

***VULTUM DEI QUAERERE* AND THE CLOISTER OF RELIGIOUS INSTITUTES:  
THE CANONICAL DEVELOPMENT OF  
PAPAL, CONSTITUTIONAL, AND MONASTIC ENCLOSURE  
FROM THE PIO-BENEDICTINE CODE UNTIL THE PRESENT**

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## ABBREVIATIONS

1980 <i>Schema</i>	<i>Schema codicis iuris canonici iuxta animadversiones S.R.E. cardinalium, episcoporum, conferentiarum, dicasteriorum, curiae Romanae, universitatem facultatumque ecclesiasticarum necnon superiorum institutorum vitae consecratae recognitum</i> (1980)
1982 <i>Schema</i>	<i>Codex iuris canonici: Schema novissimum iuxta placita patrum commissionis emendatum atque summo pontific praesentatum</i> (1982)
<i>AAS</i>	<i>Acta Apostolicae Sedis, Commentarium officiale</i> , Rome, 1909–
art(t).	article (articles)
c.	canon
cc.	canons
<i>CCEO</i>	<i>Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP.II promulgatus, fontium annotatione auctus</i>
<i>CIC/17</i>	<i>Codex iuris canonici, Pii X Pontificis Maximi iussu digestus</i>
<i>CIC/83</i>	<i>Codex iuris canonici, auctoritate Ioannis Pauli PP. II promulgatus</i>
<i>CLD</i>	<i>Canon Law Digest</i>
<i>CLSA</i>	Canon Law Society of America
<i>FLANNERY I</i>	A. FLANNERY (gen. ed.), <i>Vatican Council II: The Conciliar and Post-Conciliar Documents</i> , vol. 1
<i>PC</i>	SECOND VATICAN COUNCIL, Decree on the Up-to-date Renewal of Religious Life <i>Perfectæ caritatis</i>
<i>SpC</i>	<i>Sponsa Christi</i> (Pius XII, apostolic constitution), <i>AAS</i> , 43 (1951), 5–24
<i>VC</i>	<i>Vita consecrata</i> (John Paul II, post-synodal apostolic exhortation), <i>AAS</i> , 88 (1996) 377–486
<i>Vita cons.</i>	<i>Schema canonum de institutis vitae consecratae per professionem consiliorum evangelicorum</i> (1977)
<i>VDQ</i>	<i>Vultum Dei quaerere</i> (Francis, apostolic constitution) (2016)
<i>VS</i>	<i>Venite seorsum</i> (Congregation for Religious and for Secular Institutes,

instruction), *AAS*, 61 (1969), 674–690

*Verbi sp.*

*Verbi sponsa* (Congregation for Institutes of Consecrated Life and Societies of Apostolic Life), *Enchiridion Vaticanum*, vol. 18, 514–577

## GENERAL INTRODUCTION

In a homily addressed to contemplative monks of the Carthusian Order on 9 October 2011, Benedict XVI identifies present challenges, as well as merits, of silence and solitude in the contemporary context. After acknowledging that “[s]ome people are no longer able to remain for long periods in silence and solitude,” Benedict XVI reaffirms the Christian values of silence and solitude:

By withdrawing into silence and solitude, human beings, so to speak, “expose” themselves to reality in their nakedness, to that apparent “void,” which I mentioned at the outset, in order to experience instead Fullness, the presence of God, of the most real Reality that exists and that lies beyond the tangible dimension. He is a perceptible presence in every creature: in the air that we breathe, in the light that we see and that warms us, in the grass, in stones . . . God, *Creator omnium*, passes through all things but is beyond them and for this very reason is the foundation of them all.

The monk, in leaving everything, “takes a risk,” as it were: he exposes himself to solitude and silence in order to live on nothing but the essential, and precisely in living on the essential he also finds a deep communion with his brethren, with every human being.<sup>1</sup>

The canonical notion of enclosure, deriving its Christian significance from Jesus’ instruction on prayer in the sixth verse of chapter six in the Gospel of St. Matthew,<sup>2</sup> strives to create an environment of true silence and solitude within religious houses wherein consecrated men and women can commune with God in love for the glory of God and the salvation of souls.<sup>3</sup>

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<sup>1</sup> BENEDICT XVI, Homily at the Church of the Charterhouse of Serra San Bruno, 9 October 2011, in *AAS*, 103 (2011), 744, English translation in *L’Osservatore Romano*, 41 (12 October 2011), 7.

<sup>2</sup> “But when you pray, go into your room and shut the door and pray to your Father who is in secret; and your Father who sees in secret will reward you.” In this paper, all quotations from the Bible are from the *Holy Bible: Revised Standard Version, Ignatius Bible*, San Francisco, CA, Ignatius, 2016. For a more exhaustive examination of the scriptural underpinnings of enclosure, see I. THOUIN, “Biblical Foundations,” in J. PROU (ed.), *Walled about with God: The History and Spirituality of Enclosure for Cloistered Nuns*, trans. by D. HAYES, Herefordshire, Gracewing, 2005, 1-23.

<sup>3</sup> In her defense of the papal enclosure observed by Poor Clare Nuns, M. Mary Francis argues, “The essence of the enclosed contemplative life is love. Without a highly specialized love of God and comprehensive love of neighbor, it [the enclosed, contemplative life] is neither meaningful nor even credible.” MARY FRANCIS, “The Cloister Grille,” in *Review for Religious*, 25 (1966), 616.

Notwithstanding numerous papal pronouncements and magisterial affirmations of the importance of solitude and silence in the life of every Christian and assuming canonical form in institutes of consecrated life<sup>4</sup> by means of the obligation of cloister, the ubiquitous question persists, “Why ‘enclose oneself’ forever between the walls of a monastery and thereby deprive others of the contribution of one’s skills and experience? How effective can the prayer of these cloistered religious be for the solution of all the practical problems that continue to afflict humanity?”<sup>5</sup> A survey of institutes of consecrated life suggests that not only have the world and lay faithful questioned the role of cloister in the modern world, but following the Second Vatican Council consecrated men and women have themselves explored different types of enclosure, sometimes even within the same institute of consecrated life. Simultaneously, new institutes of consecrated life demonstrate a renewal and reformation of enclosure by seeking to fulfill the canonical obligation of cloister common to all institutes of consecrated life while attempting to adapt juridical silence and solitude to “modern conditions so that the preaching of the Gospel may be carried out more effectively in every nation”<sup>6</sup> and with suitable accommodations to the

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<sup>4</sup> Although the obligation of enclosure imposed on institutes of consecrated life strictly does not apply to societies of apostolic life, and therefore this paper solely treats of institutes of consecrated life, nonetheless the “proper law [of societies of apostolic life] may well, and probably should, provide for similar rights for their members and communities . . . Given the general importance of some measure of communal privacy as a valued characteristics [sic] of all forms of consecrated life, it would be hard to imagine that the proper law of a society of apostolic life would not mandate some requirement governing reserved space for members of the community in its houses.” M. JOYCE, C. DARCY, R. KASLYN, and M. SULLIVAN (eds.), *Procedural Handbook for Institutes of Consecrated Life and Societies of Apostolic Life*, Washington, DC, Canon Law Society of America, 2001, 125.

<sup>5</sup> BENEDICT XVI, Angelus, 19 November 2006, in *L’Osservatore Romano*, 47 (22 November 2006), 1. These misunderstandings of enclosure and its violation are not oddities of the modern age, but, as Barry notes, “The outstanding conclusion drawn from this historical conspectus is the revelation of the struggle encountered by the Church in firmly establishing and maintaining the inviolability of the cloister. The constant and unflinching solicitude of the Church met dogged opposition from the belittling appraisal of the true monastic spirit, from stubbornness in the face of authority, and from adherence to worldliness, even on the part of those whom she endeavored to aid and protect.” G.F., BARRY, *Violation of the Cloister: An Historical Synopsis and Commentary*, Canon Law Studies, no. 148, Washington, DC, The Catholic University of America Press, 1942, 84.

<sup>6</sup> SECOND VATICAN COUNCIL, Decree on the Up-to-date Renewal of Religious Life *Perfectæ caritatis*, 28 October 1965, no. 20, in *AAS*, 58 (1966), 711, English translation in *FLANNERY I*, 622 (=PC).

“character and mission of the institute.”<sup>7</sup> The prior century reveals an attempt in the norms of canon law, the teaching of the magisterium, and the lived experiences of consecrated men and women to free the notion of enclosure from a historical development admittedly marked at different times by a “negative vision of the human world . . . when this separation, rather than being the result of a positive spiritual attitude, has instead been regarded as something that must be defended by strict norms and laws.”<sup>8</sup>

The Apostolic Constitution on women’s contemplative life *Vultum Dei quaerere*,<sup>9</sup> promulgated by Francis on 29 June 2016, not only reinvigorates the academic, as well as the practical, treatment of the cloister of religious institutes, but furnishes new insight into the “mind of the legislator”<sup>10</sup> concerning the obligation of enclosure. *Vultum Dei quaerere* identifies four distinct categories of cloister varying by degree: enclosure proper to all religious houses, papal enclosure, constitutional enclosure, and monastic enclosure.<sup>11</sup> Propelled by the promulgation of *Vultum Dei quaerere*, this research paper analyzes the three forms of enclosure identified as suitable for contemplative women religious, namely papal, constitutional, and monastic enclosure, giving particular attention to their juridical development from the promulgation of the 1917 Code

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<sup>7</sup> *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, canon 667, §1. 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).

<sup>8</sup> J.M., LOZANO, *Life as Parable: Reinterpreting the Religious Life*, New York/Mahwah, NJ, Paulist, 1986, 179.

<sup>9</sup> FRANCIS, Apostolic Constitution on Women’s Contemplative Life *Vultum Dei quaerere*, 22 July 2016, [https://w2.vatican.va/content/dam/francesco/pdf/apost\\_constitutions/documents/papa-francesco\\_costituzione-ap\\_20160629\\_vultum-dei-quaerere\\_en.pdf](https://w2.vatican.va/content/dam/francesco/pdf/apost_constitutions/documents/papa-francesco_costituzione-ap_20160629_vultum-dei-quaerere_en.pdf) (13 January 2018) (=VDQ).

<sup>10</sup> CIC/83, c. 17.

<sup>11</sup> See VDQ, §31.

of Canon Law to the present.<sup>12</sup> A scientific examination of cloister in religious institutes over the preceding century demonstrates a shift away from a preferential treatment of papal enclosure to an increasing recognition of the proper place and excellence of either constitutional or monastic enclosure to realize the “eschatological and missionary significance of the cloistered life of contemplative nuns.”<sup>13</sup>

After a detailed presentation of cloister in *Vultum Dei quaerere*, Francis explicitly invokes canon 20 of the 1983 Code of Canon Law to derogate any universal law to the contrary concerning the cloister of contemplative women religious; *Vultum Dei quaerere* specifically identifies as derogated:

Those canons of the *Code of Canon Law* [of 1983] that, in part, directly contradict any article of the present Constitution and, more specifically, the articles containing norms and dispositions found in the Apostolic Constitution *Sponsa Christi* of Pius XII (21 November 1950); *Statuta Generalia Monialium*; the Instruction *Inter praeclara* of the Sacred Congregation for Religious (23 November 1950); and the Instruction *Verbi sponsa* of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (13 May 1999) on the contemplative life and enclosure of nuns.<sup>14</sup>

The derogation of fifty years of universal legislation on the obligation of cloister indicates the juridical significance of the prescriptions of *Vultum Dei quaerere* for contemplative women religious.

Cognizant of the earnest efforts made to “implement the spiritual, charismatic, and institutional renewal that the [Second Vatican] Council asked for, and on the other [hand] raising in the heart of men and women new ways to respond to Jesus’s invitation to leave all in order to

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<sup>12</sup> Prior to the promulgation of the Pio-Benedictine Code, see E. McDONOUGH, “Cloister of Nuns: From the Early Centuries to the 1917 Code,” in *Review for Religious*, 54 (1995), 772–778. Although less juridically concerned, M.D. Totah provides a more exhaustive historical sketch in M.D. TOTAH, “The History of Enclosure,” in J. PROU (ed.), *Walled about with God: The History and Spirituality of Enclosure for Cloistered Nuns*, trans. By D. HAYES, Herefordshire, Gracewing, 2005, 25–93. See also the dated, yet thorough studies of V.T., SCHAAF, *The Cloister*, Cincinnati, OH, St. Anthony Messenger, 1921, 10–56 and BARRY, *Violation of the Cloister*, 1–86.

<sup>13</sup> *VDQ*, art. 7.

<sup>14</sup> *VDQ*, art. 1.

dedicate one's life to follow Him and to proclaim the Gospel,"<sup>15</sup> *Vultum Dei quaerere* legislates that every monastery of contemplative women, "whether wholly contemplative or not, and whether any part of a federation or not,"<sup>16</sup> after prayer and in accord with the institute's charism, legitimate tradition, and particular legislation, may petition the Apostolic See to undertake a form of cloister different from that currently observed.<sup>17</sup> Since *Vultum Dei quaerere* prescribes that "[o]nce one of the possible forms of cloister is chosen and approved, each monastery will take care to comply with, and live in accordance with, its demands,"<sup>18</sup> this present study seeks to aid contemplative women, and by extension all religious institutes, in appreciating the juridical evolution of the diverse forms of cloister in the 20<sup>th</sup> century to more readily identify and implement that form of cloister best suited to each religious institute's life and mission. While an objection might be duly raised to a purely historical examination of the evolution of enclosure within institutes of consecrated life, particularly in light of canon 6 §1, 1° and 2° of the 1983 Code's abrogation of both the 1917 Code and other universal laws to the contrary, this scholarship advances under the presupposition that the four forms of enclosure identified in *Vultum Dei quaerere* are best

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<sup>15</sup> FRANCIS, Address to participants in the plenary of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, 27 November 2014, in *AAS*, 106 (2014), 1014–1016, English translation at [http://w2.vatican.va/content/francesco/en/speeches/2014/november/documents/papa-francesco\\_20141127\\_plenaria-vita-consacrata.html](http://w2.vatican.va/content/francesco/en/speeches/2014/november/documents/papa-francesco_20141127_plenaria-vita-consacrata.html) (13 January 2018).

<sup>16</sup> *VDQ*, art. 2, §1.

<sup>17</sup> See *VDQ*, art. 10, §1. For an interesting commentary on the historical novelty of permitting contemplative nuns to determine their own enclosure, see R. HARRINGTON, "Comment on Apostolic Constitution *Vultum Dei quaerere*," in *The Canon Law Society of Great Britain and Ireland Newsletter*, no. 188 (2016), 27–30, which states in part: "[T]his is the first time since 1298, when a stricter practice was enforced by a decretal (*Periculoso*) of Pope Boniface [VIII], that the women are being allowed to determine for themselves the actual degree of seclusion that they feel necessary to preserve their contemplative way of life ... This element of choice is a significant innovation about the observance of cloister in different houses within the same federation" (p. 28).

<sup>18</sup> *VDQ*, art. 10, §2.

understood and appreciated in accord with their historical development and “must be assessed also in accord with canonical tradition.”<sup>19</sup>

The three chapters of this research, therefore, undertake a chronological presentation of the papal (chapter one), constitutional (chapter two), and monastic cloisters (chapter three). Each chapter begins with the 1917 Code before analyzing the ensuing legislation developing and clarifying what remained dubious or silent regarding the form of cloister under consideration. Next, each chapter explores the significant contribution of the Second Vatican Council’s Decree on the Adaptation and Renewal of Religious Life *Perfectae caritatis* toward the Church’s continued development of cloister in religious institutes and ultimately assuming canonical form in canon 667 of the 1983 Code. Later, the individual chapters address subsequent magisterial teaching, clarification, and elaboration to suggest both the organic development of the current norms of *Vultum Dei quaerere* relating to enclosure, as well as what can be properly termed “canonical novelties” of *Vultum Dei quaerere*.

The cloister of religious institutes remains a challenge to not only the lay faithful and the world, but even consecrated men and women of the same Order. Although authored by a cloistered, contemplative male religious, this research paper desires to preserve an objective, scientific canonical analysis to facilitate “various forms of encounter and cooperation, above all in initial and ongoing formation.”<sup>20</sup> Motivated by the dynamism of the Holy Spirit at the Second Vatican Council, and manifested in *Perfectae caritatis*, this study hopes to make an earnest contribution toward the much sought, yet difficulty attained, reinvigoration of consecrated life within the

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<sup>19</sup> *CIC*, c. 6, §2.

<sup>20</sup> *VDQ*, §31.

Church that consecrated men and women “may daily increase and their salutary work be more effective.”<sup>21</sup>

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<sup>21</sup> *PC*, §25.

# CHAPTER I

## PAPAL ENCLOSURE

### Introduction

Papal enclosure, receiving unified codification in the Pio-Benedictine Code, enjoys a rich canonical history and finds its sources in varied canonical texts throughout the nearly two thousand years prior to the 1917 legislation, perhaps most notably in the monastic rules of religious Orders. The monastic rules, particularly the Benedictine Rule by means of “its spirit and its incarnation in eminent churchmen and members of the hierarchy, influences the discipline and the normative sources of the Church.”<sup>22</sup> For the purpose of this chapter, the juridical development of papal cloister will be limited to the time period beginning with the 1917 Code through, and including, the promulgation of *Vultum Dei quaerere* by Francis on 29 June 2016. Consequently, this chapter will proceed by chronologically assessing the significant documents of the Apostolic See from 1917 to 2016 that discuss the canonical norms of papal enclosure.

### 1.1 – 1917 *Codex iuris canonici*

The 1917 Code treats of cloister in canons 597–606 within Chapter 1 of Title 13 in the Second Part of the Second Book entitled “On Obligations.” First, the Pio-Benedictine Code introduces the *clausura papalis* or papal enclosure as an obligation proper to all religious houses of “regulars, whether of men or women.”<sup>23</sup> In light of the earlier definitions of a “religious house”

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<sup>22</sup> See B E FERME, *Introduction to the History of the Sources of Canon Law: The Ancient Law up to the Decretum of Gratian*, Montréal, Wilson & Lafleur, 2007, 22. Although Ferme rightly draws particular attention to the influence of the Benedictine Rule on later ecclesiastic norms, the influence of the other monastic and mendicant rules also contributed to the canons on consecrated life in their current form, particularly in the development of the obligation of cloister where the breadth of forms of cloister, both within the same religious Order and between the diverse religious Orders, necessitated adequate canonical treatment.

<sup>23</sup> *Codex iuris canonici, Pii X Pontificis Maximi iussu digestus Benedicti Papæ XV auctoritate promulgatus*, Typis polyglottis Vaticanis, 1917, English translation E.N. PETERS (ed.), *The 1917 Pio-Benedictine Code of Canon Law*,

and “regular” in the Pio-Benedictine Code, canon 597 §1 binds all those members of religious Orders in solemn vows and residing in a canonically erected house of that order with a minimum of six professed members.<sup>24</sup> The 1917 Code justifies its pervasive prescription of papal enclosure under the pretense “lest outside visitors, by useless conversation, disturb the discipline and bring about harm to the religious spirit.”<sup>25</sup> A. Biskupek offers a defense of enclosure that accords with the 1917 Code arguing, “The law of enclosure faithfully observed protects against the spirit of the world and fosters the religious spirit, which is the spirit of unworldliness, contempt of the world, a life hidden in Christ, yet wielding a most powerful influence for spiritualizing the world.”<sup>26</sup>

According to canon 597, §1, papal enclosure cannot be considered a prerogative of solely contemplatives or one sex of religious, but rather attains the force of a proper and binding obligation upon all male and female members of the religious Orders. The norms of papal enclosure, therefore, affect the “entire house that the community of regulars inhabit, with gardens and green areas reserved for the exclusive access of the religious,” while excluding the “public [church] with its contained sacristy, and also a hospice for travelers, if there is one, or a conversation room that, if possible, must be established near the entrance to the house.”<sup>27</sup> Signage

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San Francisco, Ignatius Press, 2001, canon 597, §1. All references to the canons of the 1917 Code will be styled “CIC/17, c.” for canon and “CIC/17, cc.” for canons, followed by the canon numbers.

<sup>24</sup> See CIC/17 c. 488, 5 °: “A *religious house* is the house of any religious in general; a *regular house* is a house of Orders; a *formal house* is a religious house in which at least six professed religious are present, of whom, if it concerns clerical religious, at least four must be priests;” and CIC/17 c. 488, 7 °: “*Religious* refers to those whose vows are pronounced in any religious [institute]; *religious of simple vows*, when they are in religious Congregations; *regulars*, when they are in Orders; *sisters*, when they are religious women of simple vows; *nuns*, when they are religious women of solemn vows or, unless it is established by the nature of the thing or the context of the words, religious women whose vows are solemn in the institute but in certain places are simple by prescription of the Apostolic See.”

<sup>25</sup> CIC/17 c. 605.

<sup>26</sup> A. BISKUPEK, *Conferences on the Religious Life*, Milwaukee, WI, Bruce Publishing Company, 1957, 145.

<sup>27</sup> CIC/17 c. 597, §2.

must demarcate the precise boundaries of papal enclosure and can only be changed by the authority of the major Superior, the general Chapter, or in the case of convents of nuns, by the Bishop.<sup>28</sup> The 1917 Code makes no specific mention of physical forms of separation such as walls, screens, and turnstiles, leaving these determinations to particular law and legitimate custom while simply prescribing that papal enclosure must be “clearly indicated.”<sup>29</sup>

Within the broader category of papal enclosure prescribed in the 1917 Code, the legislator devotes four canons to the more strict *clausura monialium*, the enclosure of nuns, which imposes a still greater degree of separation by asserting, with only four particular exceptions, that “[n]o one, of any sort, condition, sex, or age can be admitted into the cloister of nuns without the permission of the Holy See.”<sup>30</sup> Following religious profession, the Pio-Benedictine Code prohibits any nun, without an apostolic indult, from leaving her cloister if not in danger of death or confronted with “some other evil of the worst sort”<sup>31</sup> and even in such cases the written permission of the local Ordinary ought to be sought “if there is time.”<sup>32</sup> Although not delineating the minute prescriptions of the enclosure of nuns, the law seeks to hide, to the degree possible, not only the nuns themselves, but also the nun’s enclosure from all external sight.<sup>33</sup> The 1917 Code prescribes

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<sup>28</sup> See *CIC/17* c. 597, §3: “Parts of the cloister subject to law should be clearly indicated; but the major Superior or general Chapter, according to the constitutions, or if it concerns a monastery of nuns, the Bishop, shall define the limits of the cloister and for just cause can change them.”

<sup>29</sup> *CIC/17* c. 597, §3.

<sup>30</sup> *CIC/17* c. 600.

<sup>31</sup> *CIC/17* c. 601, §1.

<sup>32</sup> *CIC/17* c. 601, §2.

<sup>33</sup> See *CIC/17* c. 602: “The cloister of monasteries of nuns must be closed so that, to the extent possible no one in it or from it [has] an external view of persons.” The Congregation for Religious’ Instruction on Cloister of Monastic Nuns of Solemn Vows of 1924 added further prescriptions in art. II, no. 1-6 including that all windows facing the public must be either frosted or covered to prohibit vision from both within and without, as well as a screen or grille hiding the nuns from sight in the chapel and a turnstile at the entry and in the sacristy. Later, in the same document, the Congregation for Religious prescribes in art. 4 that the keys to the enclosure are entrusted to the Superioress and art. 5 makes prescriptions concerning the screens or grilles in the conversation rooms stipulating that there “should be

that the local Ordinary has the proper duty, as well as the religious superior, to protect the cloister of nuns; consequently, both the local Ordinary and the religious superior possess the legal capacity to impose penalties for any violations committed.<sup>34</sup>

Highlighting the legislator's desire to safeguard the papal enclosure of regulars of both sexes, the 1917 Code attaches the penalty of excommunication to any violations. In accord with the stricter papal enclosure of nuns, canon 2342, 1° prescribes as excommunicated both the illegitimate violator, regardless of circumstance or gender, as well as those culpable of the unlawful admittance.<sup>35</sup> Clerics responsible for the violation of papal enclosure of nuns face suspension for a period of time determined by the Ordinary and in accord with the nature of the violation.<sup>36</sup> Moreover, canon 2342, 3° attaches the penalty of excommunication to any nun who leaves the enclosure "without a special indult of the Holy See, except in case of imminent danger of death or some other evil of the worst sort."<sup>37</sup> In the case of the papal enclosure of male regulars, women

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two screens, separated by a space of about twenty centimeters, and attached to the wall so that they cannot be opened." See CONGREGATION FOR RELIGIOUS, Instruction on cloister of monastic nuns of solemn vows *Nuper edito*, 6 February 1924, in *AAS*, 16 (1924), 97, 100, English translation in *CLD*, 1 (1917–1933), 315, 319–320. The import of *Nuper edito* in the evolution of papal cloister becomes apparent as these many physical signs have become synonymous amongst the Christian faithful with the observance of "papal cloister."

<sup>34</sup> See *CIC/17* c. 603. This prescription is further circumscribed and delineated concerning the Ordinary, the Visitor, the confessor, and others in CONGREGATION FOR RELIGIOUS, *Nuper edito*, in *AAS*, 16 (1924), 98–100, English translation in *CLD*, 1 (1917–1933), 317–319.

<sup>35</sup> Here *Nuper edito* goes still further in art. 4 by arguing that the violator not only incurs excommunication, but has also committed a "grave sin," teaching that the nun who "without the required permission introduce[s] or even merely admit[s] any person whatever into the monastery, she shall not only be guilty of grave sin, but shall *ipso facto* incur an excommunication reserved *simpliciter* to the Holy See." CONGREGATION FOR RELIGIOUS, *Nuper edito*, in *AAS*, 16 (1924), 100, English translation in *CLD*, 1 (1917–1933), 319.

<sup>36</sup> See *CIC/17* c. 2342, 1°: They are, upon that fact, struck by excommunication simply reserved to the Apostolic See: Who violate the cloister of nuns of whatever sort or condition or sex they might be, entering into their monastery without legitimate permission, and likewise those introducing or admitting them; but if they are clerics, they are moreover suspended for a time to be defined by the Ordinary for the gravity of the fault."

<sup>37</sup> *CIC/17* c. 601, §1.

violators alone are excommunicated, as well as those guilty of their illegitimate entry.<sup>38</sup> The religious men responsible for the violation of the papal enclosure of male regulars are “deprived of office, if they have one, and of active and passive voice.”<sup>39</sup>

## 1.2 – Apostolic Constitution *Sponsa Christi*

Pius XII’s Apostolic Constitution<sup>40</sup> of 23 November 1950 promotes the holy institution of nuns with a corresponding instruction of the Sacred Congregation of Religious to address not only the assorted questions since the promulgation of the Pio-Benedictine Code and subsequent universal norms concerning papal enclosure, but also the changed circumstances of religious life, particularly contemplative nuns. Pius XII justifies this legislation explaining, “[T]here are some elements in the institution of nuns which are neither necessary nor complementary, but merely external and historical, since they certainly owe their existence to the circumstances of former times which are now very much changed. These, if they are found to be no longer of any use or liable to hinder greater good, seem to have no special reason for being preserved.”<sup>41</sup>

Accordingly, in *Sponsa Christi*, Pius XII begins the necessary task of renewing the obligation of cloister, albeit in a drastically changed political and social world following the conclusion of the Second World War and the spread of Bolshevistic and atheistic Communism. Simultaneously, however, Pius XII reaffirms the value of papal enclosure and seeks its restoration

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<sup>38</sup> The fact that only female violators of the papal cloister of male religious, and not other non-member men, incur excommunication, whereas both sexes incur excommunication in the case of the cloister of nuns, suggests a distinction in the mind of the legislator even in the 1917 Code and perhaps helps to explain the later abandonment of papal enclosure for male religious altogether.

<sup>39</sup> *CIC/17* c. 2342, 2°.

<sup>40</sup> PIUS XII, Apostolic constitution promoting the holy institution of nuns and instruction of the Sacred Congregation of Religious *Sponsa Christi*, 21 November 1950, in *AAS*, 43 (1951), 5–24, English translation in *Apostolic Constitution “Sponsa Christi” and Instruction of the Sacred Congregation of Religious*, Derby, NY, Daughters of St. Paul, Apostolate of the Press, 1952 (=SpC).

<sup>41</sup> *SpC*, §23.

in those religious houses where war and cruel persecutions had made the obligation of papal enclosure previously impossible:

This venerable cloister of nuns, which is called papal because of the supreme authority from which it emanates and the sanctions by which it is protected within and without, is, by this Constitution of Ours, not only purposely and solemnly confirmed, for the various sorts of monasteries which have hitherto been obliged to it, but is cautiously extended also to those monasteries which until now have not been bound to it on account of dispensations lawfully obtained.<sup>42</sup>

The particular originality of *Sponsa Christi* consists in the legislator's introduction of a distinction between *major* and *minor* papal enclosure for those religious who exercise a contemplative apostolate and those involved in a semi-contemplative or active apostolate, as well as those nuns who do not profess solemn vows, respectively.<sup>43</sup> As M.D. Totah notes, *Sponsa Christi* "had the effect of extending enclosure to monasteries which until then had not been bound to it on account of lawful dispensations"<sup>44</sup> and correlates to Pius XII's theological conviction that the consecrated life is intrinsically contemplative. Private correspondence of the Congregation of Religious perhaps best synthesizes the contribution of *Sponsa Christi* by reaffirming that "papal cloister [now major papal enclosure] remains substantially unchanged; however, in monasteries which have apostolic works, cloister is regulated and adapted so that the contemplative life may suffer no harm and that at the same time the works, nourished by the contemplative life, may be able to develop as need may require."<sup>45</sup> Regardless of the distinction between minor and major papal enclosure, the Congregation for Religious' subsequent Instruction makes clear in articles 8 and 16 that dispensations for major and minor papal enclosure, beyond those permitted by law,

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<sup>42</sup> *SpC*, §30.

<sup>43</sup> See *SpC*, §§31-32, artt. 2-3.

<sup>44</sup> TOTAH, "The History of Enclosure," 95.

<sup>45</sup> CONGREGATION FOR RELIGIOUS, letter (private), 7 March 1951, English translation in *CLD*, 3 (1942–1953), 250.

remain the competency of the Apostolic See.<sup>46</sup> Although abandoning some of the minute details of *Nuper edito* such as the dimensions between the grilles in the conversation rooms, the Instruction<sup>47</sup> of the Congregation for Religious of 1956 supplies universal norms for the preservation of major papal enclosure, egress of the nuns, ingress of outsiders, and custody of the cloister with what E. McDonough identifies as an “altered tone”<sup>48</sup> that makes no mention of contracting sin through the violation of papal enclosure.

### 1.3 – Decree *Perfectae caritatis*

As the title of the Second Vatican Council’s Decree on the adaptation and renewal of religious life suggests, the Second Vatican Council seeks to safeguard the prophetic witness of consecrated life in the Church,<sup>49</sup> situating the consecrated life within the universal call to holiness through charity that this witness might “yield greater good to the Church.”<sup>50</sup> Although primarily concerned with the methodology of the renewal of consecrated life, *Perfectae caritatis* nevertheless addresses papal enclosure in paragraph 16 by asserting that papal enclosure should “*firma maneat*”<sup>51</sup> for nuns, particularly those given to contemplation.<sup>52</sup> Paragraph 16 appears,

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<sup>46</sup> See CONGREGATION FOR RELIGIOUS, Instruction on *Sponsa Christi Inter Praeclara*, 23 November 1950, in *AAS*, 48 (1951), 38, 41, English translation in *Apostolic Constitution “Sponsa Christi” and Instruction of the Sacred Congregation of Religious*, Derby, NY, Daughters of St. Paul, Apostolate of the Press, 1952, 59, 65.

<sup>47</sup> CONGREGATION FOR RELIGIOUS, Instruction on cloister of nuns *Circa monialium clausuram*, 25 March 1956, in *AAS*, 48 (1956), 512–526, English translation in *CLD*, 4 (1953–1957), 220–237.

<sup>48</sup> MCDONOUGH, “Cloister of Nuns: From the 1917 Code to the 1994 Synod,” in *Review for Religious*, 54 (1995), 774.

<sup>49</sup> See SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), 50–51, English translation in *FLANNERY I*, §44 (=LG).

<sup>50</sup> *PC*, §1.

<sup>51</sup> This Latin expression is rendered by the author in English as “remain firm” or perhaps more colloquially “remain in place.”

<sup>52</sup> See *PC*, §16.

therefore, to equate papal enclosure with the enclosure of nuns, remaining silent on whether papal enclosure still obliges male religious.<sup>53</sup> Continuing the prior work begun by Pius XII, *Perfectae caritatis* urges accommodation of papal enclosure to both time and place after first listening to those convents of nuns observing papal enclosure. The Council Fathers, in specifying the importance of hearing those nuns currently living the contemplative life, suggest the Church's desire not to impose papal enclosure, but rather to preserve enclosure in light of the wisdom of lived experience. As a logical consequence, *Perfectae caritatis* abandons Pius XII's legal distinction between major and minor papal enclosure, simply prescribing that nuns actively engaged in the apostolate are not bound by papal enclosure "to enable them better to fulfill the apostolic duties entrusted to them."<sup>54</sup>

#### 1.4 – Instruction *Venite seorsum*

Only four years after the promulgation of *Perfectae caritatis*, the Congregation for Religious and for Secular Institutes offers further instruction in *Venite seorsum* on the importance of contemplative life in the Church and the enclosure of nuns in accord with conciliar teaching by "legislating the norms which in the future will regulate the enclosure of nuns wholly dedicated to contemplation."<sup>55</sup> *Venite seorsum* makes an important contribution to the study and practice of

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<sup>53</sup> This question was resolved by the CONGREGATION FOR RELIGIOUS AND FOR SECULAR INSTITUTES, Decree on the papal enclosure of religious Orders *Clausuram papalem*, 4 June 1970, in *AAS*, 62 (1970), 548–549, English translation in *CLD*, 7 (1968–1972), 536, which states in part, "[T]he superiors general of male religious Orders – with the exception of monks – may temper their own cloister according to the norm of the aforesaid canon [604 of the 1917 Code]."

<sup>54</sup> *PC*, §16. In 1966, to make the matter certain, Paul VI abolished the minor enclosure altogether. See PAUL VI, Apostolic letter *motu proprio* on the implementation of the decrees *Christus Dominus*, *Presbyterorum ordinis*, *Perfectae caritatis*, *Ad gentes divinitus Ecclesiae sanctae*, 6 August 1966, in *AAS*, 58 (1966), 780, English translation in *FLANNERY I*, 631.

<sup>55</sup> CONGREGATION FOR RELIGIOUS AND FOR SECULAR INSTITUTES, Instruction on the contemplative life and on the enclosure of nuns *Venite seorsum*, 15 August 1969, in *AAS*, 61 (1969), 674, English translation in *FLANNERY I*, 656–657 (=VS).

enclosure by continuing *Perfectae caritatis*' defense of enclosure for the sake of greater divine intimacy in silence and solitude, yet seeking to resolve the question of whether the inhabitants of these cloisters have abandoned the world and thus make no contribution to the Church's missionary and evangelizing labors. *Venite seorsum* unambiguously teaches:

It must not be thought, however, that monks and nuns, because they are separated from the rest of mankind, are cut off, as it were, from the world and the Church and are aloof from them. On the contrary, they are united with them "in a more profound sense in the heart of Christ," since we are all one in Christ.

Apart from the traditional contribution of monasteries in the cultural and social dimension, conclusive and unshakable evidence exists bearing witness to the great love with which men and women dedicated to contemplation alone harbor in their hearts the sufferings and anguish of all men.<sup>56</sup>

Guided by the Second Vatican Council's recognition of the importance of subsidiarity and *Perfectae caritatis*'s call for renewal, *Venite seorsum* offers an amended vision of papal enclosure where the "norms which govern it must be sanctioned by apostolic authority, even though they are established by particular law, by which are fitly expressed the characteristics proper to each institute."<sup>57</sup> In contrast with earlier legislation, *Venite seorsum* leaves the particularities of silence and solitude to the provision of the institute's Constitutions. *Venite seorsum* posits papal enclosure in the modern world by answering the relevant questions of the fulfillment of civic duties<sup>58</sup> and the suitability of radio and television.<sup>59</sup>

### **1.5 – 1983 *Codex iuris canonici***

The 1983 Code defines papal enclosure in canon 667, §3 as an obligation imposed upon all monasteries of nuns "*ad vitam contemplativam ordinantur*," or ordered to contemplative life,

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<sup>56</sup> *VS*, 663–664.

<sup>57</sup> *VS*, art. 1.

<sup>58</sup> See *VS*, art. 7 (b)(4).

<sup>59</sup> See *VS*, art. 10.

concretely legislating the vision of the Council Fathers expounded in paragraph 16 of *Perfectae caritatis*. Paragraph 4 of canon 667, in treating of those permitted to enter papal enclosure, reaffirms that the diocesan bishop may enter only for a just cause and others may enter only for a grave cause with the consent of the superior.<sup>60</sup> Conversely, the superior may permit a nun to be absent from the papal enclosure only for a grave cause and for a time “*vere necessarium*.”<sup>61</sup> In strong contrast to the Pio-Benedictine Code, the new Code remains silent on the penalties to be imposed for violations of papal cloister, abandoning altogether the 1917 Code’s penalty of excommunication in particular cases and subsequent legislation’s moral determinations for illegitimate violations of entry and departure from papal enclosure.<sup>62</sup> Although a hasty conclusion might suggest a significant simplification in the 1983 Code’s treatment of papal enclosure, and albeit modified from the 1917 Code to treat of papal enclosure only in the context of monasteries of nuns, the legislator’s intent to safeguard and foster papal enclosure assumes canonical form and leaves the particularities to the institute’s proper law.

The development of the promulgated text of canon 667, §4 reveals the Church’s continued discussion and reflection on papal enclosure in the twentieth century. Between the *Schema canonum de institutis vitae consecratae per professionem consiliorum evangelicorum* of 1977<sup>63</sup> and the promulgated canonical norm, the different forms of enclosure each received further

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<sup>60</sup> See *CIC/83* c. 667, §4: “For a just cause, a diocesan bishop has the faculty of entering the cloister of monasteries of nuns which are in his diocese and, for a grave cause and with the consent of the superior, of permitting others to be admitted to the cloister and the nuns to leave it for a truly necessary period of time.”

<sup>61</sup> *CIC/83*, c. 667, §4. This Latin expression might be rendered in English as “truly necessary.”

<sup>62</sup> See JOYCE, et al. (eds.), *Procedural Handbook*, 126 and J. HITE, S. HOLLAND, and D. WARD (eds.), *A Handbook on Canons 573–746*, Collegeville, MN, The Liturgical Press, 1985, 180.

<sup>63</sup> PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Schema canonum de institutis vitae consecratae per professionem consiliorum evangelicorum*, Typis Polyglottis Vaticanis, 1977 (= *Vita cons.*).

juridical nuance with the effect of offering a more complete definition of the law of papal enclosure from the original theological terminology of *Perfectae caritatis*. A particular evolution in diction occurs with the modification of “*vitae unice contemplativae*”<sup>64</sup> to the more definitive expression “*integre ad vitam contemplativam*”<sup>65</sup> that was adopted and eventually promulgated. The final stage of the development of the present canon 667, §4, only incorporated between the *1982 Schema*<sup>66</sup> and final promulgation, reinserts the original canonical term “papal enclosure” that had curiously vanished from the proposed texts of both the 1980 and 1982 *Schemas*; thus, the historical term “papal enclosure” was maintained, albeit adopted and equated with the earlier enclosure of nuns to make clear that a community’s charism and apostolate dictate the form of enclosure lived. The legislator, therefore, envisions the papal enclosure in nuns’ monasteries as not merely a defense, but a powerful aid to the nuns’ vital and sole mission of contemplation.

### 1.6 – Instruction *Verbi sponsa*

The Congregation for Institutes of Consecrated Life and for Societies of Apostolic Life’s *Verbi sponsa*<sup>67</sup> of 13 May 1999 provides the universal norms on papal enclosure referenced in canon 667, §3. The legislative norms of *Verbi sponsa* are divided into three categories: general principles, entering and leaving the enclosure, and meetings of nuns. In the first place, the norms

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<sup>64</sup> *PC*, §16.

<sup>65</sup> PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Schema codicis iuris canonici iuxta animadversiones S.R.E. cardinalium, episcoporum, conferentiarum, dicasteriorum, curiae Romanae, universitatem facultatumque ecclesiasticarum necnon superiorum institutorum vitae consecratae recognitum*, Libreria Editrice Vaticana, 1980, c. 593, §3 (=1980 *Schema*).

<sup>66</sup> PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Codex iuris canonici : Schema novissimum iuxta placita patrum commissionis emendatum atque summo pontific praesentatum*, Typis Polyglottis Vaticanis, 1982 (=1982 *Schema*).

<sup>67</sup> CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND FOR SOCIETIES OF APOSTOLIC LIFE, *Instruction on the contemplative life and enclosure Verbi sponsa*, 13 May 1999, in E. LORA (ed.), *Enchiridion Vaticanum*, vol. 18, Bologna, Edizione Dehoniane Bologna, 2002, 514–577, English translation in *Origins*, 29 (1999–2000), 155–164 (= *Verbi sp.*).

of *Verbi sponsa* define the boundaries of papal enclosure to include “the residence and to all areas, indoors and outdoors, reserved to the nuns.”<sup>68</sup> Indicative of the application of subsidiarity, *Verbi sponsa* makes frequent deferral to the proper role of the Constitutions and other particular legislation, for example to determine the concrete means of separation,<sup>69</sup> mindful of the “great variety of institutes dedicated to the wholly contemplative life and given the variety of their traditions.”<sup>70</sup> *Verbi sponsa* further reveals the legislator’s attention to ambiguous matters, as well as abuses, of papal enclosure since the promulgation of the 1983 Code including the condemnation of outsiders entering the nuns’ choir during liturgical celebrations<sup>71</sup> and praise of the custom of “recording entrances and exits in a book ... as a contribution to knowledge of the monastery’s life and history.”<sup>72</sup>

Whereas earlier legislation emphasized the vigilance proper to the diocesan bishop and religious superior, *Verbi sponsa* stresses that papal enclosure “entails a grave obligation of conscience both for the nuns and for outsiders.”<sup>73</sup> The onus of papal enclosure is now born by its inhabitants. While maintaining that the religious superior has primary responsibility as the guardian of the papal enclosure,<sup>74</sup> *Verbi sponsa* draws attention to the communal “moral obligation

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<sup>68</sup> *Verbi sp.*, art. 14, §2.

<sup>69</sup> See *Verbi sp.*, art. 14, §3b.

<sup>70</sup> *Verbi sp.*, art. 14, §1.

<sup>71</sup> See *Verbi sp.*, art. 14, §2.

<sup>72</sup> *Verbi sp.*, art. 15.

<sup>73</sup> *Verbi sp.*, art. 14, §3c.

<sup>74</sup> See *Verbi sp.*, art. 16, §1.

of protecting, promoting, and observing papal enclosure, in such a way that secondary or subjective motivations do not take precedence over the purpose of separation.”<sup>75</sup>

### **1.7 – Apostolic Constitution *Vultum Dei quaerere***

After a brief introduction on the theological understanding of the cloister of contemplative women as the “inner sanctum of the Church as spouse,”<sup>76</sup> Francis proffers that papal enclosure “excludes any external ministry”<sup>77</sup> with a footnote referencing canon 674’s definition of those institutes “*integre ad contemplationem*.” By incorporating canon 674 into his exposition on papal enclosure, Francis demonstrates a sensitivity to the previously noted modification in terminology that occurred in the preparation of the 1983 Code, situating papal enclosure within the milieu of those institutes given solely to the contemplative life and that “always hold a distinguished place in the mystical Body of Christ.”<sup>78</sup> In Francis’ invitation to religious institutes of contemplative women to give earnest consideration to their form of cloistered solitude, Francis underlines the necessary correspondence between the apostolate and enclosure. *Vultum Dei quaerere*, developing the earlier juridical treatment of enclosure, identifies papal enclosure as ideally suited to those institutes of contemplative women “entirely ordered to contemplation.”<sup>79</sup>

### **Conclusion**

This analysis of the juridical evolution of papal enclosure from the promulgation of the 1917 Code to *Vultum Dei quaerere* illustrates a significant shift in the legislator’s understanding of the obligation of papal enclosure upon religious institutes in a changing world. While originally

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<sup>75</sup> *Verbi sp.*, art. 16, §2.

<sup>76</sup> *VDQ*, §31.

<sup>77</sup> *VDQ*, §31.

<sup>78</sup> *CIC/83*, c. 674.

<sup>79</sup> *CIC/83*, c. 674.

prescribed for all regular men and women, with particular canons pertaining to the enclosure of nuns, the significant contribution of *Perfectae caritatis* and the work of the Code Commission resulted in the quasi-equation of papal enclosure with the enclosure of contemplative women as a stable manner of solitude that received its particular legislative norms directly from the Apostolic See. Whereas the Pio-Benedictine Code contained some of the concrete details of papal enclosure, the 1983 Code remains silent on the particularities of papal enclosure and *Verbi sponsa* offers the practical norms while simultaneously respecting the legitimate traditions of the contemplative monasteries and the juridic role of particular law.

## CHAPTER II

### CONSTITUTIONAL ENCLOSURE

#### **Introduction**

Throughout the development of the juridical concept and universal norms governing papal enclosure, the suitability and merit of the notion of constitutional enclosure likewise slowly evolves. The diversity of charisms within the one Church necessitates different manners of living enclosure that each institute may effectively realize its mission, even among contemplative nuns. Identifying the impossibility of prescribing one sole way of living silence and solitude to accord with the varying circumstances of time and place, as well as the legitimate traditions and visions of the founders, constitutional enclosure receives gradual acceptance and eventual legislation for contemplative nuns in canon 667 §3 of the 1983 Code, not to lessen the importance of enclosure in consecrated and contemplative life, but rather to make the necessary adaptations for the flourishing of the many and varied manners of living a life consecrated to God by vows of obedience, chastity, and poverty.

#### **2.1 – 1917 *Codex iuris canonici***

Although the 1917 Code does not specifically mention “constitutional enclosure” in its treatment of the obligation of enclosure, the idea of constitutional enclosure can be found in seminal form in the 1917 Code, particularly the provisions of the commonly called “episcopal enclosure” delineated in canon 604 as obligatory for all men and women belonging to religious Congregations.<sup>80</sup> Episcopal enclosure strictly prohibits entry to those of the opposite sex.<sup>81</sup> In order

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<sup>80</sup> For a succinct introduction to episcopal cloister prior to the Pio-Benedictine Code, see SCHAAF, *Cloister*, 154.

<sup>81</sup> See *CIC/17*, c. 604, §§1-2: “Cloister shall be observed in the houses even of religious Congregations, whether of pontifical or diocesan [right], into which no one of the other sex shall be admitted except those mentioned in Canon

to safeguard the obligation of cloister proper not only to regulars bound by papal enclosure, but also members of religious Congregations, the law permits the bishop to impose censures on those who violate the cloister of religious Congregations and recalls that the bishop has the proper duty to be vigilant for the preservation of enclosure, rectifying “anything that tends to weaken it.”<sup>82</sup> The very term “episcopal enclosure” seeks to convey the proper duty of the bishop to safeguard the enclosure of religious Congregations while likewise permitting the members of these Congregations to exercise an active apostolate.<sup>83</sup> Even in those societies without vows, the 1917 Code prescribes that enclosure “must be observed in accord with the Constitutions under the vigilance of the local Ordinary.”<sup>84</sup> Admittedly, however, the legislator of the 1917 Code sees constitutional enclosure as not suitable to contemplative nuns belonging to religious Orders and professing solemn vows.

The 1917 Code adds a further groundwork for the canonical development of constitutional enclosure by recognizing the responsibility of an institute’s Constitutions to define the boundaries and conditions of the enclosure. Canon 597 §3, although speaking to papal enclosure, specifically states, “Parts of the cloister subject to law should be clearly indicated; but the major Superior or general Chapter, according to the Constitutions . . . shall define the limits of the cloister and for just cause can change them.”<sup>85</sup> Canon 606 similarly highlights the role of the Constitutions concerning

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598, §2, and Canon 600 and those others who for a just and reasonable cause the Superiors think can be admitted. The prescription of Canon 599 is applied even in the house of a Congregation of religious, whether of men or of women.”

<sup>82</sup> *CIC/17*, c. 604, §3.

<sup>83</sup> The recognition that not every religious Order could, nor ought to, live papal enclosure begins to receive canonical consideration only with Pius XII’s introduction of major and minor enclosure in *SpC* as examined in chapter one.

<sup>84</sup> *CIC/17*, c. 679, §2.

<sup>85</sup> *CIC/17*, c. 597, §3.

departures and admissions, “Let religious Superiors accurately observe [matters] prescribed in their own Constitutions regarding the departure of their subjects from the cloister and about the receiving and admitting of strangers.”<sup>86</sup> The legislator, even as early as the 1917 Code, could see the difficulty of universally legislating the prescriptions of the enclosure and therefore defers to the particular law in what the 1983 Code would eventually embrace as “constitutional enclosure.”

## **2.2 – Decree *Perfectae caritatis***

The Second Vatican Council’s Decree on the Adaptation and Renewal of Religious Life supplies the terminology, concept, and defense of constitutional enclosure in paragraph 16 by arguing that sisters engaged in an active apostolate outside the monastery, and therefore not devoted solely to contemplation, are to be “exempted from papal cloister in order to enable them better to fulfill the apostolic duties entrusted to them. Nevertheless, cloister is to be maintained according to the prescriptions of their Constitutions.”<sup>87</sup> The Council Fathers, therefore, propose a vision of constitutional enclosure not in order to diminish the value of silence and solitude, nor to make communal silence and solitude through enclosure no longer obligatory, but rather to conform cloister to the needs of the apostolate and to increase the apostolate’s efficacy. Since, however, the apostolates of the institutes vary, the norms governing this form of enclosure simply cannot be legislated by universal law beyond a mere recognition that the provisions for its practice are the purview of each institute’s Constitutions and particular law.

## **2.3 – 1983 *Codex iuris canonici***

The 1983 Code adapts the vision of the Second Vatican Council concerning constitutional enclosure in canon 667 §3, which the 1983 Code imposes for those monasteries of nuns not given

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<sup>86</sup> *CIC/17*, c. 606, §1.

<sup>87</sup> *PC*, §16.

completely to contemplation and “adapted to their proper character and defined in the Constitutions.”<sup>88</sup> Throughout the development of what would become canon 667 on the obligation of cloister, the notion of constitutional enclosure was consistently present, beginning with §3 of canon 107 of the 1977 *Schema*. The evolution of the juridical definition of constitutional enclosure between 1977 and the Code’s promulgation in 1983 indicates no development whatsoever apart from the 1980 *Schema*’s introduction of §2 to treat of the enclosure in contemplative monasteries of male religious apart from the enclosure of nuns.

#### **2.4 – 1990 *Codex canonum Ecclesiarum orientalium***

Whereas papal enclosure enjoyed pervasive influence and extension throughout the Latin Church prior to the Second Vatican Council and the promulgation of the 1983 Code as treated in chapter one, the venerable tradition of the Eastern Churches *sui iuris* contributes to the eventual spread of constitutional enclosure within the Latin Church. The canonical tradition of the Eastern Churches, commendable for its monastic sources from antiquity and its abiding monastic wisdom,<sup>89</sup> obliges religious with the burden not of papal enclosure, but rather constitutional enclosure as determined in the monastery’s *typicon* or Constitutions.<sup>90</sup> Unlike the 1983 Code, the Code of Canons of the Eastern Churches<sup>91</sup> not only makes no distinction between contemplative and non-contemplative monasteries, but also between monasteries of monks and monasteries of

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<sup>88</sup> *CIC/83*, c. 667, §3.

<sup>89</sup> See JOHN PAUL II, Post-synodal apostolic exhortation on the consecrated life and its mission in the Church and in the world *Vita consecrata*, 25 March 1996, in *AAS*, 88 (1996), 381, English translation in *Consecrated Life*, Boston, MA, Pauline Books and Media, 1996, 16–17 (=VC).

<sup>90</sup> See PIUS XII, Motu proprio on religious, ecclesiastical temporal goods, and significance of words for the Eastern Churches *Postquam apostolicis litteris*, in *AAS*, 44 (1952), 102, c. 140, §§1–3.

<sup>91</sup> *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. 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).

nuns. While contemplative monasteries of nuns of the Latin Church, prior to the 1983 Code, were bound by the universal norms of papal enclosure and then supplemented by particular law, the obligation of enclosure in the corresponding monasteries in the East arose in particular law and, as the Code of Canons of the Eastern Churches makes clear, admits a wide range of discretion to the superior regarding the entry of outsiders.<sup>92</sup> The Eastern Code even grants the right of determining the limits of the enclosure and its modification to the “superior of a monastery *sui iuris*, with the consent of the council and after having notified the eparchial bishop.”<sup>93</sup> The Eastern obligation of cloister, therefore, prescribed in canon 477, as J. Abbass notes, “certainly differs from Latin norms such as *CIC* canon 667 §4, which grants the diocesan bishop multiple faculties to decide in matters regarding the cloister of monasteries of nuns.”<sup>94</sup> Although a stranger to the esteemed tradition of papal enclosure renowned in the Latin Church, the vibrancy of contemplative religious life in the Eastern Churches, with the aid and protection of constitutional enclosure, suggests the inherent value, and indeed success, of constitutional enclosure in satisfying the prerequisite silence and solitude proper to contemplative, consecrated life.

## 2.5 – Instruction *Verbi sponsa*

In situating the norms of papal enclosure, *Verbi sponsa* envisions two distinct possibilities of enclosure for monasteries of nuns, either papal or constitutional.<sup>95</sup> According to *Verbi sponsa*, constitutional enclosure ought to be observed, and not papal enclosure, in those monasteries where

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<sup>92</sup> See *CCEO*, c. 477, §1: “Cloister is to be observed in monasteries in the manner prescribed in the typicon, without prejudice to the right of the superior to admit, on individual occasions and for a grave reason, into parts subject to cloister persons of the opposite sex besides those who can enter the cloister according to the typicon.”

<sup>93</sup> *CCEO*, c. 477, §3. For a more extensive treatment of the development of this Eastern canon during the drafting process of the 1990 Code, see J. ABBASS, *The Consecrated Life: A Comparative Commentary on the Eastern and Latin Codes*, Ottawa, Saint Paul University, 2008, 172-173.

<sup>94</sup> ABBASS, *Consecrated Life: Comparative Commentary*, 173.

<sup>95</sup> See *Verbi sp.*, art. 13.

the nuns have been entrusted with some sort of apostolate besides contemplation or “if they practice more extensive forms of hospitality in fidelity to the tradition of their Order.”<sup>96</sup> *Verbi sponsa* proposes a fuller vision of constitutional enclosure, drawing more precise distinction between the canonical definitions of papal and constitutional enclosure for contemplative monasteries of nuns in canon 667, §3 of the 1983 Code. *Verbi sponsa* states:

Monasteries of nuns who profess the contemplative life, but associate some work of the apostolate or charity to the primary purpose of divine worship, do not follow papal enclosure.

Such monasteries carefully preserve their principal or predominant character of contemplation by engaging chiefly in prayer, asceticism and fervent spiritual progress, in the careful celebration of the liturgy, in the observance of their rule and in the discipline of separation from the world. They define in their Constitutions an enclosure befitting their specific character and in accordance with sound traditions.<sup>97</sup>

Though maintaining the primacy of the contemplative life and its practices, *Verbi sponsa* repeats the notion that constitutional enclosure arises from the institute’s legitimate tradition and mission. Indicative of the influence of the Eastern Code’s canonical treatment of constitutional enclosure within the Eastern Churches, *Verbi sponsa* grants to superiors of religious houses subject to constitutional enclosure a similar permission to the *CCEO* canon 477, §3, permitting superiors to admit or grant departures from the constitutional enclosure “in accordance with the Institute’s particular law.”<sup>98</sup>

## **2.6 – Apostolic Constitution *Vultum Dei quaerere***

Concerning constitutional cloister, *Vultum Dei quaerere* makes no further development, simply defining constitutional cloister as that “defined by the rules of individual constitutions.”<sup>99</sup> By introducing a third form of possible enclosure for contemplative monasteries of nuns, namely

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<sup>96</sup> *Verbi sp.*, art. 13.

<sup>97</sup> *Verbi sp.*, art. 12.

<sup>98</sup> *Verbi sp.*, art. 12.

<sup>99</sup> *VDQ*, §31.

monastic cloister, *Vultum Dei quaerere*, appears, however, to draw a distinction between the enclosure observed by nuns engaged in an active apostolate and those who observe a form of cloister distinct from papal enclosure on account of a varying monastic tradition of hospitality or education. The monastic cloister will be examined more closely in the chapter to follow.

### **Conclusion**

As canon 667, paragraph 1 makes certain, particular law necessarily treats of enclosure in all religious institutes, regardless of the form of enclosure, to fulfill the juridical obligation of silence and solitude. The distinction, however, concerns whether the prescriptions for fulfilling enclosure originate in universal norms promulgated by the Apostolic See as occurs in papal cloister, or whether the prescriptions are contained solely in particular law in accordance with the institute's specific charism and apostolate in constitutional enclosure. Throughout the past century, constitutional cloister has assumed its rightful place in the Latin Church's legislation as a form of enclosure suitable to contemplative nuns, as first evinced in the ancient and venerable tradition of the Eastern Churches. Constitutional enclosure permits greater flexibility and adaptation to the superior and her council to accommodate individual circumstances that may arise, the needs of the apostolate, and the particular conditions of time and place that may influence how the canonical obligation of enclosure is realized.

## CHAPTER III

### MONASTIC ENCLOSURE

#### **Introduction**

Although a significant source for the juridical evolution of the obligation of enclosure, the subsequent canonical development of enclosure surpasses the often rudimentary concepts and laws of cloister present in the initial monastic rules, such as can be found for example in chapters 66 and 67 of the renowned Benedictine Rule.<sup>100</sup> Albeit earnestly seeking to advance the contemplative life, many early monastic founders likewise envision in their rules a spirit of hospitality and even education for the advancement of culture and society, all the while prescribing a monastic kind of enclosure originating in the foundational concept and vow of stability.<sup>101</sup> Characteristic of monastic enclosure is a greater emphasis on the importance of the monks or nuns not leaving the monastery rather than a preoccupation with entrance to the monastery by non-members. The historical threats to the safety of contemplative women, an understanding of cloister as a defense for the vow of chastity, and other institutes' unique charisms to hiddenness and seclusion left some monastic Orders wondering precisely how fidelity to their rule might be reconciled with the only two options of enclosure available to contemplative Orders of nuns, papal or constitutional. As discussed in the second chapter, an Eastern vision of monasticism prefers constitutional enclosure, yet the monastic life of many monasteries of nuns in the Latin Church looks to the monastic

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<sup>100</sup> See BENEDICT OF NURSIA, *Saint Benedict's Rule*, trans. by P. BARRY, Mahwah, NJ, HiddenSpring, 2004, 145–146 that states in paragraph two of chapter 66 in part, “The monastery itself should be constructed so as to include within its bounds all the facilities which will be needed, that is, water, a mill, a garden, and workshops for various crafts. Then there will be no need for monks and nuns to wander outside, which is far from good for their monastic development” (p. 145).

<sup>101</sup> For a more exhaustive treatment of the relationship between stability and enclosure in the Benedictine tradition, see C. STEWART, *Prayer and Community: The Benedictine Tradition*, Maryknoll, NY, Orbis, 1998, 71–87.

tradition and monastic customs for the law of enclosure that pre-date a particular version of the Constitutions. Monastic enclosure finds its impetus in the monastic rules themselves and the whole of the monastic tradition. From the time of promulgation of the Pio-Benedictine Code until the present, monastic cloister slowly assumes its proper place in juridical norms, “differing as it does from the regulations and the spirit of papal enclosure,”<sup>102</sup> yet arising principally from the whole of the monastic tradition itself and not merely constitutional norms.

### **3.1 – 1917 *Codex iuris canonici***

Through a preferential treatment of papal enclosure and unambiguous prescription of papal enclosure for all regulars, whether active or contemplative, male or female, the 1917 Code eschews any objection from monastic communities and their special manner of living enclosure. As explored in chapter one, the Pio-Benedictine Code’s pervasive and far-reaching provisions on papal enclosure relegate the minutiae to particular law, likely aware that attempts to define certain areas of the monastery such as the dining room or garden as enclosed contradicts a monastic concept of welcome in many Orders. Since the norms governing enclosure of nuns admit of no exception, the only hint of a form of enclosure different from papal or constitutional can be found in canon 599, addressing male religious with a teaching apostolate or a work of charity attached to their house for whom the law prescribes a “separate part of the building reserved habitually for the religious, subject to the law of cloister.”<sup>103</sup>

### **3.2 – Decree *Perfectae caritatis***

The contribution of *Perfectae caritatis* to the canonical notion of monastic enclosure comes not from its treatment of enclosure that, as has been examined in prior chapters at length,

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<sup>102</sup> F. KLINE, “New Reflections on the Enclosure,” in *Cistercian Studies Quarterly*, 40 (2005), 85.

<sup>103</sup> *CIC/17*, c. 599, §1.

recognizes papal enclosure for those nuns engaged solely in contemplation and constitutional enclosure for those involved in some form of the apostolate, but rather in *Perfectae caritatis*' summons to reform and renewal. Providing a monastic vision of reform, the Second Vatican Council Fathers declare:

The monastic life, that venerable institution which in the course of a long history has won for itself notable renown in the Church and in human society, should be preserved with care and its authentic spirit permitted to shine forth ever more splendidly both in the East and the West. The principal duty of monks [and nuns] is to offer a service to the divine majesty at once humble and noble within the walls of the monastery, whether they dedicate themselves entirely to divine worship in the contemplative life or have legitimately undertaken some apostolate or work of Christian charity. Retaining, therefore, the characteristics of the way of life proper to them, they should revive their ancient traditions of service and so adapt them to the needs of today that monasteries will become institutions dedicated to the edification of the Christian people.

Some religious communities according to their rule or constitutions closely join the apostolic life to choir duty and monastic observances. These should so adapt their manner of life to the demands of the apostolate appropriate to them that they observe faithfully their way of life, since it has been of great service to the Church.<sup>104</sup>

In response to the Church's promptings in *Perfectae caritatis*, the excesses and unnecessary additions to the laws of cloister for contemplative nuns, particularly of the Benedictine tradition, were lay bare, spurring the rediscovery of monastic cloister as unique from both papal and constitutional enclosure, an inheritance from the monastic tradition *per se*.

### 3.3 – 1983 *Codex iuris canonici*

As the prior two chapters explore, the 1983 Code establishes for contemplative nuns only two options of cloister, papal or constitutional, corresponding to whether the institute is “ordered entirely to [the] contemplative life,”<sup>105</sup> or not. According to this division of the types of cloister possible for contemplative nuns, those devoted solely to contemplation “must observe”<sup>106</sup> papal

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<sup>104</sup> *PC*, §9.

<sup>105</sup> *CIC/83*, c. 667, §3.

<sup>106</sup> *CIC/83*, c. 667, §3. For a scholarly treatment of the question of translation in canon 667, particularly surrounding the subjunctive, and the subtly different meanings and connotations when *observare debent* and *servent* or *servanda est* are rendered into English, see E. McDonough's deeply insightful footnote 13 in E. MCDONOUGH, “The Protection of Rights in Religious Institutes,” in *The Jurist*, 46 (1986), 170–171.

enclosure, while all other monasteries of nuns “are to observe”<sup>107</sup> constitutional cloister. Inadvertently, however, the 1983 Code prepares for the juridical notion of monastic enclosure by the Code Commission’s decision in the 1980 *Schema*, and promulgated in the 1983 Code, to separately treat of the enclosure of contemplative male religious or monks. Canon 667, §2, of the 1983 Code states, “A stricter discipline of cloister must be observed in monasteries ordered to contemplative life.”<sup>108</sup> Although originally intended by the legislator to prescribe a more rigorous and ascetical cloister for contemplative monasteries of men, canon 667, §2 ushers the question whether a similar manner of enclosure might also be possible for contemplative monasteries of nuns.

### 3.4 – Apostolic Exhortation *Vita consecrata*

The first occurrence of the juridical term “monastic cloister” in a magisterial document can be found in John Paul II’s watershed Post-Synodal Apostolic Exhortation on the Consecrated Life *Vita Consecrata* wherein John Paul II differentiates monastic cloister from papal and constitutional in his treatment of the life of cloistered nuns, but offers neither further explanation nor a canonical definition.<sup>109</sup> With the introduction of monastic enclosure as a valid form of cloister for contemplative women, John Paul II responds to the concerns brought up at the 1994 Synod on Consecrated Life where, as E. McDonough identifies, the “continued differences between the

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<sup>107</sup> *CIC/83*, c. 667, §3.

<sup>108</sup> *CIC/83*, c. 667, §2.

<sup>109</sup> See *VC* §59 that reads in part, “As an expression of pure love which is worth more than any work, the contemplative life generates an extraordinary apostolic and missionary effectiveness. The Synod Fathers expressed great esteem for the cloistered life, while at the same time giving attention to requests made by some with respect to its concrete discipline. The Synod’s suggestions in this regard and especially the desire that provision be made for giving Major Superiors more authority to grant dispensations from enclosure for just and sufficient reasons, will be carefully considered, in the light of the path of renewal already undertaken since the Second Vatican Council. In this way, the various forms and degrees of cloister — from papal and constitutional cloister to monastic cloister — will better correspond to the variety of contemplative Institutes and monastic traditions.”

norms of enclosure for men and for women in current church law were repeatedly raised ... Synod participants recognized that nuns, similar to monks, should be permitted to legislate their own norms for enclosure and should be permitted likewise to regulate the application of those norms themselves.”<sup>110</sup> Curiously, however, the 1999 Instruction of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life *Verbi sponsa* maintains the bipartite division between papal and constitutional enclosure for monasteries of contemplative nuns, seeming to abandon the earlier suggestion of the legitimacy of monastic enclosure by stating, “Every monastery or monastic Congregation either follows papal enclosure or defines its own enclosure in its Constitutions, with respect for its specific character.”<sup>111</sup>

### 3.5 – Apostolic Constitution *Vultum Dei quaerere*

Monastic cloister in contemplative monasteries of nuns becomes a true juridical possibility finally in Francis’ *Vultum Dei quaerere*. *Vultum Dei quaerere* defines monastic cloister as “maintaining the character of ‘a more rigorous discipline’ with respect to the common cloister, [that] may, in addition to their primary function of divine worship, allow for a wider range of hospitality and reception, always in accordance with the individual constitutions.”<sup>112</sup> Here the legislator justifies, by the direct citation from canon 667, §2, the argument raised by the participants of the 1994 Synod on Consecrated Life that canon 667, §2 ought to be a possibility for monasteries of contemplative women also. Moreover, Francis highlights the importance of the Constitutions in prescribing particular norms to facilitate the necessary balance between monastic silence and solitude and the monastic hallmark of hospitality and other ancillary apostolates.

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<sup>110</sup> MCDONOUGH, “Cloister of Nuns: From the 1917 Code to the 1994 Synod,” 778.

<sup>111</sup> *Verbi sp.*, art. 13.

<sup>112</sup> *VDQ*, §31.

## Conclusion

As the long-awaited fruit of a movement for recognition, monastic enclosure can now be counted amongst three possible types of enclosure identified by the Apostolic See as suitable for contemplative monasteries of nuns. While an argument can be raised that monastic enclosure is simply a species of constitutional enclosure, its norms being contained in the institute's Constitutions, monastic enclosure importantly permits equal observances of enclosure in the same monastic families of monks and nuns such as is found in Benedictine and Trappist abbeys. Since, as this paper has sought to establish, the naming of enclosure signifies the supreme authority for its observance and the cloister's font of origin, the canonical term "monastic cloister" gives due attention to the venerable monastic roots of consecrated life and the inspired prescriptions of the monastic rules that gave initial shape to the canonical notion of enclosure, although eventually being supplanted by papal cloister and later still constitutional cloister. As Nancy Bauer acutely summarizes, "Now Pope Francis has explicitly provided for a third form of enclosure for nuns, monastic cloister, available to monasteries that, in accord with their patrimony, practice hospitality on a wider scale."<sup>113</sup>

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<sup>113</sup> N. BAUER, "*Vultum Dei quaerere*: New Norms for Nuns," in *The Jurist*, 76 (2016), 409.

## GENERAL CONCLUSION

The obligation of enclosure, binding all consecrated men and women, remains a canonical norm in full force as found in canon 667 of the 1983 Code and explicated in subsequent legislation. Following the innovations of Francis in *Vultum Dei quaerere*, contemplative nuns must now discern if they will continue to live the type of enclosure previously prescribed, or if they will petition the Apostolic See to assume a different form of cloister, namely papal, constitutional, or monastic. Aside from the historical significance of the present choice presented to contemplative women religious, the recognition of three distinct, yet complimentary, forms of cloister reveals the legitimate evolution and organic growth of the law of enclosure from the Pio-Benedictine Code to the present.

This scholarship has sought to explore the juridical development of cloister for the sake of situating each type of enclosure within its canonical context and the varied questions, difficulties, and inspirations that have resulted in each form of cloister for contemplative nuns. The author leaves to others a presentation of the common cloister, as well as a more exhaustive treatment of the enclosure of monks, hoping simply to have presented *Vultum Dei quaerere* in its originality and to contribute to the ongoing discernment by contemplative nuns at this moment in time.

As the Holy Spirit continues to guide the Church and inspire new communities of consecrated life, new types of enclosure are possible for which future generations of canonists will need to develop suitable canonical terminology and norms. Regardless of the type of cloister, contemplative religious offer the Church and the world an essential witness to the perennial Christian values of silence and solitude that remains ever new, relevant, necessary, and indispensable. The recent canonical recognition of monastic cloister for contemplative women reaffirms Pius XII's timeless wisdom:

That which one can call the spirituality of the desert, that form of the contemplative spirit which seeks God in silence and renunciation, is a profound movement of the Spirit, which will never cease as long as there will be hearts to hear his voice. It is not fear or remorse, or prudence alone, which peoples the solitudes of the monasteries. It is the love of God. That there should be in the middle of great modern cities, in the richest countries, as also on the plains of the Ganges or in the forests of Africa, souls capable of finding complete fulfillment in their life of adoration and praise, who consecrate themselves willingly to thanksgiving and intercession, who freely make themselves the surety of humanity before the Creator, the protectors and advocates of their brothers before the Father of the heavens, what a victory for the Almighty, what a glory for the Savior. And monachism, in its essence, is nothing else.<sup>114</sup>

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<sup>114</sup> PIUS XII, Allocution *Nous sommes heureux*, 11 April 1958, *AAS*, 50 (1958), 285, English translation in M.B. PENNINGTON, “The Structure of the Section Concerning Religious Life in the Revised Code,” in *The Jurist*, 25 (1965), 280–281.

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