., "Revitalizing Charism Inspiring Religious Life," in *Review for Religious*, 53 (1994), 847-859.
- TEJERO, E., Commentary on Canon 567, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1437-1439.

- _____, Commentary on Canon 638, in A. MARZOA, J. MIRAS, R. RODRÍGUEZ-OCAÑA (eds.) and E. CAPARROS (gen. ed. of English translation), *Exegetical Commentary on the Code of Canon Law*, Montréal, Wilson & Lafleur, vol. 2/2, 2004, 1437-1439.
- THOMAS, B. L., "Constitutions and Canon Law," in *The Way Supplement*, 50 (1984), 47-60.
- _____, "Procedure for the Exclaustration of a Religious," in *Consecrated Life*, 18 (1993), 47-73.
- TORRES, J. P., "Absence from a Religious House," in *Consecrated Life*, 19 (1995), 69-103.
- _____, "Dispensation from Vows," in *Consecrated Life*, 18 (1993), 82-102.
- _____, "Ecclesiastical Approval of Constitutions-Meaning and Scope," in *Consecrated Life*, 9 (1984), 120-130.
- _____, "Procedure for the Exclaustration of a Religious," in *Consecrated Life*, 18 (1993), 47-73.
- WALSH, M.B., "The Authority to 'Dispense' from Vow or Solemn Pledge," in *The Jurist*, 59 (1999), 263-269.
- WEISENBECK, M., "Emerging Expressions of Consecrated Life in the United States: Pastoral and Canonical Implications," in *CLSA Proceedings*, 58 (1996), 368-390.
- WEISENBECK, M., "Emerging Expressions of Consecrated Life in the United States: Pastoral and Canonical Considerations," in *CLSA Proceedings*, 57 (1996), 369-390.
- WIJLENS, M., "'For You I Am a Bishop, with You I Am a Christian': The Bishop as Legislator," in *The Jurist*, 56 (1996), 68-91.
- WILLIAMSON, E., "Norms Common to All Institutes of Consecrated Life (cc. 573-606)," in G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 314-333.
- _____, "Religious Houses and Their Establishment and Suppression (cc. 608-616)," in G. SHEEHY, et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 335-340.
- _____, "Superiors and Councils (cc. 617-630)," in G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 340-347.

- _____, "Temporal Goods and Their Administration (cc. 634-640)," in G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 349-352.
- _____, "The Governance of Institutes (cc. 617-640)," in SHEEHY, G. et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 340-352.
- _____, "The Notion of Charism in the Religious Life," in *Studia canonica*, 19 (1985), 99-114.
- _____, "The Obligations and Rights of Institutes and Their Members (cc. 662-672)," in G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 367-375.
- _____, "The Separation of Members from the Institute (cc. 684-704)," in G. SHEEHY et al. (eds.), *The Canon Law: Letter & Spirit, A Practical Guide to the Code of Canon Law*, prepared by the CLSGBI in association with the CCLS, Collegeville, MN, The Liturgical Press, 1995, 381-395.
- WULF, F., "Decree on the Appropriate Renewal of the Religious Life," in H. VORGRIMLER, *Commentary on the Documents of Vatican II*, New York, Herder & Herder, vol. 2, 1968, 301-370.
- YUJI, S., "Relationship between Bishops and Religious Institutes in the Context of the Church in Asia," in *Philippine Canonical Forum*, 8 (2006), 141-162.
- ZIELINSKI, P., "Pious Wills and Mass Stipends in Relation to Canons 1299-1310," in *Studia canonica*, 19 (1985), 115-154.
- WALDENFELS, H., "Authority and Knowledge," in *Concilium*, 180 (1985), 31-41.

CURRICULUM VITAE

Sister Lua Tran was born on June 12th, 1975. She joined the Dominican Sisters of St. Rose of Lima Congregation in 1992, professed the first vows on August 6th, 2000 and the perpetual vows on August 6th, 2006. Her studies include a B.A. in Linguistic (1999) from Nong Lam University, Ho Chi Minh City, Vietnam; B.A. in Religious Studies (2005) from the Inter-Congregational Dominican Institute of Saint Thomas Aquinas, Ho Chi Minh City, Vietnam; J.C.L. in Canon Law (2014) from the Catholic University of America, Washington D.C., U.S.A; Graduate Diploma in Ecclesiastical Administration (2016), from Saint Paul University, Ottawa, Canada; and is pursuing the Doctorate in Canon Law (2018-2020) at Saint Paul University.

Since her religious profession, Lua had served as the choir conductor at Hien Linh Parish (2002-2004), Phuong Lam Parish (2005), and St. Nguyen Duy Khang Parish (2006-2008). She also served as a nurse at her community's clinic (2006). She served as vice-general superior and director of general formation and training in her Congregation (2016-2020). Since 2014, Lua has taught canon law for religious sisters (2014-present), for Seminarians (2017-present) and has served as a canonical consultant for various religious institutes (2014-present).