

## INFORMATION TO USERS

This manuscript has been reproduced from the microfilm master. UMI films the text directly from the original or copy submitted. Thus, some thesis and dissertation copies are in typewriter face, while others may be from any type of computer printer.

**The quality of this reproduction is dependent upon the quality of the copy submitted.** Broken or indistinct print, colored or poor quality illustrations and photographs, print bleedthrough, substandard margins, and improper alignment can adversely affect reproduction.

In the unlikely event that the author did not send UMI a complete manuscript and there are missing pages, these will be noted. Also, if unauthorized copyright material had to be removed, a note will indicate the deletion.

Oversize materials (e.g., maps, drawings, charts) are reproduced by sectioning the original, beginning at the upper left-hand corner and continuing from left to right in equal sections with small overlaps. Each original is also photographed in one exposure and is included in reduced form at the back of the book.

Photographs included in the original manuscript have been reproduced xerographically in this copy. Higher quality 6" x 9" black and white photographic prints are available for any photographs or illustrations appearing in this copy for an additional charge. Contact UMI directly to order.

# UMI

A Bell & Howell Information Company  
300 North Zeeb Road, Ann Arbor MI 48106-1346 USA  
313/761-4700 800/521-0600



## **NOTE TO USERS**

**The original manuscript received by UMI contains broken, slanted and or light print. All efforts were made to acquire the highest quality manuscript from the author or school. Pages were microfilmed as received.**

**This reproduction is the best copy available**

**UMI**





Université d'Ottawa • University of Ottawa



**JUST AUTONOMY OF RELIGIOUS INSTITUTES AND EPISCOPAL AUTHORITY  
FROM THE SECOND VATICAN COUNCIL  
TO THE NINTH ORDINARY SYNOD OF BISHOPS ON CONSECRATED LIFE**

by  
 John DORAN

A 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

Ottawa, Canada  
Saint Paul University  
1998



National Library  
of Canada

Acquisitions and  
Bibliographic Services

395 Wellington Street  
Ottawa ON K1A 0N4  
Canada

Bibliothèque nationale  
du Canada

Acquisitions et  
services bibliographiques

395, rue Wellington  
Ottawa ON K1A 0N4  
Canada

*Your file* *Votre référence*

*Our file* *Notre référence*

The author has granted a non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of this thesis in microform, paper or electronic formats.

The author retains ownership of the copyright in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de cette thèse sous la forme de microfiche/film, de reproduction sur papier ou sur format électronique.

L'auteur conserve la propriété du droit d'auteur qui protège cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

0-612-32442-7

## **ABSTRACT**

This thesis concerns the relationship between the just autonomy of institutes of consecrated life (c. 586) and societies of apostolic life (c. 732) and the authority which the diocesan bishop exercises in the ordering of the apostolic mission within the local church. Since many institutes and societies are present in the dioceses of the Church, an understanding of the nature and extent of this relationship constitutes an important element in the day-to-day life of the apostolate in a diocese. The thesis explores the origin and meaning of just autonomy and the consequent limits it sets for the diocesan bishop and institutes and societies in the fulfilment of the mission of the Church.

Although the concept of just autonomy does not occur in the documents of the Second Vatican Council, nevertheless its presence in the Code of Canon law stands as a valid development from the conciliar teachings. Although the thesis demonstrates that other groups within the Church possess autonomy, the author maintains that just autonomy has its origin in, and is consequent upon, the granting of public juridic personality to institutes and societies by the law itself. The original contribution of the thesis to the body of canonical knowledge rests on this point.

Just autonomy does not represent independence from ecclesiastical authority. Rather it helps to define the relationships of authority between bishops, religious superiors, and members of institutes. Moreover, just autonomy points to the obligations of institutes and their members to maintain the patrimony of their institutes. The discernment and recognition by the Church's authorities brings these institutes and societies into existence. The moment of formal erection, which follows, grants them their public juridic personality and, consequently, their right to a just autonomy of life and especially of governance.

The Second Vatican Council recognised that all bishops possess the ordinary, proper and immediate power to fulfil their office in the church. By their canonical mandate, diocesan bishops also possess the right to exercise that power in ordering the apostolate within their churches. Yet, because of the just autonomy of institutes and societies, the diocesan bishop has a duty to protect them from unwarranted interference from diocesan members and agencies.

The Code of Canon Law foresees that the progress of the relationship between institutes and societies and the diocesan bishop demands consultation, cooperation, mutual acceptance, and dialogue. The interventions made by the participants at the Ninth Ordinary Synod of Bishops in 1994 demonstrated that these demands are exercised variously throughout the Church. Cultural, political, economic factors, and ecclesiastical history demonstrate the relativity of the relationship between bishops and institutes and societies. In recognising this, the thesis maintains that further understanding of the effect of just autonomy will be understood by examining the written documents that the law requires when institutes and societies wish to participate in the mission of the particular churches. The thesis concludes that these documents must recognise not only the works being undertaken, but also their relationship to the patrimony of the institutes and societies.

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS</b> .....	ii
<b>ABBREVIATIONS</b> .....	v
<b>INTRODUCTION</b> .....	vi
<b>CHAPTER ONE: THE PROXIMATE AND THE REMOTE CONTEXT</b>	
<b>1.1 Introduction</b> .....	1
<b>1.2 Episcopal Concerns Expressed at the Synod</b> .....	2
<b>1.3 The Documents of the Second Vatican Council</b>	
1.3.1 <i>Lumen gentium</i> .....	13
1.3.2 <i>Christus Dominus</i> .....	29
1.3.3 <i>Perfectae caritatis</i> .....	42
1.3.4 <i>Ad gentes</i> .....	47
<b>1.4 Post-conciliar Documents</b>	
1.4.1 <i>Ecclesiae sanctae</i> .....	52
1.4.2 <i>Evangelica testificatio</i> .....	58
1.4.3 <i>Ecclesiae imago</i> .....	60
1.4.4 <i>Mutuae relationes</i> .....	61
1.4.5 <i>Religious and Human Advancement</i> .....	70
1.4.6 <i>The Contemplative Dimension of Religious Life</i> .....	72
<b>1.5 Conclusion</b> .....	74
<b>CHAPTER TWO: THE 1983 CODE OF CANON LAW</b>	
<b>2.1 Introduction</b> .....	77
<b>2.2 The Legacy of the 1917 Code of Canon Law</b> .....	77
<b>2.3 The Principles of Revision</b> .....	79
<b>2.4 Autonomy in General in the Code</b> .....	82

<b>2.5</b>	<b>The Formulation of c. 586</b> .....	84
<b>2.6</b>	<b>An Analysis of c. 586</b>	
2.6.1	<i>Agnoscur</i> .....	94
2.6.2	<i>Iusta autonomia</i> .....	97
2.6.3	<i>Iusta autonomía, praesertim regiminis</i> .....	98
2.6.4	<i>§2 Ordinartorum locorum est hanc autonomía servare ac tueri</i> .....	100
<b>2.7</b>	<b>Religious, Bishop, and the Apostolate</b> .....	105
2.7.1	Apostolate and Proper Works .....	105
2.7.2	c. 678 - Submission of Religious in Matter of the Apostolate .....	107
2.7.3	c. 679 - Prohibition from Living in the Diocese .....	116
2.7.4	c. 680 - Orderly Cooperation and Coordination .....	118
2.7.5	c. 681 - Entrusted Works .....	119
2.7.6	c. 682 - Religious and Ecclesiastical Office .....	125
2.7.7	c. 683 - The Right of Visitation of the Diocesan Bishop .....	128
2.7.8	An Overview of Book II, Chapter V .....	134
<b>2.8</b>	<b>Conclusion.</b> .....	135

1124

**CHAPTER THREE: FROM THE CODE TO THE 1994 SYNOD**

<b>3.1</b>	<b>Introduction</b> .....	137
<b>3.2</b>	<b>Other Documents</b>	
3.2.1	<i>Potissimum institutioni</i> .....	137
3.2.2	<i>Congregavit nos in unum</i> .....	142
<b>3.3</b>	<b>Preparation for the Synod</b>	
3.3.1	The Normative and the Descriptive .....	145
3.3.2	The <i>Lineamenta</i> .....	149
3.3.3	The <i>Instrumentum laboris</i> .....	156
<b>3.4</b>	<b>The Synod</b> .....	164
3.4.1	<i>Relatio ante disceptationem</i> .....	166

**TABLE OF CONTENTS**

3.4.2 The Interventions, *Relatio post disceptationem*,  
and the *circuli minores* ..... 168

3.4.3 Final Documents ..... 178

    3.4.3.1 Final Message ..... 178

    3.4.3.2 The Propositions ..... 180

3.4.4 *Vita consecrata* ..... 186

**3.5 Conclusion** ..... 194

**CHAPTER FOUR: DYNAMIC TENSIONS**

**4.1 Introduction** ..... 197

**4.2 The Situation Since the Synod**

    4.2.1 The Journal Literature ..... 198

    4.2.2 Consecrated Life and the Particular Church ..... 202

**4.3 Three Tensions Affecting the Particular Church** ..... 207

    4.3.1 First Tension: Just Autonomy Describes  
    a Relational Function. .... 208

    4.3.2 Second Tension: The Changing Face of  
    Works Proper to an Institute. .... 214

    4.3.3 Third Tension: Entrusting Works to  
    Religious and Written Agreements. .... 230

**4.4 Conclusion** ..... 237

**CONCLUSION** ..... 240

**APPENDIX 1** ..... 245

**SELECT BIBLIOGRAPHY** ..... 247

## ABBREVIATIONS

AA	<i>Apostolicam actuositatem</i>
AAS	<i>Acta Apostolicae Sedis</i>
AG	<i>Ad gentes</i>
CD	<i>Christus Dominus</i>
CDRL	<i>Contemplative Dimension of Religious Life</i>
CIC/17	Code of Canon Law, 1917
CIC/83	Code of Canon Law, 1983
ES	<i>Ecclesiae sanctae</i>
ET	<i>Evangelica testificatio</i>
LG	<i>Lumen gentium</i>
MR	<i>Mutuae relationes</i>
PC	<i>Perfectae caritatis</i>
PI	<i>Potissimum institutioni</i>
VC	<i>Vita consecrata</i>

## INTRODUCTION

In the thirteenth century, Saint Thomas Aquinas posed the question whether obedience pertains to religious perfection. For it seemed that some religious led such a solitary life that they seemed to possess no superiors to obey. Furthermore, some supposed that religious superiors are not bound to obedience. In his reply he stated:

The subjection of religious is chiefly in reference to bishops, who are compared to religious as perfectors to those to be perfected, as Dionysius says, *The monastic order is subjected to the perfecting virtues of the bishop, and is instructed by their divine illumination.* Hence neither hermits nor religious superiors are exempt from diocesan bishops. And if they are totally or partially exempt from diocesan bishops, they are nevertheless obliged to obey the Sovereign Pontiff, not only in those things common to all, but also in those things that pertain especially to the discipline of religious life.<sup>1</sup>

Although Saint Thomas wished to express the contrast between bishops, who are supposed to be perfect, and religious, who are becoming perfect, today such sentiments as expressed here would find objectors regarding the “perfecting” role of bishops and “their divine illumination.” Others, too, would demand further specification regarding the nature of the relationship between bishop and religious superiors.

At the twenty-fifth session of the Council of Trent in December 1563, the conciliar fathers issued a decree on regulars and nuns.<sup>2</sup> The canons of this decree speak

---

<sup>1-3</sup> Ad tertium dicendum quod subjectio religiosorum principaliter attenditur ad episcopos, qui comparantur ad eos sicut perfectores ad perfectos, ut patet per Dionysium: ubi etiam dicit quod *monachorum ordo pontificum consummativis virtutibus mancipatur, et divinis eorum illuminationibus edocetur.* Unde ab episcoporum obedientia nec eremitaе, nec etiam praelati religionum excusantur. Et si a dioecesanis episcopis totaliter vel in parte sunt exempti, obligantur tamen ad obediendum Summo Pontifici, non solum in his quae sunt communia aliis, sed etiam in his quae specialiter pertinent ad disciplinam religionis.” T. AQUINAS, *Summa theologicae*, II, II, 186, 5, 3, in *Summa theologicae*, Vol. 47, *The Pastoral and Religious Lives (2a2ae. 183-9)*. Latin text, English translation, Introduction and Glossary [by] Jordan Aumann. Cambridge, Blackfriars, in conjunction with McGraw-Hill, New York, and Eyre and Spottiswoode, London, [1973], pp 120-121

<sup>2</sup> See N. TANNER, *Decrees of the Ecumenical Councils*, Washington DC, Sheed and Ward and Georgetown University Press, 1990, pp 776 - 784

## INTRODUCTION

about the relationship between bishops and the superiors and members of monasteries. Again, the role of the bishop in the governance of monasteries legislated then may not be accepted today.

Yet, these are but two examples of the long history which describes the relationship between diocesan bishops and the members of consecrated life. This present work examines that same relationship from the Second Vatican Council to the Ninth Ordinary Synod of Bishops held in Rome in October 1994. Its focus concentrates on the principle of just autonomy as found in the Code of Canon Law.

From the Second Vatican Council onwards the concept of *communio*, though not a univocal concept, constitutes a key element in the ecclesiological renewal. The Dogmatic Constitution on the Church, *Lumen gentium*, emphasises a theology wherein the diversity of humanity becomes a unity through membership of the People of God in baptism.<sup>3</sup> At the same time the Constitution points to the visible organic structure of the Church, which brings into relief the hierarchical communion of the Church. This diversity does not obstruct unity but, rather, the universality of the Church necessitates a *communio* which reflects such plurality.<sup>4</sup>

One consequential feature of this plurality consists in the acceptance of several but distinct tiers of law co-existing within the Church.<sup>5</sup> The common or universal law of the Church does not constitute the only body of law that the Church tolerates. Particular law, proper law, liturgical law, and special law form other strata distinct from the prescriptions of the common law. In the existential life of the Church these tiers intersect, thereby introducing a source of tension into the life of the Church.

---

<sup>3</sup> LG, art. 4 and 9

<sup>4</sup> See CONGREGATION FOR THE DOCTRINE OF THE FAITH, Letter to the Bishops of the Catholic Church, *Some Aspects of the Church Understood as Communion*, 28 May, 1992, Boston, St Paul Books and Media, 1992, p. 20.

<sup>5</sup> For a discussion on the unity and plurality of legislative contexts see P. VALDRINI, "Unité et pluralité des ensembles législatifs. Droit universel et droit particulier. D'après le code de droit canonique latin," in *Ius Ecclesiae*, 9 (1997), pp. 3-17.

Within this plurality the particular church, as a consequence of the ecclesiology of the Second Vatican Council, possesses special prominence. Because he possesses all ordinary, immediate, and proper power for the exercise of his office, the diocesan bishop occupies a paramount place. Moreover, as a member of the college of bishops, the diocesan bishop must have a solicitude for the mission of the Universal Church. Further, he possesses the duty to foster the various aspects of the apostolate within his diocese and to coordinate the works of that same apostolate. Likewise he must urge the faithful to exercise the apostolate in proportion to each one's condition and ability. In addition, he possesses the duty to protect the unity of the Universal Church by promoting the common discipline of the church through observance of all ecclesiastical laws. Since the mission of the Church finds its concrete expression in the life of the particular church, the apostolate which is exercised there reflects and contains elements of the particular and the universal. Thus the particular law of each diocese expresses a methodology for grounding the mission of the Church.

The Second Vatican Council also called for the recognition of the individuality of the many institutes of consecrated life and societies of apostolic life. When *Perfectae caritatis* mandated a renewal of religious life consonant with the spirit of the founder(s) of each institute, it assured such a plurality that instructions, such as the *Normae* published after the promulgation of the CIC/17, would not reduce the uniqueness of each institute to a juridical sameness. The diversity of this way of life requires fostering and protecting in order to preserve in the Church the diversity of the Spirit's gifts. The constitutions, directives, and chapter enactments of institutes contain the proper law of institutes. These documents also describe the apostolate of institutes.

Accordingly, when institutes of consecrated life and societies of apostolic life exercise their mission concretely in the particular church, they necessarily impact upon the mission of the particular church, which remains under the authority of the diocesan bishop. How they are integrated or inserted into the mission of the particular church

## INTRODUCTION

becomes a meeting point between the two tiers of law, particular and proper. This tension point, however, exists as a necessary focus for the richness which characterises the life in the particular church.

Since the Second Vatican Council there have been over twenty papal and curial documents as well as allocutions, directives, letters, and other statements, of varying importance dealing with the renewal of religious life. Many of these have highlighted the new relationship that exists between religious institutes and the diocesan bishop, necessitated because of the changes in ecclesiology.

The just autonomy of life, especially of governance, constitutes one mechanism *inter alia* to deal with the tension of the interconnecting tiers of particular and proper law. If this principle is stated in the common law, it finds further expression in both particular and proper law. The 1983 Code of Canon Law expresses this mechanism in c. 586, §1. Moreover, c. 586, §2 states that it belongs to local ordinaries to safeguard and protect the just autonomy of life found in individual institutes. Thus the institutes and their members are inexorably drawn into a possible moment of tension with the diocesan bishop and those subject to him. Such tension exists between institutes, whose autonomy entails the exercise of works proper to the institute, and the bishop, who possesses complete responsibility for the apostolate in his own diocese. Yet, one should not consider that this tension constitutes a negative aspect in diocesan life. For, mutually, just autonomy limits episcopal authority, and episcopal authority limits the just autonomy. In other words, one could equally speak of a just dependence of institutes on the diocesan bishop.

The Ninth Ordinary Synod of Bishops took place in Rome in October 1994. It considered the theme of consecrated life and its role in the Church and in the world. The participants in the Synod, bishops, priests, laity, some of whom are members of the consecrated life reflected on the existential nature of consecrated life as it is lived today. In a way this Synod brought into focus the lived experience, the successes, tensions, and

## INTRODUCTION

failures of the relationship of consecrated life as it has been lived in the Church since the Second Vatican Council. It highlighted, among other things, the changed place of the diocesan bishop as he manages the apostolate in his diocese and the interaction that takes place with the consecrated life in the achievement of that mission. The Synod highlighted the principle that law without fact is meaningless. Law exists within a living context, and the Synod participants reported on the living context of the law.

This dissertation will explore the tension that exists between the tiers of proper law and particular law as they interconnect over the principle of autonomy. The paced rediscovery of the uniqueness of institutes means that the expression of the principle grew slowly from the *ius vigenis*. Yet, now, the principle of autonomy provides a construct to ground the foundational principle of subsidiarity as an acceptance of mutual responsibility for the mission of the Church as expressed within the particular church.

To achieve this purpose the dissertation uses as its methodology a canonical and historical analysis of the documents from the Second Vatican Council to the post-synodal apostolic exhortation, *Vita consecrata*. The dissertation has four chapters.

Chapter one begins with some analysis of the interventions at the 1994 Synod. This way of beginning grounds the dissertation in the concerns actually expressed. From this vantage point the remote context, the documents of the Second Vatican Council, comes into greater relief. The analysis of those documents sets the stage to examine the post-conciliar documents to the promulgation of the CIC/83, which occupies the rest of the chapter.

Chapter two considers the relevant prescriptions of the 1983 *Code of Canon Law*. The origin of autonomy and an analysis of c. 586 form the first part of the chapter. The office and role of the diocesan bishop as contained in the law, and the apostolate of religious constitute the second part of this chapter.

## INTRODUCTION

Chapter three considers the period from the promulgation of the CIC/83 to the publication of the post-synodal Apostolic Exhortation, *Vita consecrata*. In this chapter the main focus remains the relationship between members of consecrated life and the diocesan bishops, especially as related by the participants at the Synod.

Chapter four deals with three tensions present in the relationship today. The first considers the present situation regarding just autonomy and its application in the particular churches. The second considers the situation regarding works proper to an institute given the changing nature of those institutes. The third considers the tension possibly created by committing works in a diocese to institutes of consecrated life and societies of apostolic life.

The language and nomenclature concerning consecrated life have experienced much change since the Second Vatican Council. For instance, “the states of perfection” has given way to “consecrated life.” One does not read in the literature of “orders” or “congregations” but of institutes of consecrated life and societies of apostolic life. “Patrimony” now describes the entire heritage of an institute of consecrated life and not just its temporal goods. This dissertation has adopted the method of using the language of the period under consideration. So generally, at the time of the Second Vatican Council, “religious life” denotes what is now called “consecrated life.” Further, in this work the term “institute” is used in a general fashion to denote both institutes of consecrated life and societies of apostolic life unless the context demands further precision.

## CHAPTER ONE: THE PROXIMATE AND REMOTE CONTEXT

### 1.1 Introduction

This first chapter seeks to explain the context which brought about the Ninth Ordinary Synod of Bishops in 1994. This investigation has three parts. The first examines the concerns brought to the floor of the Synod by the bishops themselves. It reflects their concern for the particularity of each particular church as well as a concern to see religious properly integrated into the practical mission of the Church. In this way the methodology of this work will be grounded in the concrete experience of the particular churches.<sup>1</sup>

The second part will examine the remote reasons for the emphasis placed on the particularity of the particular Church. An investigation of the documents of the Second Vatican Council will show that changes in the theological understanding of the Church and the place of bishops and religious came out of the Council. Therefore, we will examine those documents concerned with this relationship, namely *Lumen gentium*, the Dogmatic Constitution on the Church; *Christus Dominus*, the Decree on the Pastoral Ministry of Bishops in the Church; *Perfectae caritatis*, the Decree on the Appropriate Renewal of Religious Life; and *Ad gentes*, the Decree on the Missionary Activity in the Church. The understanding gained from this investigation will show that the CIC\83 “fully corresponds to the nature of the Church, as it is proposed by the teaching of the Second Vatican Council.”<sup>2</sup>

---

<sup>1</sup> L. ORSY, “Magisterium: Assent and Dissent,” in *Theological Studies*, 48 (1987), p. 476.

<sup>2</sup> JOHN PAUL II, Apostolic Constitution, *Sacrae disciplinae leges*, 25 January 1983, in *AAS*, 75 (1983), pars II, p. xi, English translation in *Code of Canon Law, Latin-English edition*, translation prepared under the auspices of the Canon Law Society of America, Washington, DC, Canon Law Society of America, 1983, p. xiv. Unless otherwise stated, quotations from the Code of Canon Law used in this dissertation are taken from this translation.

The third part will trace the development of the two themes of episcopal authority and religious autonomy in the post-conciliar documents prior to the introduction of the 1983 *Code of Canon Law*. In this part we will examine the *motu proprio, Ecclesiae sanctae*, which translated the theology of the Council into practical norms. Then we will turn to the following documents: *Evangelica testificatio, Ecclesiae imago, Mutuae relationes, Religious and Human Promotion*, and *The Contemplative Dimension of Religious Life*. These documents illustrate the gradual unfolding of an understanding of the principle of autonomy, as well as the necessary relationship that must exist between religious and diocesan bishops.

## 1.2 Episcopal Concerns Expressed at the Synod<sup>3</sup>

On 19 October 1994, during the closing days of the Ninth Ordinary Synod of Bishops, Father Hermann Schalück, Minister General of the Order of Friars Minor, and relator of the German Group, addressed the Synod. The German Group included members from Germany, Austria, and the Netherlands as well as members from Hungary, Poland, the Czech Republic, Latvia, and the Ukraine.<sup>4</sup> While the German Group shared a common language and a common European background, vast differences appeared between the culture and the ecclesial experiences of the occidental European churches and the culture and the ecclesial experiences of the Eastern Bloc churches. Father Schalück's report is summarised in the *L'Osservatore romano*.<sup>5</sup>

---

<sup>3</sup> Access to the full texts of the various contributions is difficult. Article 20 of the *Ordinem Synodi Episcoporum celebrandae recognitus et auctus*, in *AAS*, 61 (1969), p. 533, binds all persons who take part in the Synod to secrecy as regards both the preparatory acts and the work of the meeting itself, especially in what concerns individual opinions and votes. Under Art. 16, *AAS*, 61 (1969), p. 532, a Press Office was established, but, as J. Sweeney comments, information was "low calibre stuff." Summaries were available through the *L'Osservatore romano*, and, in some cases, some bishops and others gave their speeches to be published. See J. SWEENEY, "The Synod. Was It Worth It?," in *Religious Life Review*, 34 (1995), p. 9. Therefore, this author has relied strongly on the summaries contained in the *L'Osservatore romano*.

<sup>4</sup> The diverse nature of the *circuli minores* is even more greatly demonstrated in the Report of English Group D. The Report says: "The 26 members of Group D reflect well the composition of the Synod and the universality of the Church: six continents were represented and some 12 ethnicities." Report of English Group D, in *L'Osservatore romano*, n. 48, 30 November 1994, p. 13.

<sup>5</sup> *L'Osservatore romano*, n. 48, 30 November 1994, p. 11.

### THE PROXIMATE AND REMOTE CONTEXT

His report contains three parts. One part deals with elements of consecrated life accepted by all in this group. Among the principal areas of agreement, we can note the following. The participants asked that reflection towards a developed theology of consecrated life continue; that the status of lay brothers in mixed congregations be further examined; and that the position and responsibility of women in consecrated life be examined. Added to these concerns were calls for renewed attention to new communities and forms of consecrated life, associated laity, and the connection between *communio* and *missio*.<sup>6</sup> Because these elements created no real debate and because all relate to the core or "essence" of consecrated life, one can gather them under the title of essential elements.<sup>7</sup> They speak about the inner actuality of this life and its definition or description as a universal phenomenon. These points of agreement in the German Group reflect matters about which one can make statements universally and apply them equally in the East or West, North or South.

The German Group, however, also realised its own particular differences within this specific language Group. These differences make up the other two parts of the report. When the report turned its attention to the particular difficulties of consecrated life in western European culture, it stated that the visibility of consecrated life was a sign "which in its freedom and availability must challenge the culture of immanence, unlimited autonomy, possession and violence." The report went on to call this "an element of the concrete inculturation of the Gospel." Yet, a strong contrast occurs when the report considers the Eastern Bloc countries. It says that the local churches in those nations "are better served by a form of consecrated life that, notwithstanding the great

---

<sup>6</sup> These essential concerns were also echoed either in part or in full by all other language groups. Cf. Report of French Group A, p. 14. Report of French Group B, pp. 12f. Report of French Group C, p. 12. Report of English Group A, p. 11. Report of English Group B, pp. 13f. Report of English Group C, p. 12. Report of English Group D, p. 13. Report of Spanish Group A, p. 13. Report of Spanish Group B, p. 11f. Report of Spanish Group C, p. 14. Report of the Latin Group, p. 11. Report of Italian Group A, p. 14f. Report of Italian Group B, p. 15. The commonality arises from the consideration of the *Relatio post disceptationem* delivered by Cardinal Basil Hume OSB, at the Nineteenth General Congregation of the Synod on 14 October 1994, see *L'Osservatore romano*, n. 41, 12 October 1994, pp. 9-13.

<sup>7</sup> The term "essential elements" does not necessarily apply in this case to the title of the unsigned letter from the Congregation of Religious and Secular Institutes, 31 May 1983, to the Bishops of the United States, although many individual items occur in that letter. Rather the term is taken from the Report of the Spanish Group A, Section III, in *L'Osservatore romano*, n. 48, 30 November 1994, p. 13.

### THE PROXIMATE AND REMOTE CONTEXT

needs of the local churches, does not rush to be employed in pastoral work, but is renewed at the roots and revived from within.” Thus the report here emphasises the need to restore houses and property. At least externally, therefore, a contrast occurs between the visibility and the renunciation of possessions for one group of particular churches and the invisibility and the acquisition of possessions for another group.

When any particular church turns its attention to concrete “existential” realities, differences appear compared to other particular churches. These existential elements will appear necessarily also as soon as the institutes of consecrated life, secular institutes, and societies of apostolic life come into contact with the social milieu and culture in which they seek to serve. As the Church finds itself in various cultures and social milieux, so consecrated life as an ecclesiastical reality cannot be lived in a vacuum but finds an actual existence in a particular existential reality. Hence, ecclesiastical concerns will vary from place to place, from culture to culture. The reports from other language groups also reflect this emphasis on differentiation due to inculturation.

Each of the *circuiti minores* mentioned the inculturation of consecrated life. Earlier in his *Relatio post disceptationem*, Cardinal Hume had pointed to this important theme of the Synod saying that the interventions of the synodal fathers had requested that an effort be made to bring consecrated life closer to the language, customs, and mentality of the various peoples, in such a way that consecrated persons will not seem like strangers in their own country.<sup>8</sup> By way of continuity then, the report of Spanish Group B stated that inculturation of the Gospel means for consecrated life “to implant it, make it sprout in the concrete situation. This is a duty that transcends the limits of consecrated life and belongs to each Church. Full inculturation is the responsibility of those who are native to a given place.”<sup>9</sup>

---

<sup>8</sup> B. HUME: “Segunda relación - Relatio post disceptationem,” in *Vida religiosa*, 76 (1994), pp. 479-480.

<sup>9</sup> Report of Spanish Group B, in *L'Osservatore romano*, n. 48, 30 November 1994, p. 12.

## THE PROXIMATE AND REMOTE CONTEXT

Question four of the *Relatio post disceptationem* had asked about the effects of inculturation on consecrated life. The Relator of French Group C remarked:

It is important to note in this regard the effort made by missionary institutes, even if they continue inevitably to transmit what comes from their own culture, the desire not to generalize all cultures, openness to "inter-culturality," the importance of the evangelisation of cultures, which are always marked by sin.<sup>10</sup>

Although not explicitly stated, this reply differs from the former reply. The difference lies in the involvement of the particular church. The French Group C reply can be read to imply that the discernment of change in the face of inculturation belongs only to the missionary institutes without reference to the local church. Such a reading, if true, would create a field where mutual relations would be difficult.

English Group B addressed this same problem from an actual reality, namely the evangelical counsel of poverty. It stated that "the missionaries in Africa and elsewhere often live on economic levels above the local people."<sup>11</sup> While admitting that there are materials that the missionary needs if he or she wants to be of service to local people, it also reminded the missionaries to help local people to become self-reliant.

In this example, we see, on the one hand, the structure of the problem that is faced by those in consecrated life, and, on the other hand, the role of the bishops in their particular churches. For the former, their constitutions will ultimately determine how poverty will be lived by members of their institute. For the vow of poverty is a core issue and an essential element of consecrated life. Yet, the practical living of this vow brings the consecrated person into communion with the particular church and its social milieu.

---

<sup>10</sup> Report of French Group C, p. 12.

<sup>11</sup> Report of English Group B, p. 14. See also the *disceptatio* of Bishop Agostino Delfino of Berberati, Central African Republic, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 23. In this case the Bishop said that the life-style of religious was attractive to young Africans because the life-style included access to "buildings, formation courses, health care, means of transport, etc." Such a life-style being superior to that of inhabitants of the village or neighbourhood. On the same theme, see the *disceptatio* of Archbishop Michel-Marie-Bernard Calvet of Noumea, Oceania, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 19; and Bishop Basile Mvé Engone of Oyem, Gabon, in *L'Osservatore romano*, n. 46, 16 November 1994, p. 8. This last intervention called for the consecrated person to make a radical break with his or her family, illustrating the cultural influences experienced in tribal Africa.

## THE PROXIMATE AND REMOTE CONTEXT

How the vow is lived in Europe or North America may be quite different from the demands made on the way in which members live this vow in Africa, Asia, or Oceania. The existential reality will demand more or less of the person who professes this vow.<sup>12</sup>

The Relator of French Group C also recalled the particular nature of the particular church when speaking about the criteria of discernment for new communities, for new forms of religious life, and also for already established communities.<sup>13</sup> Similarly, the Relator of Spanish Group C pointed to a lack of consistency between the charism of an institute and its application in apostolic practice.<sup>14</sup> Again, the Relator of Italian Group B expressed concern for the vow of obedience when it is brought into contact with secularism and the democratic mentality.<sup>15</sup> These citations stand as three more examples of the tension which the synodal participants saw facing individuals and institutes of consecrated life in the historical reality of their existence. Their observations arise from the view-point of experience in the particular church. At this point of particularity, however, those professing the consecrated life, either individually or in community, come into contact with the diocesan bishop. Therefore, in order to gain a picture of the

---

<sup>12</sup> The distinction between essential and existential elements in consecrated life cannot be paralleled with the distinction between substantial, that is belonging to the substance of consecrated life, and accidental, not belonging to the substance of consecrated life. Both the vow of poverty and the exercise of the vow of poverty belong to the substance of religious life. The first informs the latter, while the latter grounds the former. If the exercise of the vow of poverty were merely accidental to consecrated life in a concrete situation then the vow itself could not be said to belong to the substance of consecrated life. Rather than substance and accident the statements of the bishops reflect the demands made by the particularity in the existence of their churches.

<sup>13</sup> Report of French Group C, *L'Osservatore romano*, n. 48, 30 November 1994, p. 12. Cardinal Hume had mentioned new forms of community based on the model of the Ashram in India. See B. HUMÉ, "Segunda relacion - Relatio post disceptationem," in *Vida religiosa*, 76 (1994), p. 467. On the same matter, see P. DIVARKAR, "An Indian Contribution to the Next Synod" in *Vidyajyoti Journal of Theological Reflection*, 57 (1993), pp. 332-334. In this article the author noted that traditional notions of monasticism demonstrate only Western and Eastern notions. The Asian experience is different and worthy of note. Bishop Gali Bali of Guntur, India, took up this theme in his address to the Synod. See *L'Osservatore romano*, n. 42, 19 October 1994, p. 8. See also the address of Archbishop Marianus Arokiasamy, in *L'Osservatore romano*, n. 44, 2 November, 1994, p. 21. Not all the synodal fathers were in agreement with this view. Archimandrite Nicolas Antipas, Superior General of the Melkite Basilians of Aleppo, Lebanon, saw in the tradition of monasticism of the Catholic Church sufficient means to ask the question "Why go far away and not search at home?" See *L'Osservatore romano*, n. 46, 16 November 1994, p. 9. However, the Church has practiced monasticism using the model developed in Archimandrite Nicholas's social milieu of the East. So "searching at home" for him really means "at home" in his part of the world.

<sup>14</sup> Report of Spanish Group C, *L'Osservatore romano*, n. 48, 30 November 1994, p. 14.

<sup>15</sup> Report of Italian Group B, p. 15.

## THE PROXIMATE AND REMOTE CONTEXT

episcopal view of this relationship we turn to the interventions of the synodal fathers individually.

B. Secondin divides the interventions by the synodal participants into three groups. The interventions of those bishops from the Roman Curia and residential bishops form one group. The ninety-four contributions by bishops who belong to a religious family comprise another group. Presentations by others, namely those not belonging to the consecrated life, or belonging to secular institutes, and other experts, make up the third group.<sup>16</sup> Secondin does not explain why he chose this division except to say there are two demands, informed presentation and legible synthesis. Perhaps he expects that the bishops belonging to a religious family made a different type of contribution than the others. But he does not state this.

For several reasons, however, this division is not wholly satisfactory. First, some bishops who occupy residential sees also belong to families of consecrated life. Second, some of the bishops who spoke were auxiliary bishops, that is, they are not residential bishops. Third, Secondin himself pays more attention to the theological contributions of the participants than to the quality of the overall contributions made.<sup>17</sup>

After reading the contributions by the synodal fathers, however, one can draw the conclusion that they spoke from their experience, that is, they spoke about what they knew. For instance, each official of the Roman Curia managed to construct a presentation about the work of his own dicastery.<sup>18</sup> Many of the other synodal fathers

<sup>16</sup> B. SECONDIN, *Per una fedeltà creativa. La vita consecrata dopo il Sinodo*, Milan, Figlie di san Paolo, 1995, p. 207

<sup>17</sup> James Sweeney provides another way of dividing the material based on the matter contained in the interventions. He says, "The interventions were of varying quality. Some were anecdotal reporting situations in various countries, others raised particular questions for clarification, some had precise suggestions, while others reflected on theological and pastoral themes connected with consecrated life. And some bishops indulged in 'religious bashing'." See J. SWEENEY, "The Synod: Was It Worth It?" in *Religious Life Review*, 34 (1995), p. 6

<sup>18</sup> For example, Cardinal William Baum, Major Penitentiary, spoke about the place of the sacrament of penance in the life of the consecrated person. See *L'Osservatore romano*, n. 44, 2 November 1994, p. 12f. Cardinal Bernard Gantin, Prefect of the Congregation for Bishops, spoke about the necessity of bishops and religious acting as one for the mission of the Church. See p. 12. Cardinal Edward Cassidy, President of the

## THE PROXIMATE AND REMOTE CONTEXT

reported on matters pertaining to their own social environment. Of particular note we can observe the contributions of the bishops from countries emerging from political persecution. Most, if not all, of their speeches reminded the synodal participants that they had survived persecution and were now being re-born.<sup>19</sup> In like manner, the bishops of the West spoke principally about their own experiences of the social and cultural influences on those who profess the consecrated life in their countries.<sup>20</sup> The bishops who belong to some family of consecrated life or secular institute also spoke of their own experience as religious.<sup>21</sup> Given such contributions, therefore, we need not divide interventions into hard and fixed categories of place, apostolate, or membership or not of a religious family. For what emerged was predictable in light of such divisions.

---

Pontifical Council for Promoting Christian Unity, stated that members of institutes should consider among their priorities the promotion of Christian unity. See p. 18. Cardinal Angelo Sodano, Secretary of State, asked the Synod to include in its final statement a return to insisting on the duty of religious to *sentire cum Ecclesia*. Cardinal Sodano went on to develop an argument that ended with the words "He who loves does not criticise." His intervention emphasised a need for uniformity in thinking. See n. 46, 16 November 1994, p. 8. AS B. Secondin demonstrates the other nineteen Roman Curial officials spoke similarly. See B. SECONDIN, *Per una fedeltà creativa. La vita consecrata dopo il Sinodo*, pp. 208-211.

<sup>19</sup> For example, see the contributions of the two Vietnamese bishops, n. 44, 2 November 1994, p. 9, that of the Apostolic Administrator of Sophia and Plovdiv, Bulgaria, n. 46, 16 November 1994, p. 9, that of the Slovakian bishop, p. 8.

<sup>20</sup> Without listing the totality of the 223 interventions of the synodal fathers, the following are taken as representative of the rest. Bishop Pelâtre of Turkey spoke of the need for visibility of Christian religious in the world of Islam. See n. 44, 2 November 1994, p. 12. This was given substance by a call for return to the use of the habit by women religious from the Chaldean bishop in Iran. See n. 47, 23 November, 1994, p. 9. Bishop James Timlin of Scranton, PA, USA, described his attitude to the influence of feminism among women religious of his country. See J. TIMLIN, "Devastating Years for Religious Life," in *Origins*, 24 (1994-1995), p. 331-332. Bishop Maurice Couture had another and more positive reaction to the same issue. See M. COUTURE, "Consecrated Women. Equality in the Church," in *Origins*, 24 (1994-1995), pp. 358-359. Bishop Peter Connors, Auxiliary Bishop of Melbourne, Australia, spoke of attempts in that country to involve both bishops and those in consecrated life in decision-making. See *L'Osservatore romano*, n. 43, 26 October 1994, p. 6. Bishop Karl Romer, Auxiliary Bishop of Rio de Janeiro, Brazil, related a situation of disunity, as he saw it, in the same structures of consultation in Brazil. See n. 42, 19 October 1994, p. 8. A further consideration of the other interventions will reveal the same relation of personal experience.

<sup>21</sup> For example, Archbishop Mariano Magrassi, O.S.B., of Bari-Bitonto, Italy, spoke about return to the sources and the founder's charism and continued to make it concrete by speaking of monasticism. See n. 42, 19 October 1994, p. 8. Bishop Iñaki Mallona Txertudi, C.P. spoke of the influence of Protestant and fundamentalist sects in his country. He then continued to emphasise the importance of community life among religious in such an environment. See n. 47, 23 November 1994, p. 12.

## THE PROXIMATE AND REMOTE CONTEXT

A further consideration of the material reveals another possible division of the material. The nature of the ecclesiology implicitly contained in the participants' summaries provides more food for thought and exploration. Seán O'Riordan has stated:

A great number of them [addresses to the Synod] reflected local experiences or particular points of view that had little general significance. When a general significance did emerge, as it did repeatedly in the course of the discussion, it was interesting to see the direction in which it pointed. Thus there were expressions of strong support for firm Roman control of religious institutes, the canon law governing them being given pride of place. On the other hand there were those who gave pride of place, not to established and legally approved forms of religious life (taking this again in a broad and inclusive sense) but to "the following of Christ (*Christi sequela*) as set forth in the gospel" which, according to Vatican II's decree on religious life, is to be regarded as "the supreme rule" by all religious institutes (art 2.a.).<sup>22</sup>

Various historical and geographical experiences may condition the ecclesiological emphases adopted by individual bishops. For instance, O'Riordan states that there was support for a revivalist thrust back towards good order and the firm discipline of the past.<sup>23</sup> Such a view appears to be present in the contribution of Archbishop Gocłowski, a member of a religious family, and archbishop of Gdansk, Poland. He stated that consecrated life "survived thanks to the great effort made by the hierarchical church." He went on to say:

Now congregations have the possibility to work according to each one's charism. This creates certain difficulties in the pastoral work of the local Churches. The bishops, who are the guardians of consecrated life, must protect the charism rather than look for practical conveniences. Congregations have survived the difficult time of communist atheism. Will they also know how to surmount the difficult challenge of secularism?<sup>24</sup>

A certain centralism appears in this type of approach. Undoubtedly, the political skill of the late Cardinal Stefan Wyszyński did much to contain the political environment from adverse affects on the institutes. But, surely, the work of survival was as much a work of

---

<sup>22</sup> S. O'RIORDAN, "The Synod on the Consecrated Life," in *The Furrow*, 46 (1995) pp. 80-81

<sup>23</sup> *Ibid.*, p. 79

<sup>24</sup> *L'Osservatore romano*, n. 44, 2 November 1994, p. 15

## THE PROXIMATE AND REMOTE CONTEXT

the individuals and institutes of consecrated life as it was the help rendered by the bishops.<sup>25</sup>

Such an emphasis on hierarchical authority had consequences when the bishops spoke about the autonomy of religious institutes. Beginning with *Christus Dominus*, n. 11, Bishop Javier Barragán of Zacatecas, Mexico, stated that the centre of unity for his particular church is the bishop. He continued:

Hence, the bishop must discern, regulate, shape and promote consecrated life by making it come together in his diocese. A pastoral parallelism in the diocese is senseless, because it does not stem from Christ's mission, it is not apostolic and does not give witness, and it contradicts the unity of the Eucharist. The particular nature of the religious charism should be respected by integrating it into diocesan unity in order to ensure that it is ecclesial.<sup>26</sup>

This statement shows a distinct preference for an authoritative intervention to any problem. That is to say, this participant perceived the bishop as able, not only to organise the apostolic mission of institutes of consecrated life in his diocese, but also to shape the particular nature of the religious charism itself. If this is indeed the case, it appears to remove internal autonomy as a real exercise in subsidiarity. It becomes an attempt to place the religious under the authority of the bishop in all matters pertaining to religious life, including internal matters.

Other bishops saw their role in similar terms. Bishop Jan Sziaga of Pelplin, Poland, said:

Fulfilment of the religious charism should come about *in medio Ecclesiae*. It is impossible for this to happen without the bishop, who is *forma gregis ex animo*. This does not only concern relationships of jurisdiction, but also the primacy over

---

<sup>25</sup> This centralist theme is also captured in Archbishop Janis Pujats of Riga, Latvia. He stated that the bishops and diocesan priests are men of consecrated life, because of their vows of chastity, obedience and respect for ecclesiastical authority. The theology and canonical analysis is not only poor but incorrect. But he went on to speak of those "professor-theologians" who do not think with the Church. He said, "If he ignores the Church, then treat him as you would a Gentile or a tax collector. Your Excellencies, throw the Gentiles and tax collectors out of your seminaries and your faithful will be at peace." See *L'Osservatore romano*, n. 44, 2 November 1994, p. 18.

<sup>26</sup> *L'Osservatore romano*, n. 42, 19 October 1994, p. 5.

## THE PROXIMATE AND REMOTE CONTEXT

the community of love. Autonomy from real life in the Church should never be considered the most important feature of consecrated life.<sup>27</sup>

Similarly, Bishop Jesús Maria de Jesús Moya of the Dominican Republic spoke on behalf of the Dominican Episcopal Conference.<sup>28</sup> In his country a large number of religious priests and women religious are present. Yet, his intervention can give the impression that he regards religious only as a useful work force for the diocese. He stated:

We find ourselves forced to entrust them with responsible and administrative offices of particular importance to the life of the Church, in which experience and stability are a basic concern .... We are thinking in particular of posts such as Vicar General, vicar for pastoral life, chancellor, director of the National Institute for Pastoral Life, director of administration, etc. There is no lack of superiors who embark on a sincere dialogue with the local ordinary before making these transfers and who are prepared to change their decision and modify it. But there are others who go ahead and carry out their plans without prior warning, and their attitudes are inflexible. This is a real problem and we think that - whenever possible - the criterion for a solution should be to subordinate the good of the institute to the true good of the Church and that, in any case, there should always be open and sincere dialogue beforehand.

Each of these responses emphasises the place of authority in the hierarchical communion of the Church. But there were other bishops who saw their role more in terms of a partnership with the institutes of consecrated life in their particular churches. Their emphasis demonstrated an ecclesiology which reflects more the communion of the People of God in the Church.

Cardinal Pierre Eyt, Archbishop of Bordeaux, manifested his understanding of the distinctiveness of consecrated life. He stated that some bishops have made tragic decisions regarding the place of those professing the consecrated life in a diocese. He said:

I ask myself how I, as a bishop, have understood the presence and the mission of women religious in a diocese. I have sometimes forgotten that consecrated life is of value of itself, apart from its pastoral or social functions and services. In fact, what ought to be primary is the charism of consecrated life in this or that

---

<sup>27</sup> *L'Osservatore romano*, n. 45, 9 November 1994, p. 11.

<sup>28</sup> *L'Osservatore romano*, n. 44, 2 November 1994, p. 11.

## THE PROXIMATE AND REMOTE CONTEXT

congregation, this or that community. At a time of scarcity of pastoral personnel we run the risk of giving priority to functions and services and to more or less clearly defined charges. Women religious who live in a diocese are not the female equivalent of the presbyterate.<sup>29</sup>

Cardinal Eyt went on to say that bishops need to recognise religious by their charism of consecrated life in accordance with the vows, to call them to a still fuller consecration of their lives, to confirm them in their mission, and to wish that these women be fully involved in the diocesan church. These statements indicate a sense of mission and apostolate beyond what the bishop may necessarily see or demand. This same collaborative stance was echoed by Bishop Leonard Boyle of Dunedin, New Zealand, who stated that those in consecrated life looked to the Synod to give them a statement which was life-giving and challenging without unnecessary shackles. He reported that the bishops of New Zealand meet annually with the major superiors to discuss matters of common interest and concern. He spoke of the need for religious to keep the bishops and laity informed of their work, rather than to find the start and finish of that work in what the bishops demanded.<sup>30</sup> In a similar vein, Bishop Kevin Dowling of South Africa presented his statement, saying:

The hierarchical ministry and the prophetic mission of religious should be in continuous creative tension, and we should not fear this. On the one hand, the hierarchy should not be afraid of being challenged by the questioning and the searching of religious in their quest to be faithful to their fundamental options for the poor and oppressed, and to incarnate their charisms in new ways in the Church and in the social realities which cry out to be redressed.

On the other hand, religious must also discern how their insertion and witness can be "pastorally fruitful," can be relevant and meaningful to the pastoral needs of the people of God and their mission, so allowing the Spirit to call forth greater fidelity to Gospel values in the local Church. The goal of such a participative ministry is that the local Church would become ever more truly a community which serves all humankind, but especially the poor and marginalized, so that the reign of God in our world is served by all together.<sup>31</sup>

<sup>29</sup> P. EYT, "On Women Religious," in *Religious Life Review*, 34 (1995), pp. 300-301.

<sup>30</sup> *L'Osservatore romano*, n. 42, 19 October 1994, p. 5.

<sup>31</sup> K. DOWLING, "Apostolic Religious and the Hierarchy," in *Religious Life Review*, 34 (1995), p. 306. Bishop Dowling also stated: "Religious can also be that 'memory' which calls the Church to continually reflect on its understanding of how it should be Church, and particularly how it should be inculturated in its

## THE PROXIMATE AND REMOTE CONTEXT

Finally, in his *Relatio ante disceptationem* Cardinal Basil Hume addressed the following question to the assembled bishops and others:

How do we find suitable ways and opportune means not only to promote true ecclesial relations between bishops and consecrated persons, but also to fulfil our duty as priests in relation to consecrated life, while respecting its due autonomy and various charisms?<sup>32</sup>

As the responses from the bishops show, this is the question that is being answered. Cultural, social, and political influences often greatly affect the nature of the response. The ecclesiological stance taken by a bishop necessarily influences the quality of the relationship that he has with institutes and individuals professing the consecrated life. The documents of the Second Vatican Council describe the ecclesiologies already seen in action.

### 1.3 The Documents of the Second Vatican Council

#### 1.3.1 *Lumen gentium*.

Although one may consider chapter six of *Lumen gentium*, which concerns religious, independently of the rest of the Dogmatic Constitution, an examination of the context of this chapter and the two ecclesiologies, contained in chapters two and three of the Constitution, provides a more complete understanding.<sup>33</sup> Since the bishops who spoke at the Synod laid emphasis on one or other ecclesiology or attempted to harmonise ecclesial communion with hierarchical communion, a consideration of chapter six within the context of the entire Constitution becomes more beneficial. An examination of the structure of *Lumen gentium* demonstrates that either ecclesiology, when taken independently of the other, is insufficient to explain the mystery of the Church. When

---

particular context or social reality” Ibid., p. 305. The ecclesiology at work here reflects more a collaborative approach to ministry than a “command and obey” approach.

<sup>32</sup> B. HUME, “Cardinal Hume’s ‘Relatio ante disceptationem,’” in *L’Osservatore romano*, n. 41, 12 October 1994, p. 11.

<sup>33</sup> E. McDONOUGH, “*Lumen gentium*’s Chapter 6. Religious,” in *Review for Religious*, 52 (1993), pp. 928-929.

## THE PROXIMATE AND REMOTE CONTEXT

taken together, however, they provide a basis not only to explain the mystery of the Church, but also to elucidate a basis on which the relationship between the diocesan bishop and those in his diocese professing the consecrated life becomes grounded in the mission of the Church.

The People of God is the subject of chapter two of *Lumen gentium*. As Grillmeier states, the "people of God" is not meant to be used here in contrast to the hierarchy.<sup>34</sup> The Constitution employs the term to encompass the Church as a whole, that is, every group of its members. Therefore, if any contrast is to be made, a more proper comparison exists between chapter three, which treats of the hierarchy, and chapter four, which treats of the laity. It is also the intention of *Lumen gentium* that no contrast be drawn between the hierarchy and religious, or between the laity and religious. For *Lumen gentium* teaches that religious belong to a state which is drawn from both the hierarchy and the laity. It is not a middle state between the hierarchy and the laity.<sup>35</sup>

Although chapter two does not employ the word, "equality," the tonality of the chapter expresses this as the condition of humankind before God. The chapter views the economy of salvation as the work of God directed towards humankind. In article 9, it says:

At all times and in every race, anyone who fears God and does what is right has been acceptable to him (cf. Acts 10:35). He has, however, willed to make men holy and save them, not as individuals without any bond or link between them, but rather to make them into a people who might acknowledge him and serve him in holiness.<sup>36</sup>

---

<sup>34</sup> A. GRILLMEIER, "Chapter II. The People of God," in H. VORGRIMMER, (ed.), *Commentary on the Documents of Vatican II*, New York, Herder and Herder, 1967-1969, Vol. 1, p. 153.

<sup>35</sup> LG art. 43.

<sup>36</sup> "In omni quidem tempore et in omni gente Deo acceptus est quicumque timet Eum et operatur iustitiam (cf. Ac 10, 35). Placuit tamen Deo homines non singulatim, quavis mutua connexione seclusa, sanctificare et salvare, sed eos in populum constituere, qui in veritate Ipsum agnosceret Ipsique sancte serviret." Dogmatic Constitution on the Church, *Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), pp. 12-13. English translation in *FLANNERY*, p. 359.

## THE PROXIMATE AND REMOTE CONTEXT

Sanctification of the individual takes place in such a way that the person becomes a member of the new people of God. But this membership is not static, for the Church is of its nature the instrument of salvation of all.<sup>37</sup> Within this communion the baptised are constituted a spiritual house and a holy priesthood, so that they share in the triple *munera* of Christ to bear witness to Christ for the sanctification of all.<sup>38</sup> Thus the call to be holy, set apart, and given life through their sacramental communion, the People of God, whatever the condition or state of its individuals, is, of its nature, missionary and prophetic before the world.<sup>39</sup> "Each disciple of Christ has the obligation of spreading the faith to the best of his or her ability."<sup>40</sup>

Within this communion, the Holy Spirit also allots other gifts where he wills. The purpose of these gifts, special graces, is to make the recipients fit and ready to undertake various tasks and offices for the renewal and building up of the Church.<sup>41</sup> Here we have

---

<sup>37</sup> LG art. 9

<sup>38</sup> LG art. 10

<sup>39</sup> LG art. 11

<sup>40</sup> "Cuilibet discipulo Christi onus fidei disseminandae pro parte sua incumbit." LG art. 17, in *AAS*, 57 (1965), p. 21, English translation in *FLINNER*, p. 369

<sup>41</sup> LG art. 12. It should be noted here that these special graces, "the charisms," are given to persons, either as individuals or groups. There has been much debate as to whether there is such a thing as a "corporate charism." The use of terms such as "charism of the congregation" imply that the institute itself possesses a charism independently of its members. There can be no doubt that there is a charism given to founders of institutes of consecrated life. They receive a charism for the building up of the holiness of the Church. See *Evangelica testificatio*, art. 11. Further, it is probable that individuals within institutes receive a charism to live this life which belongs to the holiness of the Church. However, anything other than an analogous use of the word "charism" when applied to the structure we call an institute, is fraught with danger not the least of which is, that by suppressing institutes the Church be seen to be suppressing the work of the Holy Spirit. In speaking of charisms, Pope John Paul II stated, "Charisms in fact can be individual or collective. The individual ones are widespread in the Church and vary so much from person to person that they are difficult to categorise and in each case require the Church's discernment. Collective charisms are generally bestowed on men and women who are destined to establish ecclesial works, especially religious institutes, which receive their distinctive mark from the founder's charisms, live and work under their influence and, to the extent of their fidelity, receive new gifts and charisms for each individual member and for communities as a whole. The latter can thus discover new forms of activity in accordance with the needs of time and place, without breaking the line of continuity and development going back to the founder, or by easily recovering its identity and vigor." JOHN PAUL II, *General Audience*, 28 September 1994, in *L'Osservatore romano*, n. 40, 5 October 1994, p. 11. The Pope recognises the charism of the founder, the charism of the "re-founder," and the charism of individual members. He does not recognise "collective" as an adjective applied to the institution. For a discussion of the Charism of an Institute, see M. RUIZ JURAIX, "Consecrated Life and the Charisms of the Founders," in *Vatican II: Assessment and Perspectives: Twenty-five Years After (1962-1987)*, (ed. R. Latourelle), Vol. III, New York, Paulist Press, pp. 14-19. See also AG art. 23, PC art. 1. See also J. BEYER, "Religious in the Local Church," in *The Way Supplement*, 50 (1984), pp. 81-85. Beyer states that corporate charisms are collective in so far as they are lived out in a group. However,

## THE PROXIMATE AND REMOTE CONTEXT

the link to chapter six, where this special gift of grace fits a person to contribute each in their own way to the saving mission of the Church.<sup>42</sup>

To claim this ecclesial communion as the only ecclesiology of the Council, however, is to deny the biblical notion of the Body of Christ, an ecclesiology strong in the Church's tradition. Such a claim also has sociological consequences, for it leaves the People of God without a valid structure of leadership. Thirdly, too great an emphasis on equality can begin to look like sameness, and this would deny the very discovery of chapter two, especially in the statements concerning the diversity of gifts in article 12. So, while all share in the mission of the Church, an understanding of mission finds further completeness in an appreciation of organic structure within this one People of God.

The introductory paragraph to chapter three sets the office and role of the hierarchy in its proper context. From the beginning, the Constitution implies that episcopal office is an office of service. Although not explicitly stated until article 24, the opening words of the chapter echo this notion of service. The purpose of offices is to "shepherd the People of God," "to increase its numbers without cease," "to promote the interests of their brethren, so that all ... may, through their free and well-ordered efforts towards a common goal, attain to salvation."<sup>43</sup> Directed towards mission, this service finds its completion in the same mission. As S. Ryan states, nowhere does chapter three

---

Beyer takes it much further than this. He first substantiates the collective charism and then calls it "a particular Church which has its own territory, prelates, people and mission" (p. 85). Such reasoning might be regarded as an exaggeration.

<sup>42</sup> LG art. 43

<sup>43</sup> LG art. 18. AG art. 28 quotes LG art. 18 but addresses all Christians. "Since Christians have different gifts (Rom 12:6) they should collaborate in the work of the Gospel, each according to his opportunity, ability, charism, and ministry (cf. 1 Cor 3:10), all who sow and reap (cf. Jn 4:37), plant and water, should be one (cf. 1 Cor 3:8) so that 'working together for the same end in a free and orderly manner' they might together devote their powers to the building up of the Church." "Christifideles, cum donationes habeant differentes (cf. Rom 12:6), pro sua quisque opportunitate, facultate, charismate ac ministerio (cf. 1 Cor 3, 10) in Evangelio collaborare debent, omnes proinde, qui seminant et qui metunt (cf. Jn 4,37), qui plantant et qui rigant, unam sint oportet (cf. 1 Cor 3,8), ut «ad eundem finem libere et ordinatim conspirantes» unanimiter ad aedificationem Ecclesiae vires impendant." AG art. 28, in *AAS*, 58 (1966), p. 979. English translation in *FLANNERY*, p. 845. The Council fathers envisaged no other mission for the Church except a collaborative effort on the part of all - a unanimity of charism and office. See also AG art. 30.

## THE PROXIMATE AND REMOTE CONTEXT

describe the structure of the Church as monarchical.<sup>44</sup> The Constitution considers mission as a collaboration of services rather than a descending order of power emanating from one human source only.

Articles 19 and 20 of the Constitution contrast the biblical foundation by Christ of the college of apostles, one and undivided, with Peter at the head of the other apostles with the continuity of that foundation in the college of bishops with the pope at the head of the college. As K. Rahner notes, the Constitution teaches the unity of all official authority in the Church.<sup>45</sup> Although all hierarchical power in the Church has episcopal ordination as its foundation, the power of the individual bishop as an individual is understood insofar as he is a member of the college of bishops and shares in the power of the college as such.<sup>46</sup> This fact echoes the emphasis of the Constitution concerning the one sacred power announced at the beginning of the chapter.<sup>47</sup>

The collegial nature of episcopal authority is paramount to understanding the authority of a bishop in his own diocese.<sup>48</sup> The diocese exists as an event where the

---

<sup>44</sup> S. RYAN, "The Hierarchical Structure of the Church," in K. McNAMARA, (ed.), *Vatican II: The Constitution on the Church: A Theological and Pastoral Commentary*, London, Geoffrey Chapman, 1968, pp 189f

<sup>45</sup> K. RAHNER, "Chapter III. The Hierarchical Structure of the Church, with Special Reference to the Episcopate," in H. VORGRIMLER, (ed.), *Commentary on the Documents of Vatican II*, [=Vorgrimler], New York, Herder and Herder, 1967-1969, Vol 1, p 194

<sup>46</sup> LG art 21 states that the triple *munera* "of their very nature can be exercised only in hierarchical communion with the head and members of the college." G. Roche notes that this is not an attempt to restrain the proper power of the bishops, but rather it is an intrinsic impetus to unity caused by sharing the one sacred power. See G. ROCHE, "Hierarchy From Dionysius to Trent to Vatican II," in *Studia canonica*, 16 (1982), pp 367-389. As Rahner further states, the college of bishops does not derive its authority as a union of local bishops but rather as the successor of the college of Apostles. Hence, titular bishops also share in the authority of the college of bishops. See K. RAHNER, "The Episcopal Office," in *Theological Investigations, Vol. VI, Concerning Vatican II*, (trans. K.-H. and B. Kruger), London, Darton, Longman and Todd, 1969, p. 323.

<sup>47</sup> LG art. 18.

<sup>48</sup> As R. Bowers points out: "The rediscovery of the Church as mystery (LG chap 1) and the consequent recognition of the many churches within the one Church is basic to an understanding of episcopal collegiality for it shows how the episcopal office is part of the structure and inner mystery of the Church." See R. BOWERS, *Episcopal Power of Governance in the Diocesan Church: From 1917 Code of Canon Law to the Present*, Canon Law Studies No. 535, Doctoral Thesis, Catholic University of America, Washington, DC, Ann Arbor MI, UMI, 1990, p. 136

## THE PROXIMATE AND REMOTE CONTEXT

mystery of the Church becomes concretely realised.<sup>49</sup> It constitutes a place which exhibits unity and collegiality within itself as a sign of the Church universal. There can be no sense then in which the authority of the diocesan bishop constitutes simply a delegation from the jurisdiction of the Roman Pontiff. For all share in the one sacred power which finds its source in Christ the Head. Therefore, each bishop possesses this power personally in the name of Christ as proper, ordinary, and immediate power.<sup>50</sup> It is the exercise of this power, not the power itself, that is restricted by the law or by any decree of the Roman Pontiff.

In article 23 the Constitution names the Roman Pontiff as the perpetual and visible source of unity in the Church. That is to say, as unity is manifested in history and social institutions, the Roman Pontiff becomes the sign of the real principle of unity in the multiplicity of the Church, namely Christ the Head.<sup>51</sup> In like manner, the individual bishops act as the visible source of unity in their own particular churches.

---

<sup>49</sup> See S RYAN, "Vatican II The Re-Discovery of the Episcopate," in *Irish Theological Quarterly*, 33 (1966), pp 227-229 Ryan contrasts the pre-conciliar ecclesiology with its emphasis on the Church as institution with the ecclesiology of the Second Vatican Council with its emphasis on the Church as mystery See also K RAHNER, "The Episcopal Office," pp 333-339 Rahner employs the term "event" to describe the local church as the tangible reality of the universal Church He states that the Eucharistic celebration actualises the local church as an event of the universal Church Further, from the beginning the local Church was a bishop's Church See K RAHNER, "The Episcopate and the Primacy," in K RAHNER and J RATZINGER, *The Episcopate and the Primacy, Quaestiones disputatae* No 4, London, Burns and Oates, 4th Impression, 1966, pp 23-30

<sup>50</sup> LG art 27 See also CD 8a which states "Bishops, as successors of the apostles, enjoy as of right in the dioceses assigned to them all ordinary, special and immediate power which is necessary for the exercise of their pastoral office, but always without prejudice to the power which the Roman Pontiff possesses, by virtue of his office, of reserving certain matters to himself or to some other authority" "Episcopis, ut Apostolorum successoribus, in diocesis ipsis commissis per se omnis competit potestas ordinaria, propria ac immediata, quae ad exercitium eorum muneris pastoralis requiritur, firma semper in omnibus potestate quam, vi muneris sui, Romanus Pontifex habet sibi vel alii Auctoritati causas reservandi." CD 8a in *AAS*, 58 (1966), p 676. English translation in *F-LINVERI*, p 567 T Green comments on the fundamental shift saying that a diocesan bishop may always act unless a given issue is reserved to another authority. T GREEN, "The Pastoral Governance Role of the Diocesan Bishop. Foundations, Scope and Limitations," in *The Jurist*, 49 (1989), p. 480.

<sup>51</sup> K. RAHNER, "Chapter III. The Hierarchical Structure of the Church," p. 205.

## THE PROXIMATE AND REMOTE CONTEXT

And for that reason precisely each bishop represents his own Church, whereas all, together with the pope, represent the whole Church in a bond of peace, love and unity<sup>52</sup>

This statement again counters any understanding that the diocesan bishop stands as simply a representative of the pope in a particular diocese. Rather the local bishop is subject to the pope because the universal Church is manifest in his diocese, not because the bishopric is a small administrative sector of the universal Church.<sup>53</sup>

The Constitution continues:

Individual bishops, in so far as they are set over particular Churches, exercise their pastoral office over the portion of the People of God assigned to them, not over other Churches nor the Church universal. But in so far as they are members of the episcopal college and legitimate successors of the apostles, by Christ's arrangement and decree, *each is bound to have such care and solicitude for the whole Church which, though it be not exercised by any act of jurisdiction, does for all that redound in an eminent degree to the advantage of the universal Church.*<sup>54</sup>

This paragraph implies a distinction in the pastoral activity of the bishop. The Constitution distinguishes between pastoral activity that has a juridical content, jurisdiction, and that which is not juridical. In this way, the Constitution avoids a reduction of a bishop's pastoral activity to those things which might be mentioned or implied in law. As such, this distinction considers that the bishop has moral responsibilities which are beyond his juridical responsibilities. Rahner states that there are "three elements of the episcopal office: membership of the college (with a share in the collegiate acts), the non-collegiate obligation to care for the whole Church, and

---

<sup>52</sup>"Qua de causa singuli Episcopi suam Ecclesiam, omnes autem simul cum Papa totam Ecclesiam repraesentant in vinculo pacis, amoris et unitatis" LG art. 23, in *AAS*, 57 (1965), p. 27, English translation in *FLANNERY*, p. 376.

<sup>53</sup>K. RAHNER, "The Episcopate and the Primacy," p. 33.

<sup>54</sup>"Singuli Episcopi, qui particularibus Ecclesiis praeficiuntur, regimen suum pastorale super portionem Populi Dei sibi commissam, non super alias Ecclesias neque super Ecclesiam universalem exercent. Sed qua membra Collegii episcopalis et legitimi Apostolorum successores *singuli ea sollicitudine pro universa Ecclesia ex Christi institutione et praecepto tenentur*, quae, etiamsi per actum iurisdictionis non exercentur, summopere tamen confert ad Ecclesiae universalis emolumentum." (Emphasis added.) LG art. 23, in *AAS*, 57 (1965), p. 27, English translation in *FLANNERY*, p. 376.

## THE PROXIMATE AND REMOTE CONTEXT

authoritative rule in the local Church."<sup>55</sup> The Constitution gives some guidance as to the nature of these non-collegial works, namely:

the obligation of fostering and safeguarding the unity of faith and of upholding the discipline which is common to the whole Church; of schooling the faithful in a love of the whole Mystical Body of Christ, and, in a special way, of the poor, the suffering, and those who are undergoing persecution for the sake of justice (cf. Mt. 5:10); finally, of promoting all that type of active apostolate which is common to the whole Church, especially in order that the faith may increase and the light of truth may rise in its fullness on all men.<sup>56</sup>

This paragraph of the Constitution demonstrates the universalist nature of *Lumen gentium*. Although the Constitution does not concern itself with the activity of the bishop in his own diocese *per se*, it continues to focus the relationship of the bishops at a universal level. If this list of activities appears upon analysis able to be achieved by any bishop only within the boundaries of his own jurisdiction, then it helps to explain the next sentence which states that the well ruled diocese adds to the welfare of the whole Mystical Body. The Constitution presents a passive mode to be adopted by a bishop over those matters for which he has no jurisdiction. Even within the territorial boundaries of his own diocese, he is prevented from exercising a complete jurisdiction. The internal matters of institutes of pontifical right and other institutes which are exempt, are beyond his jurisdiction. Personal prelatures or dioceses which have a personal or ritual basis, while spacially present in his diocese, exist apart from his jurisdiction canonically. As we shall see later, this moral obligation to be solicitous for the whole Church is often difficult to apply in the practical situation.<sup>57</sup> The activities described above exhibit still a

---

<sup>55</sup> K. RAHNER, "Chapter III. The Hierarchical Structure of the Church," p. 206.

<sup>56</sup> "Debent enim omnes Episcopi promovere et tueri unitatem fidei et disciplinam cunctae Ecclesiae communem, fideles edocere ad amorem totius Corporis mystici Christi, praesertim membrorum pauperum, dolentium et eorum qui persecutionem patiuntur propter iustitiam (cf. Mt 5, 10), tandem promovere omnem actuositatem quae toti Ecclesiae communis est, praesertim ut fides incrementum capiat et lux plenae veritatis omnibus hominibus oriatur." LG art. 23, in *AAS*, 57 (1965), pp. 27-28, English translation in *F. LANNIERI*, p. 376

<sup>57</sup> Rahner raises the problem of this concern when he says: "If the individual bishop is primarily member of a college which is entrusted with the care of the whole Church, if he rules his diocese precisely insofar as it is a part of the whole Church, and if he performs his local duties as one element of his primacy and total duty - then he must fulfil it in the consciousness of his responsibility for the whole Church, instead of regarding this responsibility for the whole Church as an additional and less important part of his duty. He should think about the whole Church as much as about his own diocese. He can never look on the greater good of the whole Church as detrimental to his own diocese. He can never think that his only concern is with his own

## THE PROXIMATE AND REMOTE CONTEXT

pyramidal structural concern. Each of these activities implies keeping the whole together by using the universal, that is, those things held in common, as a model and end of activity.<sup>58</sup>

Yet, in another sense, such activities also safeguard the Church from reduction to a series of monarchical fiefdoms. Consumed by self-interest they would need no reference to a communion of churches sharing a common tradition. The consequences of limited jurisdiction also imply that all the baptised, including bishops, bear responsibility for the well-being of the Church, each according to the gifts allotted. Simply stated, no bishop has unlimited jurisdiction, and the existential reality is that this applies even to areas within his own territorial diocese. He is bound to a series of vertical and horizontal relationships to achieve the goal of preaching the Word. The continual call of the Constitution to unity in *communio* means that bishops exercise their leadership not only in collaboration with each other and the Roman Pontiff, but also in collaboration with others.<sup>59</sup>

This consideration of chapters two and three of the Dogmatic Constitution of the Church has shown that the two ecclesiologies contained therein emphasise the same finality, namely the mission of the Church to preach the Word of God. The Constitution presents these ecclesiologies as complementary aspects of a single reality. One cannot exist without the other and both act together to advance the *communio* of the Church. Thus the possibility of various gifts, as mentioned in article twelve, mandates a collaborative relationship between the various states and offices within the Church in a common sense of mission. The Constitution implies, moreover, that the apostolate

---

diocese. His priests are not ordained for his diocese so exclusively that they, and he in them, do not also have a function for the whole Church." K. RAJNER, "On the Divine Right of the Episcopate," in K. RAJNER and J. RAIZINGER, *The Episcopate and the Primacy*, pp. 126-127

<sup>58</sup> See CONGREGATION FOR THE DOCTRINE OF THE FAITH, Letter to the Bishops of the Catholic Church, *Some Aspects of the Church Understood as Communion*, 28 May 1992, Boston, St Paul Books and Media, 1992, art. 13

<sup>59</sup> Wiljens argues that the concept of service constitutes an essential aspect of the bishop's *munus*. "This service is directed towards creating a climate in which the diverse gifts of the Spirit can be exercised and it is pointed to the salvation of the people." M. WILJENS, "'For You I Am a Bishop. With You I Am a Christian': The Bishop as Legislator," in *The Jurist*, 56 (1996), pp. 69-70.

## THE PROXIMATE AND REMOTE CONTEXT

constitutes the *fundamentum* of any ecclesial relationship which seeks to carry out the mission of the Church.

Chapter six of *Lumen gentium* begins by acknowledging that the evangelical counsels have a divine foundation in the teaching and example of Christ. They are a gift from God which the Church has received and which, by his grace, she always safeguards. The concept of religious life is not mentioned until the second paragraph of the article. In this way, chapter six begins in continuity with the previous chapter, "The Call to Holiness." For in article 42, the Constitution invites and obliges all Christians to holiness, having set before them the evangelical counsels as a model.

The transition from possible universal observance of the evangelical counsels to a visible, officially sanctioned, way of life embodying the evangelical counsels takes place through the intervention of what article 43 calls "Church authority," *auctoritas ecclesiae*.<sup>60</sup> The Constitution gives no further description or definition of those who are the agents of this authority at this point. But further specification is given in article 45, where *auctoritas ecclesiae* is replaced by *ecclesiasticae hierarchiae munus*.

This authority has a threefold role of "interpreting these counsels and regulating their practice as well as establishing stable forms of living according to them."<sup>61</sup> F. Wulf says that "it is only in the Church that the individual is called to the state of the counsels, which for this reason, if no other, is an ecclesiastical state."<sup>62</sup> C. O'Donnell adds that what is at work here is the ever present tension between the visible and the invisible. The

---

<sup>60</sup> As a juridical reality it can be said that consecrated life cannot exist without the hierarchy who sanction its life in the Church. There can be no sense of parallelism, that is, any understanding which sees religious life as a form of life independent of the hierarchy. Like C. O'Donnell, P. Hannan states that there exist between the hierarchy and religious doctrinal and juridical relations. The juridic act of approbation is preceded by the doctrinal act of discernment of the "rightness" of the proposed institute. See P. HANNAN, *The Apostolate of Women Religious in the Particular Church since the Second Vatican Council: Juridical Relationships with Bishops According to the 1983 Code*. Doctoral thesis, Ottawa, Saint Paul University, 1986, p. 38.

<sup>61</sup> "... ea interpretari, eorum praxim moderari et etiam stabiles inde vivendi formas constituere curavit." LG art. 43, in *AAS*, 57 (1965), p. 49. English translation in *FLANNERY*, p. 402.

<sup>62</sup> F. WULF, "Chapter VI. Religious," in H. VORGRIMMER, (ed.), *Commentary on the Documents of Vatican II*, New York, Herder and Herder, 1967-1969, Vol. 1, p. 274.

## THE PROXIMATE AND REMOTE CONTEXT

activity of the Holy Spirit, as outlined in article 11, bestows charisms independently of the hierarchical structure of the Church. Yet, in so far as these charisms are visible, they are, nevertheless, subject to control by the Church's leaders. He continues by adding that the hierarchy make a double judgement:

Firstly, that the aims, activity and structure of a particular religious family are in conformity with the divine revelation committed to the Church; secondly, that these aims etc. will not run counter to the unity of the Church and its mission for the salvation of the world.<sup>63</sup>

Thus the Constitution teaches that religious life is both ecclesiastical and a canonical state.<sup>64</sup> Yet the Constitution is careful not to reduce the religious state to simply a canonical entity as though it only possesses a juridical relationship to other states and offices in the Church. This chapter, like the entire document, remains pastoral in character. The final paragraph of article 45, for instance, emphasises the liturgical relationship that also exists, especially at the time of making a public profession.<sup>65</sup>

The four advantages which flow from the interpretation and guidance of Church authority recognise the pastoral end of this activity. Stability in the mode of life, access to effective methods of spirituality, fraternal union in service of the Lord, and the strengthening of liberty by obedience. All aid the individual entering this state. But, as F. Wulf states, there is a weakness here also. The Constitution does not tie together the aspect of personal sanctification with its apostolic aspect, namely service of others in the

---

<sup>63</sup> C. O'DONNELL, "Religious," in K. McNAMARA, (ed.), *Vatican II: The Constitution on the Church: A Theological and Pastoral Commentary*. London, Geoffrey Chapman, 1968, p. 282.

<sup>64</sup> F. Wulf consistently describes religious life as an ecclesiastical state, whereas C. O'Donnell uses the adjective "ecclesial." C. O'Donnell uses as the basis of his argument that "religious life results in increased charity, those who profess it are joined in a special way to the Church and its mystery." (p. 286). *Lumen gentium* states that the religious state is not an intermediate condition between the clerical and lay (*non est intermedium inter clericalem et laicalem conditionem* - art. 43). Entering the religious state is accomplished by the profession of vows or similar bond approved by Church authority, in an Institute or Congregation similarly approved by Church authority. No sacramental reception is required to enter this state. The lay state in the Church is entered by Baptism and the clerical state by the further reception of Holy Orders. These constitute ecclesial states. In like manner marriage changes the ecclesial state of the person who enters such a union. The religious state is an ecclesiastical state. While founded on the divine call of Christ, its actuality is ordered by ecclesiastical law.

<sup>65</sup> C. O'DONNELL, "Religious," p. 291.

## THE PROXIMATE AND REMOTE CONTEXT

mystery of the Church.<sup>66</sup> Indeed, if the five articles of this chapter rarely look outwards, when they do it is to the relationship with Church authority.

Given that the Constitution considers the nature of the Church, the lack of outward vision in this chapter shows that the examination of religious life exists here only as partial treatment of the question. The chapter considers how the religious state is linked to the mystery of the Church rather than treating religious life as a separate entity in the Church.<sup>67</sup> A long line of documents after the Council concluded contributes to a further elaboration of religious life.

In article 45 the Constitution addresses the relationship between the charismatic and hierarchic elements of the Church.<sup>68</sup> It does so by situating both religious institutes and church authority in the context of consecrated life as a work of God in and for the Church.<sup>69</sup> The article begins with a pastoral principle which resonates with the pastoral solicitude requested of bishops in article 23. The purpose behind regulating the practice of the evangelical counsels becomes fostering the love of God and neighbour.

A change of terminology occurs here. What was previously called “church authority” is now identified with the task, duty, office of ecclesiastical hierarchy, *ecclesiasticae hierarchiae munus*. The word “bishop” is not used at all in article 45. However this shift in terminology does not describe the reality accurately. The sacrament of orders admits the candidate to the hierarchy of the Church.<sup>70</sup> Yet, the Constitution does not envisage that either priests or deacons would regulate the practice of the evangelical counsels. They do not possess legislative power. Such regulation

<sup>66</sup> F. WILF, “Chapter VI. Religious,” p. 274

<sup>67</sup> J. DANIELOU, “La place des religieux dans la structure de l’Église,” in G. BARAUNA, *L’Église de Vatican II. Études autour de la Constitution conciliaire sur l’Église*, (French translation by Y. Congar), Vol. III, (Unam Sanctam 51c), Paris, Éditions du Cerf, 1966, p. 1173

<sup>68</sup> This article acts as one source for c. 586, §2 of the 1983 *Code of Canon Law*. See *Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, in Città del Vaticano, Libreria Editrice Vaticana, 1989, p. 164.

<sup>69</sup> E. McDONOUGH, “*Lumen Gentium*’s Chapter 6: Religious,” p. 930.

<sup>70</sup> LG arts. 24 and 25

## THE PROXIMATE AND REMOTE CONTEXT

belongs ordinarily to those members of the hierarchy who possess the fullness of orders.<sup>71</sup>

The three paragraphs in article 45 describe in partial fashion the relationship between bishops and religious. The first paragraph is concerned with the beginnings of institutes and makes a short statement about the relationship during the life of the institute. The second paragraph states the fact of exemption but reminds religious about the state of the relationship with bishops when their institute has a right of exemption. The third paragraph contains the liturgical reference, as previously mentioned.

The first paragraph of article 45 is addressed to bishops indirectly and impersonally. The paragraph subsumes all bishops under the title of hierarchy and then uses this noun as the subject of both sentences in the paragraph. While the verbs used in both sentences remain in the active voice the use of the adverb, *dociliter*, seems to confine the bishops to a passive acceptance of influences from outside. In the first instance, the bishops are to accept rules put forward by others, and once these are further revised, they are to give them approval. F. Wulf states that the purpose of the construction is to remind bishops to harken to God's word as revealed by the working of the Spirit and to be docile to it. He continues:

Without charismatic stimuli "from below" the life of the Church would often subside into torpor; many wounds would go unhealed and many crisis unresolved. So office and charism (and the latter is also given to those in office) must go hand in hand and discover each other in the unity of one Spirit.<sup>72</sup>

While the first sentence appears to be an exaggeration, it is modified by the second when it acknowledges that many institutes in the Church have been founded by bishops themselves. The text, however, acknowledges the important point that tension may always exist between the charismatic and the hierarchical.

---

<sup>71</sup> The role of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life in the approval of constitutions and rules of said Institutes and Societies follows the prescriptions mentioned in *Christus Dominus* 9 and mandated in *Pastor bonus*, arts 105-111. In their action the Congregation acts in the name of the Supreme Pontiff.

<sup>72</sup> F. WULF, "Chapter VI Religious," p. 278.

## THE PROXIMATE AND REMOTE CONTEXT

The legislative process undertaken by the bishop as described in this paragraph involves a process of written submissions, or, as the case may be, their own “submission.” A process of revision which considers the orthodoxy, soundness, and practicality of the rules follows. Then occurs a process of official approval, which brings with it autonomy. Lastly, the Constitution envisages a process of vigilance and protection which continues to safeguard the development and the flowering of the institute in accordance with the spirit of their founders, *secundum spiritum fundatorum*. Interestingly, the Constitution does not describe whether these processes take place at a diocesan level.

The last sentence of paragraph one, a source of c. 586, § 2, reads:

It [ecclesiastical hierarchy] also provides vigilant and protective authority to see that institutes that have been set up here and there for the building up of the body of Christ develop and flourish in accordance with the spirit of their founders.<sup>73</sup>

Several aspects of this sentence will become important later in this work. Among them are the nature and extent of the “vigilant and protective authority;” the agent of the authority, here described as “ecclesiastical authority;” the purpose of the exercise of this authority; and the meaning of the words, “in accordance with the spirit of their founders.”

The second paragraph of article 45 describes the fact of exemption. Exemption, the Constitution states, can be granted for the common good of the Church so that the needs of all the Lord’s flock may be more effectively attended. Because of his primacy of jurisdiction, only the Supreme Pontiff can grant exemption. Once he grants the exemption, the institute becomes subject to him alone. Exemption is a fact of law.

---

<sup>73</sup> “... necnon Institutis ad aedificationem Corporis Christi passim erectis, ut secundum spiritum fundatorum crescant atque floreat, auctoritate sua invigilante et protegente adest.” LG art. 45, in *AAS*, 57 (1965), p. 51. English translation in N.P. TANNER, *Decrees of the Ecumenical Councils* [=TANNER], Washington, DC, Sheed and Ward and Georgetown University Press, 1990, Vol. 2, p. 886.

## THE PROXIMATE AND REMOTE CONTEXT

Former notions which conceived exemption as a reward for loyal service, or conferral of a higher status do not conform to the Constitution.<sup>74</sup>

The truth of this becomes evident in the next sentence. It obliges members of exempt institutes to reverence and obedience, in accordance with canon law, towards the bishops, "because of their authority in the particular churches and because of the need for unity and harmony in apostolic work."<sup>75</sup> The paragraph explains that religious have a responsibility towards the Church to carry out the duties which arise from their particular form of life. The inner reality of their professed form of life is the subject of exemption. Unity and harmony in apostolic work, however, provide a further reason for reverence and obedience towards the bishops.

Reflection on these two duties of religious institutes, namely of fidelity to their own proper law and reverence and obedience to bishops in their particular churches, even when they are exempted, prompts one to ask whether there is any difference between the state created by exemption and that which comes with the approval of the constitutions and rules of any institute of consecrated life or society of apostolic life, namely autonomy. While exemption is conceptually distinct from the wider concept of autonomy, the practical differences may not be so great. The ecclesiology of the Council emphasises a communion of churches in which the local bishops enjoy all ordinary, proper, and immediate power which is necessary for the exercise of their pastoral office. So, as J. Huels states, it makes no sense to have groups in a diocese who are totally exempt from the bishop's authority and subject only to the pope.<sup>76</sup> D. Kay, on the other hand, maintains that the Church universal is not just the sum of particular churches, it is more, for it includes institutes of consecrated life. Strangely, he implies that these

---

<sup>74</sup> C O'DONNELL, "Religious," p. 291

<sup>75</sup> "Ipsi sodales, in officio erga Ecclesiam ex peculiari suae vitae forma adimplendo, reverentiam et oboedientiam secundum canonicas leges praestare debent Episcopis, ob eorum in Ecclesiis particularibus auctoritatem pastorem et ob necessariam in labore apostolico unitatem et concordiam." LG art. 45, in *AAS*, 57 (1965) p. 51, English translation in *FLANNERY*, p. 405.

<sup>76</sup> J. HUELS, "The Demise of Religious Exemption," in *The Jurist*, 54 (1994), p. 45.

## THE PROXIMATE AND REMOTE CONTEXT

institutes require exemption to show the universality of the Church.<sup>77</sup> The *Instrumentum laboris* of the 1994 Synod gives, perhaps, a better reason for the preservation of the institution of exemption. The document describes exemption in terms of the past rather than of the future, saying that exemption has been retained for those institutes which have enjoyed this privilege for centuries. This is not for their good but for the needs of the apostolate and its common usefulness.<sup>78</sup> Exemption has been preserved to assure the status of those institutes with acquired rights and privileges, a type of preservation of the *status quo*.

The chapter concludes with articles 46 and 47. Article 46 returns to the theme of the evangelical counsels. It makes clear that those who live these counsels in the professed religious state are worthy of esteem in the Church. Article 47 returns the chapter to where it began, namely to the holiness of the Church. It concludes with an exhortation to those who profess the counsels to make every effort to progress to the greater glory of the Trinity through the source and origin of all holiness, Christ himself. Religious life in institutional form is a constitutive element of the life and holiness of the Church. It is not an accidental addendum.

*Lumen gentium*, the dogmatic Constitution on the Church, stands as the fundamental document of the Second Vatican Council.

1. Beginning from an understanding of the Church as the mystery and sacrament of salvation, the Constitution affirms the equality of all the baptised in the mission of salvation.
2. The ecclesiology of hierarchical communion complements the ecclesiology concerning the *communio* of the People of God. Together these two ecclesiologies in

---

<sup>77</sup> D. KAY, "De Societatis Iesu exemptione," in *Periodica*, 80 (1991), p. 333.

<sup>78</sup> "Perseverat proinde haec exemptio institutorum, quae iam ea fruuntur interdum inde a saeculis. Ipsa non ob id tantum conceditur ut melius provideatur bono ipsorum institutorum, sed etiam coniectis oculis in apostolatus necessitates et communes utilitates." COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: instrumentum laboris*, [=II.], 20 June 1994, Rome, Libreria Editrice Vaticana, 1994, art. 83, p. 101.

## THE PROXIMATE AND REMOTE CONTEXT

*Lumen gentium*, distinct but inseparable, provide a basis to accept as a principle that the unity of the Church universal is formed from the diversity of the particular churches.

3. In one sense, *Lumen gentium* continues and completes the teaching of the First Vatican Council. For it concentrates on the relationship of the bishops between themselves and with the Supreme Pontiff as successors of the college of the Apostles. From this foundation the Constitution considers the place of religious life in the Church.

4. The Constitution does not pause to consider the relationship between religious and individual bishops, but rather draws religious into the activity of bishops as the bishops act together as a college.

5. Religious life, which the Constitution affirms as essential to the life and holiness of the Church, becomes, then, a subject of the triple service of the bishops acting collectively or individually. In this way, *Lumen gentium* shows concern for the bishops' duty to discern the work of the Spirit in the Church, to proclaim by regulation the authenticity of that work, and to safeguard not only its origin but also its continuance.

### 1.3.2 *Christus Dominus*

*Christus Dominus*, the Decree on the Pastoral Office of Bishops in the Church, was promulgated on 28 October 1965. Yet, this Decree does not stand in isolation. *Lumen gentium*, which Rahner calls the most significant achievement of Vatican II,<sup>79</sup> is the governing document, the doctrinal focus for all conciliar documents. K. Mörsdorf states that *Christus Dominus* is a law which presupposes the Constitution and explicates the Constitution in certain fundamental respects.<sup>80</sup> The introduction to the Decree, therefore, adds nothing doctrinally to what was said in the Constitution. However, it

---

<sup>79</sup> K. RAHNER, "Pastoral-Theological Observations on Episcopacy in the Teaching of Vatican II," in K. RAHNER, *Theological Investigations*, Vol. VI, p. 361

<sup>80</sup> K. MÖRSDORF, "Decree on the Bishop's Pastoral Office in the Church," in VORGRIMMER, Vol. II, p. 198. N. Jubany points to the tension that is reflected in *Christus Dominus*, a tension that is neither opposition nor antagonism, but the dialectic tension which exists because at a universal level the diocesan bishop has a responsibility for the whole Church without jurisdiction and at the same time having responsibility with jurisdiction at the diocesan level. Religious institutes exist in his diocese which are approved universally but their apostolate is local. Hence, there is a tension. See N. JUBANY, "Les religieux, collaborateurs du ministère pastoral des Evêques (Nos 33-35)," in W. ONCLIN, (ed.), *La charge pastorale des Evêques: Décret «Christus Dominus». Texte latin et trad. française*, (Unam Sanctam 74) [=US 74], Paris, Éditions du Cerf, 1969, pp. 299-302.

## THE PROXIMATE AND REMOTE CONTEXT

does serve to indicate the continuity between the Constitution and the Decree. But, as Mörsdorf later states, the Decree, with its emphasis on pastoral concerns, often neglects legal questions arising in the doctrinal, priestly, and pastoral spheres.<sup>81</sup> The Decree aims to be as brief and as concrete as possible. This brevity was one reason why the *motu proprio, Ecclesiae sanctae*, was issued soon after the Council.

Chapter one of the Decree considers the bishops in relation to the universal Church. The first section deals in general terms with the role of bishops in the Church universal. Article 6 returns to the theme mentioned in *Lumen gentium* 23, namely the responsibility of the bishops for the universal Church. Although the individual bishops possess no juridical competence or power relating to these duties, the Decree exhorts them to provide support for the work of evangelisation in regions where the Gospel is yet to be proclaimed or where, because of a lack of priests, the faithful are in danger of falling away from or losing the faith itself.

As an example, the Decree exhorts them to provide diocesan priests for this task. It states also that they should see that suitable auxiliary assistants, both religious and lay, are trained for the missions.<sup>82</sup> The sentence implies that the bishops simply provide educational programs for the training of such assistants. The Decree does not enter the problematical ground about the source of supply of these religious helpers.

In chapter two the focus of the Decree changes to the Bishops in relation to their own churches or dioceses. The Chapter is divided into three sections: 1) Diocesan Bishops (articles 11-21), 2) Diocesan Boundaries (articles 22-24), and 3) Those who Co-operate with the Diocesan Bishop in His Pastoral Task (articles 25-35). The last section of this chapter, articles 33-35, considers the relationship of the bishop to religious in his diocese.

---

<sup>81</sup> K. MÖRSDORF, "Decree on the Bishop's Pastoral Office in the Church," p. 231.

<sup>82</sup> "Insuper curare studeant ut apti praeparantur sacrorum administri necnon auxiliares tum religiosi tum laici pro missionibus atque regionibus cleri penuria laborantibus." CD 6, in *AAS*, 58 (1966), p. 676

## THE PROXIMATE AND REMOTE CONTEXT

Before the actual section concerning religious there are eight passing references to religious in sections one and two. Echoing *Lumen gentium* 45, the Decree, in article 15, states that bishops should be zealous in promoting the holy living of their clergy, religious, and laity according to each one's vocation. Article 16 asks them to treat priests, without specification of diocesan or religious, as sons and friends. The doctrinal basis for this solicitude occurs in article 28, where the Decree states:

All priests, whether diocesan or religious, share and exercise with the bishop the one priesthood of Christ. They are thus constituted providential cooperators of this episcopal order.<sup>83</sup>

While this is a doctrinal statement, it does not imply any jurisdiction of the bishop over the religious clergy, except in specific cases. This is treated later in the section on religious. As article 31 states, however, the right of religious superiors to nominate their own members was not abrogated with other rights of nomination and presentation. Yet, the free conferral of the office of parish priest by the bishop is not seen to be compromised by this retention.

An important principle occurs in article 17. Here the Decree states:

The various forms of the apostolate should be encouraged. Close collaboration and the coordination of all the apostolic works under the direction of the bishop should be promoted in the diocese as a whole or in parts of it. Thus all the undertakings and organisations, whether their object be catechetical, missionary, charitable, social, family, educational, or any other pastoral end, will act together in harmony, and the unity of the diocese will be more closely demonstrated.<sup>84</sup>

---

<sup>83</sup> "Omnes quidem presbyteri sive dioecesani sive religiosi, unum sacerdotium Christi cum Episcopo participant et exercent, ideoque Ordinis episcopalis providi cooperatores constituuntur." CD 28, in *AAS*, 58 (1966), p 687, English translation in *F-LINVERI*, p 580. Doctrinally, this simply repeats what was stated in LG arts. 20 and 21. However, Morsdorf points out that the language is unfortunate because there is another group of priests not covered by this division, namely the seculars, such as Vincentians, Columban missionaries or Scarborough missioners. While he concentrates on the inadequacy of the word "diocesan," it might also be said that the word "religious" could be viewed as equally inadequate. The post-conciliar use of "consecrated life" as the descriptor shows this. K. MORSDORF, "Decree on the Bishop's Pastoral Office in the Church," pp 255-256.

<sup>84</sup> "Variae foveantur apostolatus rationes atque in universa dioecesi, vel in eiusdem peculiaribus regionibus, omnium operum apostolatus, sub moderamine Episcopi, coordinatio atque intima coniunctio, qua quidem omnia incepta atque instituta, catechetica, missionalia, caritativa, socialia, familiaria, scholastica atque

## THE PROXIMATE AND REMOTE CONTEXT

The aim of this principle is twofold. The principle presumes that harmony within the pastoral work of the diocese will demonstrate the unity of the diocese. When the Decree returns to this principle in article 35, it shows that the Council fathers intended that religious be covered by the principle.

At this point it should be noted that there is no mention of exempt or non-exempt institutes, or indeed another division such as proper or entrusted works. It seems that the principle applies to all in order to emphasise the harmony and unity proposed for a diocese.<sup>85</sup> As Mörzdorf says:

Despite the differences in the kinds and forms of the apostolate there is actually only *one apostolate*, in which all members of the new people of God share in their own way. This is one in its efficacy not only because of the mission of all members of the Church, but because of the hierarchical structure of the new people of God despite the differences of service.<sup>86</sup>

The intent of the passage clearly presumes an extension of the principle to all the works of apostolate in the diocese. Even though no reference to liturgy occurs here, the title, "care of souls," presumes that such actions concerning the care of souls often involve liturgical rites.

Two further references to religious, which occur before the actual section concerning religious, point again to the pastoral nature of the Decree. These references also lead to the conclusion that the relationship between the diocesan bishop and religious cannot be reduced simply to a series of canonical prescriptions. The first of these occurs in article 23. Here, the organic unity of each diocese is described in terms of the principle just examined. Only this time it includes the words "properly directing

---

quaelibet alia finem pastorem persequentia, ad concordem redigantur actionem, qua simul clarius dioecesis unitas eluceat." CD 17, in *AAS*, 58 (1966), p. 681. English translation in *FLANNERY*, pp. 573-574.

<sup>85</sup> What occurs later in articles 33-35 for religious and as regards the laity in *Apostolicam actuositatem*, are limiting lines to the jurisdictional authority of the bishops. Yet, the intention of this principle does not diminish the responsibility of the bishop to seek harmony and unity even if he cannot employ canonical measures to achieve it.

<sup>86</sup> K. MÖRSDORF, "Decree on the Bishop's Pastoral Office in the Church," p. 235.

### THE PROXIMATE AND REMOTE CONTEXT

and coordinating all the works of the apostolate in the diocese” identifying the bishop himself as the agent of this direction and coordination. Besides the religious and lay people who are involved in some way in diocesan activities, the bishop is to know (*cognoscere*) his priests. The primary intent of the passage is not canonical. Rather, it is pastoral, implying a sense of sharing in the one apostolate. Article 27 contains the second reference, which also contains a pastoral motif. It exhorts the bishop to form a pastoral council in which priests, religious, and laity can examine under his presidency matters affecting pastoral activity in the diocese.

The section on religious begins in article 33 which exhorts all religious to labour zealously and diligently for the building up of the whole mystical body of Christ as well as for the wellbeing of the particular churches.<sup>87</sup> Because the exhortation begins with the spiritual life of each member, it is addressed to religious themselves and not to their congregations, institutes, and societies. Mörsdorf acknowledges that this is a frequent method employed in the law relating to religious, because it is precisely the special characteristic of these individuals that they wish to serve the Church within their communities.<sup>88</sup>

The exhortation then moves to the external action of these individuals. The last sentence in this article contains two phrases which are important in this work. The first is the “character proper to each form of religious life.”<sup>89</sup> As B. Sweeney points out, the word *indoles* is used extensively in Vatican Council documents.<sup>90</sup> The combination of *indoles* and *propria*, however, concerns us here. *Propria* is translated variously as

---

<sup>87</sup> This reference to the particular churches acknowledges that the religious life is lived out within and never absent from the members’ presence in a particular church.

<sup>88</sup> K. MÖRSDORF, “Decree on the Bishop’s Pastoral Office in the Church,” p. 266. Employing this method also allowed the conciliar fathers to distinguish between various works which are or may be undertaken by the members of an institute, whether they are proper or entrusted works, both of which have different canonical impacts. In not addressing its remarks to the Institutes the Degree remains aloof from the debate about overlapping jurisdictions involving superiors and bishops. See N. JUBANY, *US 74*, p. 306

<sup>89</sup> “... indolis uniuscuiusque Religionis propriae ...” CD 33, in *AAS*, 58 (1966), p. 690. English translation in *TAVNER*, P. 934.

<sup>90</sup> B. SWEENEY, *The Patrimony of an Institute in the Code of Canon Law. A Study of Canon 578*, Doctoral thesis, Rome, Pontifical University of St Thomas Aquinas, 1995, pp. 72-76.

## THE PROXIMATE AND REMOTE CONTEXT

“distinctive,” “special,” “own,” “particular,” or “proper.” Whatever the translation, the common element includes the notion of “not common with others.” *Lumen gentium* 44 echoes this reading when it says: “The distinctive character (*proprium indolem*) of various religious institutes is preserved and fostered by the Church.”<sup>91</sup>

*Indoles* is used extensively in *Perfectae caritatis* in combination with *propria*.<sup>92</sup> Sweeney’s survey of the literature leads him to state that “the character of an institute” relates to its personality which derives from its charism, purpose, apostolate, history, traditions, and structures.<sup>93</sup> Accordingly, in this article of *Christus Dominus*, the Decree instructs religious that their spiritual life and their undertakings in the apostolate are limited by the character of their institutes. That is to say, having established a relationship between the diocesan bishop and religious in his diocese, the Decree begins to set boundaries around that relationship. The first boundary is that one set by the personality of the institute itself. The life and work of religious should be such that it never puts the personality of the institute in danger.

*Externae apostolatus opera*, external works of the apostolate requires some discussion.. Mörسدorf makes the point that every activity of the religious always possesses an inward direction towards personal sanctification and an outward direction towards the sanctification of all.<sup>94</sup> This recalls the notion of the Church as a sanctifying People of God as stated in *Lumen gentium* 9. The Decree, however, states that these works must still reflect the character of the institute, the continual reference point of authenticity.<sup>95</sup>

<sup>91</sup> “Unde et Ecclesia propriam indolem variorum Institutorum religiosorum tuetur et fovet.” LG art. 44, in *AAS*, 57 (1965), p. 50, English translation in *FLANNERY*, p. 404.

<sup>92</sup> See PC arts 1, 2, 9, and 11

<sup>93</sup> B. SWEENEY, *The Patrimony of an Institute ...*, p. 74.

<sup>94</sup> K. MÖRSIDORF, “Degree on the Bishop’s Pastoral Office in the Church,” p. 266.

<sup>95</sup> Later in *Renovationis causam*, art. 5, the Sacred Congregation for Religious and Secular Institutes referred to the distinctiveness of each vocation when it said, “There is a diversity of gifts. Wherefore, each one must stand firm in the vocation to which he has been called, since the mission of those called to the religious state in the Church is one thing, the mission of secular Institutes is another thing; the temporal and apostolic mission of the laity not especially consecrated to God in an Institute, is quite another.” “Diversa sunt enim dona: qua de causa unusquisque vocationi sibi met ipsi attributae inhaereat; siquidem aliud est munus eorum, qui ad statum religiosum in Ecclesia sunt vocati, aliud munus Institutorum saecularium, aliud

## THE PROXIMATE AND REMOTE CONTEXT

With this principle in place the Decree turns, in article 34, to the relation between religious priests and other religious, men and women, and a diocese. Within this outer structure the Decree considers first the place of religious priests. The doctrinal principle of article 28, namely, that all priests share the one priesthood with the bishop, is taken further into the work of priests. The Decree states that religious priests can belong, in a genuine sense, to the clergy of the diocese. However, this is prefaced with a condition. The condition is not that they are "prudent cooperators with the episcopal order," but that they respond to the "pressing needs of souls." This apostolic notation further refines the principle found in article 28. The Decree likens religious clergy to diocesan clergy because of their participation in apostolic works under the authority of the bishops. Mörsdorf states that the Decree shows how the desire of the conciliar fathers links religious institutes and their members more closely to the diocese and to its bishop.<sup>96</sup>

The second part of article 34 affirms that other religious who are not priests, both men and women, belong in a special sense to the diocesan family. As stated previously, this sentence does not detract from their membership of institutes, but it emphasises that all religious live and work within a particular church. For this reason, their mission finds its concrete expression within the particular church. Yet, as N. Jubany says, the clause, "they can and should constantly increase the aid they give,"<sup>97</sup> should be understood not as an imperative but as an exhortation.<sup>98</sup>

---

denique munus temporale et apostolicum laicorum, qui peculiari ratione in aliquo Instituto Deo dicati non sunt." SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, *Instruction, Renovatiois causam*, 6 January 1969, art. 5, in *AAS*, 61 (1969), p. 109, English translation in *FLANNERY*, p. 641.

<sup>96</sup> The author argues that even if religious societies have priestly character, and a superior with quasi-episcopal powers, they are not particular churches. He states, "Hence, all religious societies belong essentially to a certain particular Church, however autonomous they may be." K. MÖRSDORF, "Decree on the Bishop's Pastoral Office in the Church," p. 267. Jubany points out that there is no confusion here even if the words "under the authority of the bishops *and of their superiors*" would have been preferable. As he states, the authority of the superior is regulated by the constitutions and concerns particularly the religious life itself, that of the bishop concerns the work of the apostolate and is ordered by the Code, as to its practical and concrete realisation. N. JUBANY, *US 74*, p. 311.

<sup>97</sup> "... magis magisque affere possunt ac debent." CD 34, in *AAS*, 58 (1966), p. 690, English translation in *FLANNERY*, p. 584.

<sup>98</sup> N. JUBANY, *US 74*, p. 311.

## THE PROXIMATE AND REMOTE CONTEXT

Articles 33 and 34 set the fundamental basis for the principles which follow in the six paragraphs of article 35. In the first section of the article the purpose or end of these principles is stated clearly. *Lumen gentium* 45 spoke of “unity and harmony in the carrying out of apostolic work.” In *Christus Dominus* 35 harmony between the works of the apostolate is still mentioned, but “unity” acquires a longer formulation as “unity of diocesan discipline be preserved intact.”<sup>99</sup> This addition adds to the continuing theme of coordination and cooperation by using the word, “discipline.” By employing this word, the Decree foresees the possibility that the diocesan bishop may use legal or quasi-legal measures used such as policies and agreements within the structure of particular law.

The first principle states that religious ought to support the initiatives and calls to them to work in the diocese by the diocesan bishop.<sup>100</sup> As successors of the Apostles and vicars of Christ the Head, the bishops possess ordinary, proper, and immediate power. Further, they are truly the prelates of the people entrusted to them.<sup>101</sup> For this reason all the faithful, including religious, owe them loyal respect and reverence.<sup>102</sup> With this basis in place, the article provides a framework within which the call and response can be made.

---

<sup>99</sup> “Ad hoc autem ut apostolatus opera in singulis dioecibus concorditer semper exerceantur atque unitas dioecesanæ disciplinae sarta tecta servetur, hæc principia fundamentalia statuuntur.” CD 35, in *AAS*, 58 (1966), p. 690. English translation in *FLANNERY*, p. 584

<sup>100</sup> N. JUBANY, *US* 74, p. 312.

<sup>101</sup> LG art. 27.

<sup>102</sup> Morsdorf translates *obsequio ac reverentia* as “devoted deference and reverence.” He then continues to explain that “religious owe reverence to every bishop but obedience only to his diocesan, and even in this case only within the limits imposed by conventual autonomy.” K. MORSDORF, “Decree on the Bishop’s Pastoral Office,” p. 268. *Obsequium* is not the same as *obedientia*. Obedience implies compliance to the authoritative position of another, the reduction to subjection. Obsequience implies the binding of conscience by truth. As DH I states, “Truth can impose itself on the mind of man only in virtue of its own truth, which wins over the mind with both gentleness and power.” In the present context, religious are called upon to assent to the truth that the bishops are successors of the Apostles and as such have pastoral charge of the People of God. The Decree itself proceeds to define limits about any subjection which might follow this truth. Again in LG art. 45 when the word “obedience” is used the delimiter “in accordance with canon law” is added.

## THE PROXIMATE AND REMOTE CONTEXT

The *textus emendatus* added the word *legitimate* to the *textus prior*.<sup>103</sup> This addition requires that the competent religious superior be consulted by a bishop when considering the employment of a member of an institute. Since the member of an institute is bound by obedience to his or her superior, the bishop enters into an agreement with the superior and not with the individual religious.

While the article expresses urgency (*prompte ac fideliter*) in the reply of religious to the call of the bishop to share in the ministry of salvation, it adds a further delimiter to those already encountered. The article mentions the character of the particular institute and its constitutions, speaking also of the possibility of adapting them for this purpose. As if to give an example of its intention, the Decree in the next paragraph mentions the urgent need of souls, the lack of diocesan clergy, non-contemplative institutes, the call by the bishop for help, the special character of the institute to be taken into account, and the willingness of Superiors to help even to the extent of assuming responsibility for a parish. This sentence provides a framework for the type of cooperation in mission between religious and the diocesan bishop. It involves a discernment of need, employment of available and special resources, and the preservation of the distinctiveness of the Spirit-given character of the various institutes. The delimiter included here is not necessarily negative but actually encourages the integration of ministries in any concrete situation.<sup>104</sup>

The second principle, presented in article 35 (2), states that religious engaged in the external apostolate should remain just that, religious. The statement of article 33 on the same matter is amplified here with what amounts to a threefold checklist for individual religious. These religious should be inspired by the spirit of their own institute. They should remain faithful to the observance of their own rule. They should be obedient to their superiors. Thus the Decree indicates the responsibility of the

---

<sup>103</sup> *Acta synodalia*, III-IV, p. 152

<sup>104</sup> Integration is to be contrasted with insertion. Whereas integration, by its nature, involves cooperation and discernment, insertion may imply a pushing aside, or making space, without reference to the overall unity and harmony of the host. Further, the Decree underlines again that the collaborative effort to meet the needs of the mission should not be circumvented either by bishops, on one side, or religious, on the other.

## THE PROXIMATE AND REMOTE CONTEXT

individual religious to play his or her part in the preservation of the charism of the founder as lived in the institute for the good of the Church.

Continuing the theme developed earlier, the Decree also states that the church, through the diocesan bishop, also possesses a responsibility to protect the individual's professed life and spirituality. Jubany sees this obligation as a concrete instance where the bishop exercises his responsibility to foster the sanctification of all the People of God as described in article 15 of the Decree.<sup>105</sup> What is lacking here, of course, is any explanation how the oversight of the three stipulations might be achieved. Rather, this sentence, a source of c. 586, §2, is left at the level of principle without any application.

The third principle, contained in *Christus Dominus* 35 (3), upholds the exemption of religious institutes from the jurisdiction of the diocesan bishop in certain situations.<sup>106</sup> Beginning with the word *exemptio*,<sup>107</sup> the paragraph describes exemption and the matter for exemption:

---

<sup>105</sup> N. JUBANY, *US* 74, p. 315. See also J. HAMER, "De munere Episcopi erga vitam religiosam," in *Commentarium pro religiosis et missionariis*, 67 (1986), pp. 136-139.

<sup>106</sup> *Christus Dominus* 35 (3) acts as a source for both c. 586, §1 and c. 591, while CD 35 (4) acts as a source also for c. 586, §1. The word "autonomy" is not used in either paragraph of the article. In fact "autonomy" is not used in any of the documents of the Vatican Council. That is not to say, though, that the concept was not present, even in the CIC/17 where it is understood by the words *sui iuris*. However, in the situation of Vatican II, the concept had not developed enough to be used in reference to all institutes and congregations of religious life and societies of apostolic life and secular institutes. Therefore, the following conclusion by Hannan appears a little premature. She says, "*Lumen gentium* has shown that the autonomy of religious institutes comes not just from dependence on the pope, but also from the nature of religious life, essential to the life and holiness of the Church." P. HANNAN, *The Apostolate of Women Religious* ..., p. 44. To describe autonomy flowing from the nature of religious life at the time of the Council appears to discount the development of the concept itself in later years. At the time of the Council, the two concepts of exemption and autonomy are not distinct enough to be separated. Hence, CD 35 (3) becomes a source for both canons at the time of writing the Code.

<sup>107</sup> T. LINNEN, p. 935, FLINNERY, p. 585, and ABBOTT, p. 422, all translate *exemptio* as "the privilege of exemption." This is to add a presumption to the text, namely, that exemption is a privilege. The CIC/17 certainly saw the mechanism which delivered the juridical reality of exemption as a privilege, see c. 613. And so, F. Geser, for example, states, "Exemption means the privilege by which an individual or a community or a place is withdrawn from the authority of the immediate superior (except in matters expressly mentioned in canon law) and is put directly under the authority of a higher superior (generally the Holy See) or his representative." See F. GESER, *The Canon Law Governing Communities of Sisters*, St. Louis, B. Herder Book Co., 1953, pp. 310-311. Others, such as A. Boni, argue that exemption flows from the nature of religious institutes and even of their apostolic activity in the Church. A. BONI, *I religiosi nella dottrina del concilio ecumenico Vaticano II*, Rome, Pontificio Ateneo Antoniano, 1966, pp. 86-103. Certainly, as Jubany points out, the conciliar documents refrain from the qualification of exemption as privilege. N. JUBANY, *US*

## THE PROXIMATE AND REMOTE CONTEXT

Exemption, by which religious are reserved to the control of the Supreme Pontiff, or of some other ecclesiastical authority, and are removed from the jurisdiction of bishops, relates primarily to the internal order of institutes ....<sup>108</sup>

It is clear from this description that exemption does not mean independence. At all times the exempt are subject to the Supreme Pontiff or some other ecclesiastical authority that he may appoint. Doctrinally, this illustrates the primacy of the Supreme Pontiff. Meanwhile, the footnotes in the Decree refer to the Apostolic Constitution, *Romanos Pontifices* of Leo XIII, the allocution, *Annis sacer* of Pius XII, and the allocution of 23 May 1964 by Paul VI. In each case, the popes state that the removal from the jurisdiction of the local bishop does not mean a complete independence from him.<sup>109</sup>

The problem raised in the text occurs with the reiteration of Leo XIII's word, *potissimum*. As Jubany indicates, the word means "principally," but it also implies "not exclusively."<sup>110</sup> The problem remains how to determine exactly what are matters relating to the internal organisation of an institute and which external matters are still subject to exemption.

Part of the problem occurs because the canonical context in which the word has been used has changed. Before the CIC 17 was promulgated, Leo XIII, in 1881, made reference to the nonsystematic "common law," then the *ius vigens*, when speaking about

74, p. 316. However, it can also be noted that there are two juridic realities contained here. The first is exemption, which is indeed a privilege, and flows from, among other things, the geographical extension of an institute. To avoid conflicts between institutes and various bishops the Holy See may grant them the status of pontifical right. See LEO XIII, Apostolic Constitution, *Condita a Christo*, 8 December 1900, in *AAS*, 33 (1900-1901), pp. 341-347. Further, to facilitate their mission, they may be exempted. However, even a diocesan right institute, in virtue of the gift of the Spirit given to the founder, and recognised by the Church, possesses an inner autonomy which allows the institute to proceed within the limits of its Constitutions, following the principle of subsidiarity. Yet, it would make no sense to go further and to exempt a diocesan right institute from the jurisdiction of the diocesan bishop.

<sup>108</sup> "Exemptio, qua Religiosi ad Summum Pontificem vel ad aliam ecclesiasticam Auctoritatem advocantur et ab Episcoporum iurisdictione subducuntur, ordinem Institutorum internum potissimum respicit, ..." CD 35 (3), in *AAS*, 58 (1966), p. 691.

<sup>109</sup> LEO XIII, Apostolic Constitution, *Romanos Pontifices*, 8 May 1881, in *Acta Leonis XIII*, Vol. 2, 1882, p. 234. PIUS XII, Allocution, *Annis sacer*, 8 December 1950, in *AAS*, 43 (1951), p. 28. PAUL VI, Allocution, 23 May 1964, in *AAS*, 56 (1964), pp. 570-571.

<sup>110</sup> N. JUBANY, *US* 74, p. 317.

## THE PROXIMATE AND REMOTE CONTEXT

the relationship which brought religious under the jurisdiction of the diocesan bishop. When Pius XII mentions of the *Code of Canon Law*, he spoke of religious orders being subject to the authority of local bishops in so far as the exercise of the episcopal ministry and the proper organisation of the care of souls requires it as outlined in CIC 17.<sup>111</sup> Yet, the Decree uses the same wording. The problem here is that it looks as though the determination is partially subjective on the part of the bishop rather than totally objective. Paul VI employs a more objective criterion. He states:

Religious institutes ought to be at the disposition of the Roman Pontiff in their works which concern the good of the universal Church. But in that which concerns the exercise of the apostolate in the different dioceses, religious are equally subject to the jurisdiction of the bishops.<sup>112</sup>

The problem remained unresolved as to precisely the matter that is exempted. The reference in the Decree to *ad normam iuris* provides the possibility of an answer. Since a new Code of Canon Law was envisaged at the time of the Council, the determination of the matter of exemption was left to be determined by the norms of the revised Code.

The Decree continues then to describe the purpose of exemption. On the one hand, the purpose attends to the internal life of the institutes. So that the perfection of religious life can be promoted, institutes must be arranged suitably and harmoniously. On the other hand, exemption also possesses a purpose external to institutes. The Supreme Pontiff may employ these institutes for the good of the universal Church. The question arises whether once employed in a particular church, the religious also become subject to the diocesan bishop. The next part of the article, 35 (4), answers this question.

Article 35 (4) addresses exempt and non-exempt alike. This fourth principle lists those cases where all religious are subject to the local bishop. The Decree uses the

---

<sup>111</sup> PIUS XII, Allocution, *Annis sacer*, 8 December 1950, in *AAS*, 43 (1951), p. 28.

<sup>112</sup> "Instituta religiosa igitur praesto sunt Romano Pontifici in iis operibus, quae ad bonum Ecclesiae universae pertinet. Quod autem attinet ad sacri apostolatus exercitium in variis dioecesibus, religiosi sodales subsunt etiam Episcoporum iurisdictioni, quibus auxilium praebere tenentur, salva semper apostolatus natura ipsorum propria et vitae religiosae necessitatibus." PAUL VI, Allocution, 23 May 1964, in *AAS*, 56 (1964), pp. 570-571.

## THE PROXIMATE AND REMOTE CONTEXT

pastoral good of the faithful other than the religious concerned as a line of separation between those matters which are subject and those which are not subject to his jurisdiction.<sup>113</sup> The Decree mentions ten types of work.<sup>114</sup> While the list is much more specific than the list of items stated in 35 (3), the more important feature is that it is addressed to exempt and non-exempt alike.<sup>115</sup> While the Supreme Pontiff could exempt some institutes from the jurisdiction of bishops in these matters, the Decree implicitly acknowledges the practice of the popes of this century to act with and through the bishops.<sup>116</sup> For this reason, the Decree adds at the end of this paragraph the obligatory nature of the prescriptions of episcopal conferences and councils.

The fifth and final principle turns on the collaboration necessary in the works of the apostolate. Articles 35 (5) and 35 (6) call for collaborative relationships between the religious institutes themselves, between religious institutes and diocesan clergy, between episcopal conferences and religious superiors or conferences of major superiors. The

---

<sup>113</sup> Jubany states that the good of the faithful is the line of separation between that which is proper to religious and that which ought to be adapted to the prescriptions of the local bishop. N. JUBANY, *US* 74, pp. 319-320. This terminology becomes somewhat difficult when it uses the words "propre aux religieux." Many proper works entail the good of the faithful, for example hospitals and schools. For harmony and good order in the diocese it would seem that a case can be made for these to be subject generally to the prescriptions of the local bishop.

<sup>114</sup> "Omnes Religiosi, exempti et non exempti, Ordinariorum locorum potestati subsunt in iis quae ad publicum exercitium cultus divini, salva quidem Rituum diversitate, ad curam animarum, ad sacram praedicationem populo tradendam, ad christifidelium, praesertim puerorum, religiosam et moralem educationem, catechetica institutionem et liturgicam efformationem atque ad status clericalis decorum spectant necnon ad varia opera in iis quae sacri apostolatus exercitium respiciunt." CD 35 (4), in *AAS*, 58 (1966), p. 691. For a discussion of the meanings of each of these items, see N. JUBANY, *US* 74, pp. 318-324.

<sup>115</sup> While this collectivising was not new given that the CIC/17 made all religious subject to the diocesan bishop in matters of the apostolate, see cc. 630-631, there is even more levelling between exempt and non-exempt religious. The Rescript, *Cum admotae*, 6 November 1964, gave faculties to non-exempt superiors general of Pontifical Clerical Religious Institutes and Abbots President of Monastic Congregations which had belonged previously only to exempt Orders. See SECRETARIAT OF STATE, Rescript, *Cum admotae*, 6 November 1964, in *AAS*, 59 (1967), pp. 574-578. See also SACRED CONGREGATION FOR RELIGIOUS, Rescript, *Religionum laicalium*, 31 May 1966, in *AAS*, 59 (1967), pp. 362-364.

<sup>116</sup> L. GUTIERREZ MARTIN, "De ratione episcopos inter et religiosos iuxta Concilium Vaticanum II," in *Commentarium pro religiosis et missionariis*, 47 (1966), pp. 133-134. As there is a lessening of the differentiation between exempt and non-exempt religious institutes, so the doctrinal principle of a communion of Churches means that the diocesan bishops do not act as delegates of the Pope but in their own right. Hence, faculties once held by the Holy See were imparted to the bishops by *Pastorale munus*. See PAUL VI, Motu proprio, *Pastorale munus*, 30 November 1963, in *AAS*, 56 (1964), pp. 5ff.

## THE PROXIMATE AND REMOTE CONTEXT

Decree describes the motivation for these relationships as “a supernatural attitude of heart and mind grounded on charity.”<sup>117</sup>

Although it does have juridical consequences, the Decree, *Christus Dominus*, is a pastoral document. When the Decree considers the relationship between the diocesan bishop and religious, its concern is foremost a pastoral concern, although, again, there are legal consequences. The Decree continues with the theology of *Lumen gentium* and states that the diocesan bishop is the source of unity for the mission of the Church in his diocese and that he possesses, by right, all power for that task. Religious become collaborators with him in the mission, the one apostolate, of the local church. Whether they are exempt or non-exempt, they are subject to him in matters of the apostolate, which may include works which are proper to them, because of the demand for good order and unity in the mission of the diocese. *Christus Dominus* is not clear, however, on the nature and extent of religious autonomy. The first glimmers of its origin were seen in *Lumen gentium* in the necessary diversity of charisms in the Church. How this applies to religious institutes and their mission and apostolate has not been enunciated clearly in *Christus Dominus*. *Perfectae caritatis* brings a further refinement.

### 1.3.3 *Perfectae caritatis*

Of the sixteen documents issuing from the Second Vatican Council, *Perfectae caritatis* is one of five decrees presented on 28 October 1965. While better known by its *incipit*, this decree is properly titled *Decretum de accommodata renovatione vitae religiosae*. English translators have given the adjective, *accommodata*, a variety of meanings, but in each case the translation has sought to express the content of the

---

<sup>117</sup> “... a supernaturali animorum et mentium habitu, in caritate radicato et fundato.” CD 35 (5), in *AAS*, 58 (1966), p. 692. English translation in *FLANNERY*, p. 585

## THE PROXIMATE AND REMOTE CONTEXT

decree.<sup>118</sup> This content mandates a renewal of and an adaptation for all aspects of consecrated life while urging fidelity to the fundamentals or essential elements.<sup>119</sup>

Article 2 sets down principles regarding the two aspects of restoration and adaptation. The introduction to the principles mentions a constant return to the source of the whole of Christian life. The first principle occurs in 2 (a), namely that the following of Christ, *sequela Christi*, holds the Gospel as its supreme rule. Second, it mentions the primitive inspiration of the institute. So 2 (b) refers to the distinguishing characteristics and functions as seen through the mind of the founder and the sound traditions which constitute the patrimony of the institute. Third, the introduction alludes to the adaptation to the changed conditions of our time. So, 2 (c) and (d) mandate a knowledge of the Church, its teaching and practices, and an understanding of the world in which an institute now finds itself. Finally, 2(e) sees the basis of any institutional renewal as accompanied by a spiritual renewal in the members of the institute.

Thus the renewal becomes a balance between preserving the tradition handed down and adapting to modern circumstances.<sup>120</sup> Still religious institutes make their renewal within the framework of the Church. Hence, at various points, the Decree alludes to the bishops.

---

<sup>118</sup> Flannery translates *accomodata* as "up-to-date." *FLANNERY*, p. 611. Tanner uses the word "sensitive." *TANNER*, p. 939. The NCWC Translation employs an English noun, "adaption," for the Latin adjective. *NCWC*, p. 297. Abbott most remains faithful to the Latin. Here the translation is "appropriate." *ABBOTT*, p. 466.

<sup>119</sup> "Nunc vero, de vita ac disciplina institutorum, quorum sodales castitatem, paupertatem et oboedientiam profitentur, intendit agere eorumque necessitatibus, prout tempora nostra suadent, providere." PC art. 1, in *AAS*, 58 (1966), p. 702. Tillard makes the point that the renewal involves two elements, restoration and adaptation. He maintains that restoration alone would take institutes out of the present age and attempt to take them back to a way of life which has no relevance today. If the renewal was only about presenting an entire new face for the institute then there is the danger of losing not just the founding Spirit-given charism, but also the legitimate and worthwhile tradition that the institute has assimilated. See J.-M.-R. TILLARD, "Les grandes lois de la rénovation de la vie religieuse," in J.-M.-R. TILLARD, (ed.) *L'adaptation et la rénovation de la vie religieuse: décret "Perfectae caritatis."* Texte latin et trad. Française par J.-M.-R. Tillard, *Unam Sanctam*, 62, Paris, Éditions du Cerf, 1968, pp. 101-109.

<sup>120</sup> See P. BOUCHET, "La hiérarchie et l'apostolat des religieux," in *Revue de droit canonique*, 18 (1968), pp. 108-109.

## THE PROXIMATE AND REMOTE CONTEXT

A short decree of twenty five articles, *Perfectae caritatis* refers to the local hierarchy explicitly or implicitly on seven occasions. Having called for a revision of constitutions, rules, books of customs, of prayers, of ceremonies, and the like, the Decree states that the general chapter is the usual authority to achieve this revision “unless, according to canon law, some approval is necessary from the Holy See or the local Ordinary.”<sup>121</sup> The Decree is noting here the authority of the diocesan bishop in regard to institutes of diocesan right.

In article 6, the Decree reminds those who profess the evangelical counsels of the first law of following Christ, namely the law of love. While the Decree states that they find their nourishment in “divine law and the sacred altar,” it continues “let them reverence and love their shepherds (*pastores*) in a filial spirit.”<sup>122</sup> The Decree demonstrates by this reference an underlying theme that religious life is always lived out in a particular church. There can be no sense in which an individual or institute becomes completely separated from all relationship with the bishop of the place in which they live and/or minister.<sup>123</sup>

Article 19 considers the approval of new foundations, a theme already mentioned in LG 45. The article is not directly addressed to any group. Yet, as the hierarchy have the duty of approval, it seems that the article is best addressed to them. It says:

When it is proposed to found new religious institutes the question must be seriously pondered, whether they are necessary, or even useful, and whether it will be possible for them to increase. Otherwise, institutes may be imprudently brought into being which are useless or lacking in sufficient resources. In areas where the Church has recently been established particular attention should be

<sup>121</sup> “... approbatione Sanctae Sedis aut Ordinariorum locorum, ad normam iuris.” PC art. 4, in *AAS*, 58 (1966), p. 704, English translation in *TANNER*, p. 940.

<sup>122</sup> “Ita in mensa divinae Legis et sacri altaris refecti Christi membra fraterne ament, pastores spiritu filiali reverentur atque diligant; magis magisque vivant et sentiant cum Ecclesia eiusque missioni totaliter se devoveant.” PC art. 6 in *AAS*, 58 (1966), p. 705, English translation in *FLANNERY*, p. 615. *TANNER*, p. 941, translates the key phrase as, “they love their shepherds with the reverence of sons and daughters.” While not entirely accurate, there is not a great deal of difference in meaning between “filial” and “brothers and sisters.”

<sup>123</sup> Cardinal Sodano made considerable reference to *sentire cum ecclesia* in his *disceptatio* to the 1994 Synod. See *L'Osservatore romano*, n. 46, 16 November 1994, p. 8. In the present context, the phrase may be read to speak of identity with the local church and its mission.

## THE PROXIMATE AND REMOTE CONTEXT

paid to the promotion and cultivation of forms of religious life which take into account the character and way of life of the inhabitants, and the local customs and conditions.<sup>124</sup>

The Decree specifies four conditions for a new foundation. Necessity, utility, potential to increase, and sufficient resources require investigation and discernment on the part of founder(s) and the local bishop. The conciliar fathers recommended against any superficial or superfluous new foundation. Given what has gone before in this document concerning formation and spirituality, the word, “resources,” may not be an exact translation of *vigor*. The text implies more than financial resources, although these are obviously important. The implication of *vigor* goes to the spirit of an institute. So one may conclude that the hierarchy exercises some authoritative power of approval over the spirit of a potential institute.

Objectively, the last sentence emphasises particularity. While this part of the Decree is addressed to newly founded churches, the Decree emphasises that religious life may vary in form depending on cultural circumstances. Implicit in this emphasis is the presumption of the universality and adaptability of the Gospel message, especially the applicability of the radical following of Christ according to the three evangelical counsels. One wonders why the advice is offered only to those *in novellis ecclesiis*. Culture is a living, not a static, reality. Therefore, it would seem that this advice could also apply to established churches.

Article 20, addresses religious foundations. A familiar theme is repeated here, namely, that religious foundations must be faithful to their proper works. These are defined in the constitutions which the competent authority has approved. The following sentence employs an important “and” when it says, “Further mindful of what is useful for

---

<sup>124</sup> “In novis institutis condendis, necessitas vel saltem magna utilitas necnon incrementi possibilitas serio ponderandae sunt, ne incaute oriantur instituta inutilia aut sufficienti vigore non praedita. Peculiari ratione in novellis Ecclesiis formae vitae religiosae promoveantur et excolantur quae indolis morumque incolarum necnon loci consuetudinum et condicionum rationem habeant.” PC art. 19, in *AAS*, 58 (1966), p. 711. English translation in *FLANNERY*, pp. 621-622.

### THE PROXIMATE AND REMOTE CONTEXT

the universal church and for the dioceses, they should adapt their ministry to the needs of time and place."<sup>125</sup> Two principles are at work here. Fidelity to the foundation and its adaptability to present circumstances comprise one principle of the renewal. The other echoes again the theme that no institute is wholly independent of the particular church. The Decree makes no distinctions or exceptions saying, in effect, that the concrete grounding of any institute takes place in a particular church and that this will affect the form of the institute.

Despite the call for renewal, the Decree recognises that, because some institutes and monasteries may be incapable of any increase in the future, they must consider closure or amalgamation. The Decree again does not leave this matter of closure to either the Holy See or to the institute itself. Before forbidding any more novices being accepted into the institute, article 21 requires the consent of the Holy See and the opinion of the local ordinaries. So, again, the principle of grounding of all institutes in a particular church comes to the fore. With the matters concerning foundation, continuance, and now cessation, or amalgamation, the Decree envisages that the diocesan bishop is part of these processes to varying degrees. Some are legislative, others are consultative.

One such consultative process is mentioned in article 23 and concerns the activity of institutes in the apostolate. The Decree envisages consultative conferences of major superiors working with conferences of bishops in matters of common concern where the work of the apostolate has been established and arranged in agreement with the conferences of bishops. Article 24 contains similar advice regarding the promotion of vocations to the religious life. Promotors are to respect the principles laid down by the Holy See and the local bishop.

---

<sup>125</sup>.. *attenta utilitate universae Ecclesiae et dioecesium, temporum locorum necessitatibus ea accommodent, ...*" PC art. 20, in *AAS*, 58 (1966), p. 711, English translation in *FLANNERY*, p. 622. *TANNER*, p. 946, translates this passage as "they must further the good of dioceses and the whole church by developing them for the service of the local church's present requirements." This translation is not wholly warranted by the original Latin. Tanner changes the subjunctive Latin verb, rendering it in English as an imperative.

## THE PROXIMATE AND REMOTE CONTEXT

*Perfectae caritatis* followed and amplified the themes announced by *Lumen gentium*. It firmly established two principles. First, no institute can consider its beginning, life, and cessation in a way that is isolated from the diocesan bishop. That is to say, even at the level of existence, institutes reside always in a relationship with the particular church. Second, the nature of that relationship becomes the common concern of both the institute and the particular church in view of the mission of the Church and its expression in various apostolates.

### 1.3.4 *Ad gentes*

The Decree on the Church's Missionary Activity, *Ad gentes*, was one of the last four documents to be promulgated by the Vatican Council II.<sup>126</sup> Given that the history of the Church's missionary activity is also a history of involvement by religious institutes, the conciliar fathers thereby were drawn to consider the relationship between bishops and religious institutes. The Decree places the relationship in a context where the vision is that of a Church at work. The relationship between bishops and religious institutes becomes a means-to-end relationship within the context of a living Church.

*Ad gentes* begins with the statement that Church is, by its very nature, missionary.<sup>127</sup> In article 19 the Decree describes the purpose of the Church's missionary activity when it says:

This work of implanting the Church in a particular human community reaches a definite point when the assembly of the faithful, already rooted in the social life of the people and to some extent conformed to its culture, enjoys a certain stability and permanence: when it has its own priests, although insufficient, its own religious and laity, and possesses those ministries and institutions which are required for leading and spreading the life of the people of God under the leadership of their own bishop.<sup>128</sup>

<sup>126</sup> On 7 December 1965, Paul VI promulgated the Declaration on Religious Liberty, *Dignitatis humanae*, the Decree on the Ministry and Life of Priests, *Presbyterorum ordinis*, the Pastoral Constitution on the Church in the Modern World, *Gaudium et spes*, and the Decree on the Church's Missionary Activity, *Ad gentes*.

<sup>127</sup> AG arts. 2 and 6.

<sup>128</sup> "Opus plantationis Ecclesiae in determinato hominum coetu certam attingit metam, cum congregatio fidelium, in sociali vita iam radicata culturaeque loci aliquatenus conformata, quadam stabilitate et firmitate

## THE PROXIMATE AND REMOTE CONTEXT

Clearly, the Decree does not see conversion to an unstructured Christianity as an end. Rather the establishment of particular churches and their structures becomes the purpose of all missionary activity.

Quoting from *Lumen gentium* 4, article 4 reiterates the oneness in communion and ministry through the work of the Holy Spirit, who imparts the different hierarchical and charismatic gifts “giving life to ecclesiastical structures, being as it were their soul.”<sup>129</sup> Under the leadership of Peter’s successor, with the prayers and cooperation of the whole Church, and despite changing circumstances, the task of the bishops remains the same, namely, to establish the Church in its fullness.<sup>130</sup> Thus the Decree sets the bishop as the focal point of unity in this activity.

The Decree acknowledges that to have all the characteristics of Christ’s Church, the new, developing church must foster and nourish religious life.<sup>131</sup> These religious institutes are “deeply imbued with those mystical graces which are part of the Church’s religious tradition.”<sup>132</sup> Article 23 testifies to the work of the Spirit in giving individuals and institutes gifts to take on the duty of evangelisation. But the Decree mandates episcopal conferences to prevent congregations which pursue the same apostolic ends being multiplied, “with consequent damage to the religious life and the apostolate.”<sup>133</sup> So the relationship between the bishops and religious institutes is at first pastoral and

---

fruitur propria nempe, etsi insufficienti, instructa copia localium sacerdotum, religiosorum et laicorum, iis ministeriis et institutis ditatur quae ad vitam populi Dei sub ductu Episcopi proprii ducendam ac dilatandam necessaria sunt” AG art. 19, in *AAS*, 58 (1966), p. 969. English translation in *FLANNERY*, p. 835. See S. BRECHTER, “Decree on the Church’s Missionary Activity,” in H. VORGRIMLER, (ed.), *Commentary on the Documents of Vatican II*, New York, Herder and Herder, 1967-1969, Vol. IV, p. 145.

<sup>129</sup> “... ecclesiastica instituta quasi anima eorum vivificando ...” AG art. 4, in *AAS*, 58 (1966), p. 951. English translation in *FLANNERY*, p. 817.

<sup>130</sup> AG art. 6.

<sup>131</sup> AG art. 15.

<sup>132</sup> “Instituta religiosa, plantationi Ecclesiae adlaborantia, mysticis divitiis, quibus traditio religiosa Ecclesiae insignitur, penitus imbuta, ...” AG art. 18, in *AAS*, 58 (1966), p. 968. English translation in *FLANNERY*, p. 834.

<sup>133</sup> “Attamen Episcopi in Conferentia videant ne Congregationes eundem finem apostolicum prosequentes, multiplicentur cum detrimento vitae religiosae et apostolatus.” AG art. 18, in *AAS*, 58 (1966), p. 969. English translation in *FLANNERY*, p. 834.

## THE PROXIMATE AND REMOTE CONTEXT

then juridical. The Decree envisages that those entrusted with episcopal office in the Church possess the power to regulate the charismatic gift of religious life given to the Church by the Holy Spirit. The Decree sees no possibility that a separate and autonomous “religious church” could exist within the Church.

In article 20, the Decree exhorts religious to “be on fire with the same zeal” as the bishop. In acknowledging that zeal, the Decree recalls the history of evangelisation carried out by institutes. It goes further to state that experience teaches that the missionary task cannot be carried out by individuals acting alone. Rather a common vocation gathers them into institutes where they combine their strength, are properly trained, and they can carry out this work in the name of the Church and under the direction of the hierarchy.<sup>134</sup> The Decree also implies that the bishop contributes to the life of the missionaries by gathering them together, with the cooperation of their superiors, “that they might be strengthened in the hope of their calling and renewed in the apostolic ministry.”<sup>135</sup> While this can be seen as part of the responsibility of the bishop which flows from his office as sanctifier, the Decree, in article 30, also exhorts him to welcome religious to pastoral counsels, which facilitate his office of governance. Also in article 30, the Decree leaves no doubt as to the role of the bishop in the authority structure of the apostolate when it says:

It is the responsibility of the bishop, as the head of the diocesan apostolate and center of unity, to promote missionary activity, guide and coordinate it, so that the spontaneous zeal of those who engage in this work may be safeguarded and fostered. All missionaries, even exempt religious, are subject to his authority in all the various activities which have to do with the exercise of the sacred apostolate.<sup>136</sup>

---

<sup>134</sup> AG art. 27.

<sup>135</sup> “Ordinarii vero et Superiores statutis temporibus missionarios coadunent, ut spe vocationis roborentur et in ministerio apostolico innoventur. etiam institutis ad hoc aptis domibus” AG art. 24, in *AAS*, 58 (1966), p. 976, English translation in *FLANNERY*, pp. 841-842.

<sup>136</sup> “Episcopi est, uti rectoris et centri unitatis in apostolatu dioecesano, activitatem missionalem promovere, moderari et coordinare, ita tamen ut spontanea navitas eorum qui in opere partem habent, servetur et foveatur. Omnes missionarii, etiam religiosi exempti, eiusdem potestati subsunt in variis operibus, quae sacri apostolatus exercitium respiciunt” AG art. 30, in *AAS*, 58 (1966), p. 981, English translation in *FLANNERY*, p. 847.

## THE PROXIMATE AND REMOTE CONTEXT

This is consistent with the norms applying to whole Church from *Christus Dominus* 35 (4), a passage which the Decree quotes.

In article 32 the Decree suggests a practical modality to facilitate the coordination of all missionary activity. It suggests the drawing up of contracts between the bishop and the head of the institute. Such a suggestion shows that the juridical relationship regarding the apostolate exists between the bishop and the superior of the institute, not between the bishop and individual members of the institute.

Having mandated an institute to care for a certain territory on its road to the status of particular church, the Decree then speaks of a further level of cooperation and coordination required when the mandate expires. The Decree states that there is a further collaborative effort involving the bishops conferences of the region, local ordinaries, and religious superiors with the Holy See, which will set guidelines.

Recognising the changing nature of the relationship within the communion of churches over time, the Decree then continues to foresee a moment when the missionary Church becomes a missioner church, providing personnel for other places. The Decree refers again to the care of the bishop for the universal church. In article 38 the Decree states:

All bishops, as members of the body of bishops which succeeds the apostles, are concerned not for one diocese alone, but for the salvation of the whole world.<sup>137</sup>

To put this reality into effect the Decree reminds the bishops to exhort diocesan right congregations to send members to the missions, to permit diocesan priests to go to work in the mission areas of the Church, and to promote the pontifical works for the missions among the people of his diocese. The Decree does not mention here institutes of pontifical right. They are not subject, however, to the local bishop or even to the

---

<sup>137</sup> "Episcopi omnes, ut membra corporis Episcoporum Collegio Apostolorum succedentis, non solum pro aliqua dioecesi, sed pro totius mundi salute consecrati sunt." AG art. 38, in *AAS*, 58 (1966), pp. 984-985. English translation in *FLANNERY*, p. 851.

## THE PROXIMATE AND REMOTE CONTEXT

episcopal conference regarding the disposition of their personnel. Presumably, also, institutes of pontifical right are already missioned in the Church universal.

The tone of the Decree is one of unity. While accepting that there is a diversity of gifts, the Decree exhorts all to harmonious living. In accepting that institutes will exercise these gifts, the Decree places that exercise under the direction of the local bishop. It is he who shares his responsibility with others, and it is he who has a pastoral duty of care for those who assist him. *Ad gentes* gives a sense of a dynamic mission which is not present so clearly in *Lumen gentium* and *Christus Dominus*. The latter two documents make more references to the universal Church than to the particular. But, in *Ad gentes* one finds a more concrete and pragmatic approach to identifiable realities. This marks a movement in the conciliar treatment of the relationship between religious and the bishops. *Ad gentes*, more than the other conciliar documents, considers the authority-relationship in terms of collaboration, rather than subjection, without losing sight of the authority of the bishop in the work of the apostolate.

*Christus Dominus*, *Perfectae caritatis*, and *Ad gentes* build upon the foundation of *Lumen gentium* regarding religious life in the Church in the following ways:

1. *Christus Dominus* assures religious that they have a special place in the diocesan family. For religious concretely express their religious life in the diocese.
2. *Christus Dominus* gives the duty of ensuring pastoral harmony and unity in the pastoral effort to the bishop. The Decree grounds this duty in the bishop's ordinary, proper, and immediate power of sanctifying, teaching, and governing.
3. While the privilege of exemption continues to exist, *Christus Dominus* addresses exempt and non-exempt institutes alike in reference to the pastoral ministry, which falls under the authority of the local bishop. So the diocesan bishop lives with a healthy tension. On the one hand, he seeks to satisfy the needs of his diocese, while, on the other hand, he respects and promotes the uniqueness in each manifestation of religious life.
4. *Perfectae caritatis* affirms the validity of the diversity in religious life based on the inspiration of their various founders and worthwhile traditions. Such diversity

## THE PROXIMATE AND REMOTE CONTEXT

necessitates collaboration in the mission of the Church. So *Perfectae caritatis* repeats the terms of the tension mentioned above when it requires that religious remain faithful to their original calling, while adapting to present needs and circumstances.

5. *Ad gentes* places these tensions within the dynamic of the living church. It contributes to the understanding of the relationship between the diocesan bishop and religious by changing the relationship from a strictly vertical authority-subject relationship to a more horizontal one based on a common commitment to mission. Aspects of the vertical remain, to be sure, but this Decree also exhorts both bishops and religious to collaborate, to talk and work together, to express mutual concern for the mission of the particular church and the Church universal.

### 1.4 Post-conciliar Documents

#### 1.4.1 *Ecclesiae sanctae*

On 6 August 1966, Pope Paul VI promulgated the *motu proprio*, *Ecclesiae sanctae*. The Pope used this document to issue norms implementing the conciliar decrees, *Christus Dominus*, *Presbyterorum ordinis*, *Perfectae caritatis*, and *Ad gentes*. The work of the post-conciliar commissions, the norms took effect from 11 October 1966. Pope Paul VI intended that they were to remain in effect until the promulgation of the new Code of Canon Law.<sup>138</sup>

The document considers the relationship between bishops and religious in its first part dealing with the application of the decrees, *Christus Dominus* and *Presbyterorum ordinis*. The commission produced four texts before they delivered the final document to the Pope for promulgation.<sup>139</sup> The source of the text is not only the conciliar decrees but also the text of *De cura animarum*, which did not survive as a schema in the formulation of *Christus Dominus*.<sup>140</sup> The final text follows the order of the articles in *Christus*

<sup>138</sup> PAUL VI, *Motu proprio, Ecclesiae sanctae*, in *AAS*, 58 (1966), pp. 757-758.

<sup>139</sup> L. GUTIERREZ MARTIN, "Criteria practica ad rationes inter episcopos et religiosos componendas," in *Commentarium pro religiosi et missionarius*, 48 (1967), pp. 19-21.

<sup>140</sup> J.-M.-R. TILLARD, "Relations entre hiérarchie et supérieurs majeurs d'après les directives du Concile Vatican II," in *Nouvelle Revue Théologique*, 99 (1967), p. 569.

## THE PROXIMATE AND REMOTE CONTEXT

*Dominus*, attaching references to *Presbyterorum ordinis* as they occur.<sup>141</sup> As this order is somewhat cumbersome, we have adopted Mörsdorf's treatment of the material in our consideration of *Ecclesiae sanctae* I, 22-40.<sup>142</sup>

Before this section on religious, there are other references which concern the relationship between the bishop and religious in his diocese. *Ecclesiae sanctae* I, 14 deals with the new office of episcopal vicar set down in *Christus Dominus* 27. As *Ecclesiae sanctae* I, 14, §2 states, the episcopal vicar enjoys ordinary vicarious power which the law gives to the vicar general with regard, *inter alia*, to certain groups of persons which the bishop of the diocese has specified. Since this involves the power of governance, the episcopal vicar must be a man in holy orders. This person could be a religious or a diocesan priest.

*Christus Dominus* simply stated that there could be other committees in a diocese besides the council of consultors. *Presbyterorum ordinis* mandated the existence of a council of priests in article 7. *Ecclesiae sanctae* I, 15 explicitly states that a council of priests shall exist in each diocese. Although the bishop determines its manner and forms of its working, it is to be representative of the presbyterium, and its agenda concerns the pastoral needs and the good of the diocese. "Religious also may be co-opted as members of the council of priests insofar as they share in the care of souls and the works of the apostolate."<sup>143</sup>

Article 16 of *Ecclesiae sanctae* I, deals with the pastoral council. Its presence in the diocese is not mandatory, only strongly recommended, *valde commendatum*.

---

<sup>141</sup> See the titles in ES, I before articles 1, 7, 8, and 15.

<sup>142</sup> Mörsdorf himself took this order from Scheuermann. K. MÖRSDORF, "Decree on the Bishop's Pastoral Office in the Church," p. 272.

<sup>143</sup> "Inter membra Consilii Presbyteralis cooptari poterunt etiam Religiosi, quatenus in cura animarum atque apostolatus operibus exercendis partem habeant." ES I, 15, §2, in *AAS*, 58 (1966), p. 766, English translation in *FLINNERY*, p. 600. It seems from this construction that religious priests have no automatic membership of the priests' council. They await the invitation of the bishop. Secondly, the condition of their membership requires more than a theological appreciation of one priesthood with the bishop. It necessitates apostolic works performed in the diocese involving the care of souls.

## THE PROXIMATE AND REMOTE CONTEXT

*Ecclesiae sanctae* I, 16, §3 states that clerics, religious, and laity specially delegated by the bishop take part in the work of the council. There are no further requirements demanded of religious. It would seem that they should at least be resident in the diocese, although even this is not mentioned.<sup>144</sup>

*Ecclesiae sanctae* I, 22-40 produces norms for *Christus Dominus* 33-35, its section on religious. The norms enunciated here regulate the relationship between bishops and religious. The section begins with a principle of application, namely, that "the norms ... affect all religious, both men and women, of whatever rite, without interference with the rights of patriarchs among those of Eastern rites."<sup>145</sup> Further, the document states that

all religious, even the exempt, are bound by the laws, decrees and ordinances laid down by the local ordinary affecting various works, in those matters which concern the exercise of the sacred apostolate as well as the pastoral and social activity prescribed or recommended by the local ordinary.<sup>146</sup>

*Ad gentes* 20 and *Christus Dominus* 35 stated the principle of co-ordination. *Ad gentes* defined the extent of this effort as the various activities which have to do with the sacred apostolate. *Christus Dominus* added items which might be considered personal, such as the comportment proper to the clerical state. *Ecclesiae sanctae* goes even further mentioning attendance at public shows, membership of organisations that the local

---

<sup>144</sup> R. Page states that the difference here is that it is not the care of souls as focus, but rather the state of life of religious. See R. PAGE, *Le conseil diocésain de pastorale, lieu de dialogue entre les laïcs, les religieux, les prêtres et l'évêque*, Montreal, Fides, 1969, pp 75-76

<sup>145</sup> "Normae quae hic statuuntur valent pro omnibus Religiosis, viris et mulieribus, cuiusvis ritus, salvis pro Orientalibus Patriarcharum iuribus." ES I, 22, in *AAS*, 58 (1966), p. 769, English translation in *FLANNERY*, p. 604. In simple terms if religious, including exempt ones, work in a place where only a rite different from their own is present, they are subject to that bishop or hierarch (ES I, 23, §1). If there are a number of rites they are subject to the agreements which those ordinaries and hierarchs impose in common council (ES I, 23, §2). The special case of mission territories is considered in article 24. It mandates that the arrangements reached between the local ordinary and the religious superior, through the intervention of the Apostolic See, are to be followed.

<sup>146</sup> "Omnes Religiosi, etiam exempti, tenentur legibus, decretis et ordinationibus, ab Ordinario loci latis, quoad varia opera, in iis quae sacri apostolatus exercitium respiciunt, necnon actionem pastoralem et sociale ab Ordinario loci praescriptam aut commendatam." ES I, 25, §1, in *AAS*, 58 (1966), p. 770, English translation in *FLANNERY*, p. 605. P. Bouchet remarks there is nothing in principle in what follows between regulars, religious of either pontifical or diocesan right, members of secular institutes, and members of societies living a common life without vows. This follows the wish of the Council. See P. BOUCHET, "La hiérarchie et l'apostolat des religieux," p. 106.

### THE PROXIMATE AND REMOTE CONTEXT

ordinary has warned against, ecclesiastical dress, as well as the use of the means of social communication.<sup>147</sup> There is really nothing new here in this list, except to modernise the list by adding a reference to the instruments of social communication.<sup>148</sup> The emphasis on the local ordinary and the regional episcopal conference, however, de-centralises the emphasis found in the former Code.<sup>149</sup> The matter now becomes a process of negotiation and cooperation at the local level.<sup>150</sup>

Collections for financial assistance reflect this shift signifying more local coordination. In CIC/17, c. 621 gave mendicants in the diocese in which they had a house the faculty to make collections solely with the permission of their superior. *Ecclesiae sanctae* I, 27 brings the episcopal conference in each country and religious superiors together so that the former may lay down rules in this matter. Invitations for financial assistance by public subscription require the consent of the local ordinary.

In those matters connected with worship the *motu proprio* gives the local ordinary a further investment in the life of religious and their actions in his diocese. As a change to CIC/17, c. 498, *Ecclesiae sanctae* I, 34 states that the abolition of a religious house now requires consultation with the local bishop, which was not previously required. *Ecclesiae sanctae* I, 26, 37, 38 provide for churches belonging to religious. If they are open to the faithful, the *motu proprio* gives the local ordinary a right of visitation (n. 38). But this does not prejudice the right of the religious to their own approved rite (n. 26).

---

<sup>147</sup> ES I, 25, §2.

<sup>148</sup> The canons of CIC/17 contained similar prescriptions. For instance, c. 140 prohibited clerics from attending public spectacles; c. 136, §1 and c. 596 contain the prescriptions regarding clerical and religious attire, and c. 2335 brought excommunication to those who joined the Masons.

<sup>149</sup> H. PROESMANS, "Les religieux dans la pastorale diocésaine et paroissiale," in *Concilium*, 28 (1967), p. 77. See also E. SCHILLEBEECKX, "Collaboration des religieux avec l'épiscopat," in *Vie consacrée*, 38 (1966), pp. 75-90.

<sup>150</sup> One could ask how specific the list could be? *Ecclesiae sanctae* does not see this list of four items as exhaustive, for it adds the words, "among other things" (*inter alia*). It is the local Churches, through the bishop and the conference of bishops, which will decide the matters for such laws. L. Gutiérrez Martín points out that the *motu proprio* does not signify what pastoral or social action is, or what is necessary for it. He continues to point out that a balance has to be struck between laws that are not vacuous and those that give a bishop so many faculties that the principle of subsidiarity and the autonomy of religious and laity is detrimentally affected. L. GUTIERREZ MARTIN, "Criteria practica ...," p. 23.

## THE PROXIMATE AND REMOTE CONTEXT

Further, if the laity attend such churches or public oratories, the document provides the bishop with the capacity to have episcopal letters read, to have collections taken up and forwarded to the diocesan curia, and to see that catechetical instruction is given.<sup>151</sup> In all of these instances, the overall impact of the religious on the diocese or its people requires norms from the local bishop.

*Ecclesiae sanctae* introduces an important distinction in articles 28 and 29. This is the distinction between “proper” and “entrusted” works. Proper works are described as “those which with the approval of the Apostolic See are theirs from their foundation or have behind them a venerable tradition and have been recognised and prescribed in the institutions and particular laws of the institute.”<sup>152</sup> *Perfectae caritatis* states in PC 2 (b) that for the good of the Church institutes should have their own proper characters and functions. Proper works, then, display the distinctiveness of institutes. Regarding authority over such works, this norm in *Ecclesiae sanctae* leaves the direction of such works to the religious superior alone only when the proper works are performed entirely within the houses of the institute. If proper works under this description are performed outside the house, they come under the jurisdiction of the local bishop.<sup>153</sup> Thus proper works can be of two types, those wholly internal to an institute, under the rule and direction of a religious superior, and those which are not wholly internal and involve direction by both the bishop and the superior.<sup>154</sup>

---

<sup>151</sup> In article 37 the faithful are designated by the term *christifideles*, and in articles 26 and 38, they are termed the *fideles*. The CIC/83 uses the first term of all Christ’s people, including religious. This should not be read into the text here as the text implies a distinction between laity and religious.

<sup>152</sup> “Opera cuiusque Instituti propria seu peculiana, quae scilicet, probante Apostolica Sede, sive ab ipsa fundatione, sive ob venerandas traditiones suscepta et inde Constitutionibus aliisque propriis Instituti legibus definita et ordinata sunt, Religiosi sedulo promoveant, ...” ES I, 28, in *AAS*, 58 (1966), p. 770, English translation in *FLANNERY*, p. 606. Constitutions would have been a better translation than institutions in *FLANNERY*.

<sup>153</sup> This is not to say that the jurisdiction of the religious superior ceases. As ES I, 32 states, both the bishop and a religious superior can remove from office a member of a religious institute without revealing reasons to the other party. Secondly, a religious will always be bound to his or her superior by the vow of obedience. Rather, once any work not wholly contained by the institute is performed then a religious becomes subject to a dual authority.

<sup>154</sup> An example of this is the case stated in CD 35 (5), namely Catholic schools. An institute may conduct a school to prepare candidates for its own institute. As such it is “within the house” and solely directed by the religious superior. However, a institute may have as a proper work the teaching of children of a diocese. Without prejudice to the appointment of its own members to the school, the preservation of its own

## THE PROXIMATE AND REMOTE CONTEXT

Further, *Christus Dominus* 35 (1) states that bishops can request that constitutions be changed to meet changing pastoral needs. However, *Ecclesiae sanctae* I, 36, §2, moderates this by adding the phrase, *pro viribus*, “as they are able.” This relates back to fidelity to the personality of the institute, a theme from *Perfectae caritatis*. So, again, institutes must strike a balance between the necessity to preserve the character of the institute and the necessity to meet the demands of the apostolate.<sup>155</sup>

Entrusted works are those committed by the local ordinary to a religious institute. They may be either in the form of works normally proper to the institute, as described above or not. In the latter case, the spirit of the documents would seem to indicate that such works as offered by the local bishop should only be accepted by the superior if they bear some relation to the personality of the institute. This committing of works to an institute manifests an innovation of the *motu proprio*. The commission can involve the institute as a whole or, with the consent of a superior, just an individual as set out in *Ecclesiae sanctae* I, 31. Thus, the *motu proprio* delineates three special ways religious can exercise the apostolate: parishes (*Ecclesiae sanctae* I, 33), associations of the faithful (*Ecclesiae sanctae* I, 35), and schools (*Ecclesiae sanctae* I, 39, §1). In each case, in accordance with the law, the local ordinary has rights of visitation, supervision, and inspection.

---

buildings, and day to day management of the school, the bishop, for the sake of coordination, unity of religious education, and preservation of a Catholic culture, may make rules which are applicable in these institutes' schools regarding the enrolment of non-Catholics, the catholicity of the lay teachers, and the relation of this school to others in the diocese. See ES I, 39, §§1-2.

<sup>155</sup> E. Proesmans makes the point that to level out all commitments of religious in the diocese would be to provoke a deterioration of the good of the local Church as well as of the Church universal. He continues to say that the point of departure for pastoral cooperation is the integration of all in the mystery of the Church. But there will always be tensions between structure and charism, the necessities of the local Church and the apostolate proper to the religious institute, the superiority of the bishop and the religious superior, the person of the bishop with his secular collaborators and the person of the superior and the members of the institutes. But he sees this tension as rich and beneficial to both sides. For instance, charisms need structures to render them efficient and more definitive while charisms prevent the sclerosis of institutions. The necessities of the local Church ought to find relief in the apostolate proper to an institute and the apostolate proper to an institute ought to enlarge the horizon of the local Church. See E. PROESMANS, “Les religieux dans la pastorale diocésaine et paroissiale,” pp. 79-81.

## THE PROXIMATE AND REMOTE CONTEXT

Given that two authorities, the bishop and the religious superior, necessarily have to collaborate more closely, *Ecclesiae sanctae* mandates that a written agreement shall be drawn up between them concerning entrusted works (*Ecclesiae sanctae* I, 30, §1; 31; 33, §§1, 2). One very concrete reason for this is to prevent possible future conflicts about the three items mentioned, namely, the person performing the work, the nature of the work performed, and the financial arrangements.<sup>156</sup> But, more importantly, it prevents either the superior or the bishop from acting independently.

*Ecclesiae sanctae* certainly attempted to legislate according to the mind of the Council. The *motu proprio* brought into greater relief the particularity of the particular Church. The local ordinary's involvement in the affairs of the religious working in his diocese helps the adaptation of religious life to the particular church. Further, it gives religious a greater possibility of involvement in the diocese in which they find themselves. Yet, there must be no compromise of the charismatic gift that religious bring to a diocese. In fact, rather than diminishing it, *Ecclesiae sanctae* tries to strengthen it by making the boundaries of their uniqueness more identifiable. In line with the conciliar doctrines, it tries to foresee the mission of the Church as one involving all in a spirit of collaboration of their many gifts.

*Ecclesiae sanctae*, on the other hand, is also deficient. Just as there had been no real treatment of exemption at the Council, so there was no treatment of it in this document. There was a movement forward, however, from the conciliar position by distinguishing proper and entrusted works. Second, the use of the contract rests on the need to protect something unique which pertains to religious institutes. Yet, the understanding of autonomy in accord with law was still at a developing stage.

### 1.4.2 *Evangelica testificatio*

On 29 June 1971, Pope Paul VI issued his apostolic exhortation, *Evangelica testificatio*. Article 2 stated the reason for the document. Pope Paul wished to respond to

---

<sup>156</sup> *Ibid.*, p. 84. See also P. BOUCHET, "La hiérarchie et l'apostolat des religieux," pp. 123-124.

## THE PROXIMATE AND REMOTE CONTEXT

the anxiety, uncertainty, and instability shown by some religious and to encourage those who were seeking the true renewal of the religious life. He continued:

The boldness of certain arbitrary transformations, an exaggerated distrust of the past - even when it witnesses to the wisdom and vigor of ecclesial traditions - and a mentality excessively preoccupied with hastily conforming to the profound changes which disturb our times, have succeeded in leading some to consider as outmoded the specific forms of religious life. Has not appeal even unjustly been made to the Council to cast doubt on the very principle of religious life?<sup>157</sup>

In exhorting religious to be faithful to their calling, Pope Paul established the "charism of the founder" of religious institutes as a reference point for all renewal. In article 11, he used these words for the first time in an official church document. He went on to link the Spirit-given charism with the elements that the Council had described in *Perfectae caritatis*, namely the spirit of the founders, their evangelical intentions, and the example of their sanctity. He then added:

In this [the Council] finds one of the principles of the present renewal and one of the most secure criteria for judging what each institute should undertake.<sup>158</sup>

Towards the end of the exhortation Pope Paul turned to the involvement of religious in the Church's mission. In article 50, he insisted that this could not take place without collaboration. He stated that such activity required that the particular character of each institute must be kept in mind. Second, following the conciliar teaching, he emphasised that even the exempt institutes are not dispensed from submission to the jurisdiction of the bishops in charge. In giving his reason, he stated the two points made by the Council in *Christus Dominus* 35 (3), namely the performance of the bishops' pastoral office and the right ordering of the care of souls.

---

<sup>157</sup> "Quaedam enim mutationes, audacius et ad arbitrium inductae, nimia diffidentia praeteriti temporis, etiamsi hoc sapientiam vigoremque traditionum ecclesialium testetur, habitus mentis plus aequo eo contendens, ut quis ad magnas immutationes, quibus aetas nostra concutitur, festinantius sese conformet: haec omnia nonnullos fortasse moverunt, ut peculiares vitae religiosae formas existimarent caducas." ET 2, in *AAS*, 63 (1971), p. 498, English translation in *FLANNERY*, pp. 680-681.

<sup>158</sup> "... quod unum e principiis agnoscere debent renovationis nunc perficiendae atque unam e rationibus certissimis operis, quod unumquodque Institutum aggrediatur oporteat." ET 11, in *AAS*, 63 (1971), p. 503, English translation in *FLANNERY*, p. 685.

## THE PROXIMATE AND REMOTE CONTEXT

While *Evangelica testificatio* marks an advance over the Council by acknowledging more strongly the foundation of each institute as a manifestation of the work of the Spirit, the reason for collaboration in the ministry of the Church did not progress beyond the conciliar position. The episcopal function and right ordering of the care of souls remain the touch-stones of the collaboration. This implies the submission of religious to the bishop rather than another view-point of common sharing in the mission of the Church through membership in the organic communion of the Church.

### 1.4.3 *Ecclesiae imago*

Article 44 of *Christus Dominus* decreed that general directories concerning the care of souls should be compiled for the use both of bishops and parish priests so that they might have definite directives to guide them in the discharge of their particular pastoral function. The Sacred Congregation for Bishops issued on 22 February 1973 one such directory, the "Directory on the Pastoral Ministry of Bishops," *Ecclesiae imago*.

The Directory did not depart from the position of the Council. Number 103 states that the initiative for a common and apostolic program in any diocese remains the prerogative of the bishop himself. In n. 118 the Directory envisaged religious waiting to be invited by the bishop to participate in the mission of the diocese. In fact, nn. 118 and 119 act as a summary of the conciliar teaching quoting extensively from the conciliar documents. Number 207 continues in the same vein, except that here bishops are exhorted to convene meetings wherein religious can offer their opinions and state what they can offer to the diocese in terms of personnel and resources.

In n.118 (b) the words, "legitimate autonomy" (*legitimum autonomiam*), occur for the first time in an official document.<sup>159</sup> While the use of the words is uncritical, they occur in the final sentence of a paragraph dealing with exemption. It is quite unclear

---

<sup>159</sup> SACRED CONGREGATION OF BISHOPS, *Directory on the Pastoral Ministry of Bishops, Ecclesiae imago*, 22 February 1973, Civitate Vaticana, Typis Polyglottis Vaticanis, 1973, p. 115.

## THE PROXIMATE AND REMOTE CONTEXT

whether the Directory considered exemption and autonomy as two distinct realities or whether autonomy is seen as qualifier of the phrase "according to the norms of law" used in reference to exemption.

The Directory on the Pastoral Ministry of Bishops summarised conciliar teaching. This is entirely understandable given the nature of the document, namely that it is a directory to put into practice the work of the Council. Only incidentally does it treat of the relationship between bishops and religious.

### 1.4.4 *Mutuae relationes*

Although the Congregations for Bishops and Religious and Secular Institutes published the directives, *Mutuae relationes*, on 14 May 1978, having been approved by Pope Paul VI on 23 April 1978, its gestation began with a joint plenary meeting from 16 - 18 October, 1975. Wide consultation with episcopal conferences, unions of major superiors, and other curial congregations occupied the period between these two dates.<sup>160</sup> The result of this process was a document that did not derogate from the *ius vigens*,<sup>161</sup> but, at the same time, it did expand the conciliar doctrine of the episcopal function and the charismatic nature of religious life.<sup>162</sup>

The background to the document lies largely in the developments that had taken place since the Vatican Council. The Council had called for constitutions to be adapted

<sup>160</sup> For a history of the document, see G. SCARVAGLIERI, "The Development of the Document," in *Consecrated Life*, 4 (1980), pp. 358-362. Also, see E. HAYES, *Rightful Autonomy of Life and Charism in the Proper Law of the Norbertine Order*, Canon Law Studies No. 532, Doctoral thesis, Catholic University of America, Washington, DC, Ann Arbor, MI, UMI, 1990, pp. 38-41. J. BEYER, "Ad documentum 'Notae directivae' pro mutuis relationibus inter Episcopos et Religiosos, annotationes," in *Periodica*, 68 (1979), pp. 565-570. It is important to note that two of the consultants during this process were J. Beyer and M. Said, who were also consultants for the preparation of the 1983 Code of Canon Law.

<sup>161</sup> See L. RENARD, "Épiscopat et vie religieuse," in *Vie consacrée*, 50 (1978), p. 363. See also J. BEYER, "Ad documentum 'Notae directivae' . ." p. 570.

<sup>162</sup> In part III of the Introduction, the document states that "Secular Institutes are not dealt with directly, except where general principles of the consecrated life (Cf. PC, 11) and the places of these Institutes within the particular church (Cf. CD, 33) are involved." "... de Institutis Saecularibus, proinde, nihil directe dicitur, nisi quod ad generalia tantum principia spectat circa vitam consecratam (cfr. PC, 11) eorumque insertiones in Ecclesias particulares (cfr. CD, 33)." MR, Proemium, in *AAS*, 70 (1978), p. 474, English translation in *CID*, Vol. 9, p. 298.

### THE PROXIMATE AND REMOTE CONTEXT

such as to involve religious more in the life of the particular church. This renewal, as well as an accompanying decline in the number of diocesan priests in various parts of the world, led diocesan bishops to commit more tasks to religious. In places, tensions between bishops and religious increased because of the overlapping authorities within the pastoral arena. Also, in entrusting these works to religious, a diminution of religious identity was possible as religious left aside those works proper to an institute and assumed undertakings entrusted to them by bishops.<sup>163</sup> Hence, the plenary assembly dealt with three questions: (a) what bishops expect from religious; (b) what religious expect from bishops; and (c) what means are to be used to arrive at orderly and fruitful cooperation between bishops and religious, both on the diocesan and on the national and the international levels.<sup>164</sup> The document treats these questions in two parts: "Some Doctrinal Points" in chapters one to four and "Directives and Norms" in chapters five to seven.

At the time of its promulgation, opinions varied concerning the juridic status of this document. As P. Hannan points out, *Mutuae relationes* was promulgated neither as an instruction nor as a decree.<sup>165</sup> She goes further to state that the document was a pastoral rather than an administrative or legal text.<sup>166</sup> E. Viganò, on the other hand, uses the terms "clear and concise guidelines," "authoritatively suitable practical directives ... sometimes even with binding norms." However, he does concede that "it is more

---

<sup>163</sup> J. SNLJERS, "Bishops and Religious: The Document on the Mutual Relations Between Bishops and Religious," in *Review for Religious*, 39 (1980), pp. 116-118.

<sup>164</sup> MR, Introduction, part II.

<sup>165</sup> Hannan places *Mutuae relationes* in the genre of other directories such as the Directory on Ecumenical Matters, *Ad totam Ecclesiam*, issued by the Secretariat for the Promotion of Christian Unity, 14 March 1967, in *AAS*, 59 (1967), pp. 574-592 and 16 April 1970 in *AAS* 62 (1970), pp. 705-724; the Catechetical Directory, *Ad normam Decretii*, issued by the Congregation for the Clergy, 11 April 1971, in *AAS*, 64 (1972), pp. 97-176; and the Directory on the Pastoral Ministry of Bishops, issued by the Sacred Congregation for Bishops, *Ecclesiae imago*, 22 February, 1973, Civitate Vaticana, Typis Polyglottis Vaticanis, 1973, 252 p. See P. HANNAN, *The Apostolate of Women Religious* ..., p. 78.

<sup>166</sup> *Ibid.*, p. 84. A. Verbrugge holds a similar opinion, seeing the document more for inspiration and information for bishops and religious. See A. VERBRUGGHE, "The Figure of the Episcopal Vicar for religious in the New Code of Canon Law," in *Commentarium pro religiosis et missionariis*, 65 (1984), p. 245. See also L. RENARD, "Épiscopat et vie religieuse," p. 363.

## THE PROXIMATE AND REMOTE CONTEXT

concerned with guidelines than with preceptive norms.”<sup>167</sup> If promulgation of the 1983 *Code of Canon Law* diffused the debate on this particular document, it is well to remember that it serves as a source for a number of canons in the new *Code*.

*Mutuae relationes* uses as its starting point an awareness of the Church as a “new” People.<sup>168</sup> This new People, vivified by the Spirit, assembles in Christ in order to have “access to the Father.”<sup>169</sup> Prior to any differentiation of function the mutual relations within the one People are based on the one Spirit calling one people to “serve the divine Word as a living organ of salvation.”<sup>170</sup> In this pneumatological ecclesiology, the document also recognises the work of the Spirit as he differentiates between members of the one people with various gifts “that is, the offices and the various duties, which constitute a kind of mutual complement and are actually ordered to the one communion and mission of the self-same body.”<sup>171</sup>

In chapter two the document turns to the ministry of bishops within an organic ecclesial communion:

The organic communion of the Church, therefore, is not exclusively *spiritual*, born, that is, in whatever manner it may be, of the Holy Spirit, and of itself preceding the ecclesial functions and creative of them, but is simultaneously *hierarchical* inasmuch as by a vital impulse it is derived from Christ the Head.<sup>172</sup>

<sup>167</sup> E. VIGANO, “The Theological Principles of the Document on the Relations between Bishops and Religious,” in *Consecrated Life*, 4 (1980), p. 264. F. Morrissey points to the two aspects in directories, one theoretical and the other practical. He states that directories lead by principle rather than by decree. Hence, the varying nature of their juridical importance. See F. MORRISSEY, *Papal and Curial Pronouncements: Their Canonical Significance in the Light of the Code of Canon Law*, (2nd edition, revised by M. THÉRIAULT), Ottawa, Faculty of Canon Law SPU, 1995, pp. 34–36.

<sup>168</sup> Strangely, Hannan states that the starting point is the responsibility of bishops and religious for personal conversion. P. HANNAN, *The Apostolate of Women Religious ...*, p. 84. As such she is the only commentator to say this. Such a statement appears to be without justification as the text begins with the first articles of *Lumen gentium* emphasising the work of the Spirit calling the mystery of the Church into organic communion.

<sup>169</sup> MR 1

<sup>170</sup> MR 3

<sup>171</sup> MR 2. See G. LAFONT, “L’ecclésiologie de «Mutuae relationes»,” in *Vie consacrée*, 54 (1982), p. 323.

<sup>172</sup> “Propterea organica Ecclesiae communio non est tantummodo *spiritualis*, id est quoquo modo enata a Spiritu Sancto atque suapte natura ecclesialibus quibuscumque muneribus prior eorumque parens, sed est simul *hierarchia*, quatenus vitali motu a Christo-Capite derivata.” MR 5, in *AAS*, 70 (1978), p. 477. English translation in *CLD*, Vol 8, p. 302.

## THE PROXIMATE AND REMOTE CONTEXT

For the first time in an official document *Mutuae relationes* describes the gifts received by the bishops from the Spirit as “appropriate charisms.”<sup>173</sup> The function and place of the episcopal charism situates them in an authoritative rank of the organic communion.<sup>174</sup>

Article 6 is a key article in understanding the episcopal function. This article firstly affirms the ministry of the episcopate as fundamental to all other ministries. In union with the Roman Pontiff, they make up the college of bishops “in such a way that jointly they manifest and carry out in the Church-sacrament the function of Christ the Head.” Second, “no one in the Church other than a bishop carries out an organic function of fecundity, unity, and spiritual authority, which is so basic that it influences all ecclesial activity.” Third, “the Roman Pontiff and the bishops have the ministry of discernment and harmony which involves an abundance of special gifts of the Holy Spirit and the distinctive charism of ordering the various roles in intimate docility of mind to the one and only vivifying Spirit.”<sup>175</sup>

One cannot consider the three-fold service to the community exercised by the bishops as three separate ministries because in the person of Christ they are fused into one ministry. “The bishop, then, not only governs, not only sanctifies, not only teaches, but, with the help of his priests, he feeds his flock by teaching, by sanctifying, by

---

<sup>173</sup> MR 9a

<sup>174</sup> MR 9a states, “No one else has the power to exercise any function, whether of teaching, sanctifying or governing, except by participation and in communion with them.” “... nec quisquam alius potestatem habet exercendi in Populum Dei ullum sive magisterii sive sanctificationis sive gubernationis munus, nisi cum illis participando et communicando,” MR 9a, in *AAS*, 70 (1978), p. 479. English translation in *CLD*, Vol. 9, p. 305

<sup>175</sup> “Dominus ipse in *Ecclesia sua varia ministeria instituit, quae ad bonum totius Corporis tendunt* (LG 18), ex quibus episcopale ministerium est ceterorum omnium fundamentum. Episcopi autem, in communi hierarchica cum Romano Pontifice, Collegium Episcopale constituunt, ita ut in solidum manifestent et ad effectum perducant Christi-Capitis munus in Ecclesia-Sacramento ... Nemo alius nisi Episcopus in Ecclesia organicam fecunditatis (cfr LG 18, 19) unitatis (cfr LG 23) et spiritualis potestatis (cfr LG 22) functionem adeo fundamentalem explicat, ut in omnem ecclesiam activitatem influat. Quamvis enim in Populo Dei plurima alia munera ac incepta tribuantur explenda, tamen Romano Pontifici et Episcopis, sicut Capite in Corpore, ministerium competit discriminandi vel componendi (cfr. LG 21), quod secum fert specialium Spiritus donorum abundantiam ac peculiare charisma ordinandi diversa munera in intima animi docilitate erga unicum vivificantem Spiritum (cfr. LG 12; 24 ; etc).” MR 6, in *AAS*, 70 (1978), pp. 477-478, English translation in *CLD*, Vol. 9, p. 303.

## THE PROXIMATE AND REMOTE CONTEXT

governing, as a unique and indivisible action.”<sup>176</sup> Then, because the whole Church is called to holiness, the bishops are responsible for growth in holiness according to the vocation of each one “likewise, therefore, and above all according to the vocation of religious.”<sup>177</sup>

In article 9, *Mutuae relationes* states some conclusions to this section on the bishops.<sup>178</sup> Before it considers the duty of bishops towards religious, the document outlines three general duties that the bishops possess together with the Roman Pontiff. They are to discern gifts and competencies, to coordinate multiple energies, and to guide the entire People in living in the world as a sign and instrument of salvation. The pastoral duty towards religious becomes a specification of these more generic principles. Warned that they are not to be “dictators,” the document directs bishops to foster religious life and to protect it in conformity with its own definite characteristics. The document then expresses the hope that structures within the Church will involve all members according to their own charism, thus avoiding isolationism, and that the bishops will act to foster rather than purloin the charisms of the other, thus avoiding interventionism. The document gives a primacy to a mutual complementarity in the Spirit.<sup>179</sup>

Two other articles in *Mutuae relationes* act as sources for c. 586, §2. Article 28 relies heavily on *Christus Dominus* and *Lumen gentium*. The article points, firstly, to the universal duty of bishops as teachers and guides of all the faithful. Then it treats the specific case of the relationship with religious. The document uses again the phrase that is used more than once in this document when it says that the bishops are to be

---

<sup>176</sup> “Episcopus igitur non solum gubernat nec tantum sanctificat nec tantum docet, sed, presbyteris adiuvantibus, una atque indivisa ratione et docendi et sanctificandi et gubernandi gregem pascit.” MR 7, in *AAS*, 70 (1978), p. 478. English translation in *CID*, Vol. 9, p. 304.

<sup>177</sup> “... ergo etiam, et praesertim, secundum vocationem religiosam.” MR 7, in *AAS*, 70 (1978), p. 478. Quoting extensively from *Lumen gentium* 44 and 45, the document, in MR 8, expresses how the bishops exercise this duty. Foundation of institutes, their extension to new churches, the supervisory and protective authority of the bishop to see that institutes develop, and exemption are mentioned.

<sup>178</sup> MR 9c and 9d are sources of c. 586, §2 of the CIC/83.

<sup>179</sup> L. RENARD, “Épiscopat et vie religieuse,” p. 364.

## THE PROXIMATE AND REMOTE CONTEXT

“guardians likewise of fidelity to the religious vocation in the spirit of each institute.”<sup>180</sup> At the end of the article it describes the extent of this guardianship as existing “in the spiritual and in the apostolic field.” The article does not mention what power of coercion the bishop may actually possess in this regard. It does link, however, the individual bishop with the Supreme Pontiff, the Roman Curia, other bishops, and local ordinaries in promoting relations with religious superiors. It may be taken, perhaps, that in most matters, especially of a spiritual nature, the bishop is to bring his concerns to the competent superior. The CIC/83 will have more to say on this matter. But, certainly, the article does not see the bishop intervening independently.

In the second article, article 52, the same theme of the bishop’s acting in communion with other authorities appears again. Yet, this article begins from another view-point. Instead of good order or discipline, the article describes the basis for his concern as part of his duty of discernment concerning the manifestation of the work of the Spirit. From this basis, the document requires that the bishop defend what the Church has already approved and to foster fidelity and authenticity to this or that form of particular consecrated life.

Here again the document does not envisage the bishop acting alone. By adding the episcopal conference to the aforementioned collaborative relationships, the document further strengthens the communal aspect of the bishop’s duty. As a consequence almost, the document then requests religious to consider the bishop not only as the shepherd of the diocese, but also as the guarantor of their fidelity to their vocation. This reciprocal arrangement occurs also in the norms and directives section as well. In fact, article 28 speaks of the bishops as convinced advocates of the consecrated life, defenders of religious communities, and firm guardians of the specific character of each religious family.

---

<sup>180</sup> “... etiam fidelitatem erga religiosam vocationem in spiritu uniuscuiusque Instituti custodire.” MR 28, in *AAS*, 70 (1978), p. 490, English translation in *CLD*, Vol 9, p. 320.

## THE PROXIMATE AND REMOTE CONTEXT

*Mutuae relationes* should not be judged as providing bishops with the means to discipline religious communities. Rather, it sought to establish the principle of invitation to participation in the particular church. It requires much knowledge on the part of the bishop regarding the constitutions of the religious institutes in his diocese as well as an active engagement on his part, by way of interest and encouragement, to see that religious are not isolated from the life of the particular church.

The second part of the document continues the process by suggesting means of involvement in the life of the local church. Not all these means are meant to be juridic in character. Article 37, for instance, uses the words “simple and informal” means to increase “mutual trust, apostolic solidarity and fraternal harmony.” These processes can involve the dissemination of information and education (*Mutuae relationes* 24, 29, 30, 32, 36, 47); co-ordination of pastoral activity, actively involving religious communities (*Mutuae relationes* 36, 39, 41, 46, 49, 51, 54); and aids to communication (*Mutuae relationes* 41, 42, 47, 54-56).

Genuine development from the position adopted by the Council occurs in chapter three of *Mutuae relationes*. Where *Lumen gentium* was more concerned with the duty and right of vigilance and supervision by bishops, this chapter reflects the developments towards accepting diversity in religious life begun in *Perfectae caritatis*.<sup>181</sup> Article 11 begins by affirming the differences between institutes according to their “proper character.” The contribution of *Evangelica testificatio*, n. 11, becomes the basis for this distinctive character. It says that this distinctive character is “to be lived, safeguarded, deepened and constantly developed” by the members of an institute.

*Mutuae relationes* also added to the list of constitutive elements for a religious institute already met in *Evangelica testificatio*. In this regard, the document mentions three further elements, namely “a particular style of sanctification and of apostolate” and

---

<sup>181</sup> J. SNIJERS, “Bishops and Religious...,” p. 121.

## THE PROXIMATE AND REMOTE CONTEXT

“its particular tradition.” These three bring the number of elements to six, which may be used in the process of discernment by bishops and religious.<sup>182</sup>

As if to emphasise the organic communion of the church, the document establishes an analogy between the three-fold function of the pastoral ministry of the bishops and the service of religious superiors. But the document is careful to indicate that the use of the analogy is not to be confused with or equated to the office of bishops. In fact it states that the authority of religious superiors proceeds from the Spirit of the Lord through the sacred hierarchy, which has granted canonical erection to the institute and authentically approved its specific mission.

In article 13, the document confines the office of teaching to “the competency and authority of spiritual directors *in relation to the evangelical purpose of their institute.*” The document confines the office of sanctifying to the fostering of perfection in what concerns the increase of the life of charity *according to the end of the institute.* Finally, in exercising their office of governing, religious superiors order the *life of the community* and organise *the members of the institute*, caring for and developing its *particular* mission. When it comes to exercising that mission, the document changes the subject from religious superiors to mission itself and adds that the insertion of this mission into ecclesial activity takes place under the leadership of the bishops.

Article 13 (c) states:

Institutes then have an internal organisation all their own (cf. CD, 35, 3) which has its proper field of competency and a right to *autonomy*, even though in the Church this autonomy can never become independence (cf. CD, 35, 3 and 4).

---

<sup>182</sup> Bowers maintains that these elements are not only to be maintained and developed, but are to remain objectively perceivable. See E. HAYES, *Rightful Autonomy of Life ...*, p. 44. A certain problem can be perceived here in relation to proper works. If these works are to reflect the aforementioned constitutive elements what of the situation of “sponsorship,” wherein the members of an institute commit an apostolic work to people other than the members of their institute? For example, the hospital or school where the only members of the institute are to be found on an administrative board. If the style of sanctification is not visible, or even if the members do not perform a traditional function within the institution, can it be said that the character of the proper work has been lost and that it no longer is a work proper to an institute? Is there a case to be made that a new canonical status has been established, albeit by default? Is there a difference between the preservation of an institute and the preservation of an institution?

## THE PROXIMATE AND REMOTE CONTEXT

The correct degree of such autonomy and the concrete determination of competency are contained in common law and in the Rules or Constitutions of each institute.<sup>183</sup>

This text acts as a source for c. 586, §1. This is the first time that an official church document recognises critically the principle of autonomy proper to all religious institutes as distinct from the privilege of exemption of some. The three paragraphs which preceded this statement underline the first principle of autonomy, namely that it concerns internal matters of organisation.<sup>184</sup> Further, these three paragraphs delineate the fields of competency concerning autonomy. It would seem too that the exercise of autonomy becomes an exercise of authority performed by religious superiors, not by every member of a religious institute.<sup>185</sup> Finally, the exercise of autonomy and the determination of competency admits of degrees. An institute of pontifical right may be more autonomous regarding its internal affairs than an institute of diocesan right. The proper degree is determined by prescriptions of the common law and the constitutions of each institute.

Article 34 of the document acts also as a source for c. 586, §1. This article returns to the possible danger of thinking that autonomy means independence. It states that there are two realities, ecclesial structures and religious life. Yet, they are not distinct entities, one charismatic, the other institutional. In its answer, the document relies on *Lumen gentium* 8 which speaks of the one complex reality, the Church, formed from the many spiritual gifts and ecclesial structures.

---

<sup>183</sup> "Exstat igitur *ordo Institutorum internus* (cfr *CD*, 35, 3), qui proprium competentiae campum habet, ad quem genuina quaedam *autonomia* spectat, quae tamen in Ecclesia numquam ad *independentiam* redigi potest (cfr *CD*, 35, 3 et 4) Congruus vero *autonomiae* gradus eiusque definita competentiae descriptio in iure communi atque in *Regulis, seu Constitutionibus, uniuscuiusque Instituti* continentur." MR 13 (c), in *AAS*, 70 (1978), p. 482, English translation in *CD*, Vol. 9, p. 309.

<sup>184</sup> Soon after the promulgation of CIC/17 the Sacred Congregation for Religious in answer to a doubt raised over c. 492, §2, gave a decision on the celebration of General Chapters in congregations of diocesan right. This decision recognised the difference between external and internal authority. Bishops have no authority over internal matters even of diocesan right institutes. See SACRED CONGREGATION FOR RELIGIOUS, "De celebratione Capituli Generalis in Congregationibus iuris dioecesiani," 17 June 1921, in *AAS*, 13 (1921), pp. 481-482.

<sup>185</sup> E. HAYES, *Rightful Autonomy of Life* ..., p. 51.

## THE PROXIMATE AND REMOTE CONTEXT

The treatment of autonomy in *Mutuae relationes* was a beginning. It certainly moved thinking away from any sense of privilege and towards a sense of an inner reality in all institutes. It related this inner reality to that which is defined in the constitutions and common law. But constitutions provide the legal construct to express structurally the work of the Spirit as discerned by the Church. Hence, autonomy, while ultimately based on the charism of the founder, is a legal consequence arising from the process which recognises the validity of constitutions. What still remains to be developed is the wider notion of autonomy of life.

### 1.4.5 Religious and Human Advancement.

Although approved by Pope John Paul II on 12 August 1980, the document, "Religious and Human Advancement," was not released by the Sacred Congregation for Religious and Secular Institutes until January 1981. Its aim, according to its Introduction, was to comment on "the effective participation by religious in the work for integral human advancement." Since the Council developments within institutes had not always been happy. In addition, the increased involvement of individual religious in changing political and cultural circumstances of contemporary history prompted the release of the document.

In art. 1 an important principle was re-stated, namely that the renewal of religious life creates the impulse for active involvement in the contemporary development of the Church's mission. Yet, this mission is not generalised but takes place in the particular churches. Hence art. 4 (c) calls for collaboration between episcopal conferences and conferences of religious. In this forum it was hoped that the cultural, social, and political systems in which each particular church finds itself might be better understood.

Another familiar theme, that of fidelity to the individuality of each institute's personality, is also stated in arts. 4(c) and 6. In this regard several distinctions are made on the basis of the nature of particular institutes. For example, in art. 23 the document sees that religious institutes have no place in the secular structures of society but

## THE PROXIMATE AND REMOTE CONTEXT

encourages such involvement for secular institutes. Article 8 states that the "world of work" as professional people parallel with laity presents certain difficulties for priests in general and the more so for religious priests. The document claims that such involvement for religious weakens the commitment to a community style of life. Then in art. 24 the document states:

*Experts in communion*, religious are, therefore, called to be an ecclesial community in the Church and in the world, witnesses and architects of the *plan for unity* which is the crowning point of human history in God's design.<sup>186</sup>

So when the document comes to speak of fidelity to the communion of the Church (arts. 20-27), the first mentioned there are the bishops. Article 27 asks religious to acknowledge the bishops as the centre of unity in the ecclesial community and to encourage others to this belief also. This represents a definite change in argument from the conciliar documents. They were principally concerned with good order being maintained by the bishops. In this document the cohesiveness of the communion of the Church is its main concern.

Far from hindering their projects, art. 28, reminds religious, and obliquely bishops, of the latter's duty to "harmoniously promote charisms and ministries." In such an atmosphere there should be encouragement for initiatives in keeping with each institute's specific charism. But all this is couched in the guise of "suitable coordination."

The footnotes of this document mention the concreteness of these ideals. These contain many references to the Puebla documents. It is here that the particularity of each endeavour is highlighted. Footnote 78, for example, quotes the Puebla document, n. 473, stating:

Confronted with such diverse situations, we read in OA 4, it is difficult to sum it up in one word or to propose a universally valid solution. It is for the Christian communities to *analyse objectively the situation in their own country*, clarify it in the light of the unchanging words of the Gospel, draw principles for reflection,

---

<sup>186</sup> See *FLINNERY*, Vol. 2, p. 274.

## THE PROXIMATE AND REMOTE CONTEXT

criteria for judging and directives for action from the Church's social teaching. It is for the Christian community to discern, with the help of the Holy Spirit, in communion with the bishops concerned and in dialogue with the other Christian brethren and all men of good will, the choices and commitments that must be made to bring about the social, political and economic changes that are obviously needed in many cases.<sup>187</sup>

Then in footnote 79, the document quotes from Pope John Paul II's opening address at Puebla. He stated that there must not be any lack of collaboration between religious and bishops. Collaboration between religious and bishops has become a key-note rather than subjection and submission.

### 1.4.6 The Contemplative Dimension of Religious Life.

On the same day that the Congregation for Religious and Secular Institutes released "Religious and Human Advancement," it released the fruits of the plenary session of the Congregation held between 4-7 March 1980. The document, "The Contemplative Dimension of Religious Life," expresses "the felt need to do away with the harmful dichotomy between interior life and activity in the personal and communal lives of religious in reaction to a certain downgrading of prayer and reconciliation, which has not yet completely disappeared."<sup>188</sup> The document purposely issued only practical guidelines based on sound doctrinal principles.

A recurring theme in the document expresses the sentiment that the religious life is to be valued not only for what it does but also for what it is. Therefore, the document gives great value to practices of prayer, reconciliation, and communal life in order that the union of the religious with God might be achieved. Yet, in article 6, the document states that apostolic work and charitable activity contain their own riches which nourish union with God. But, according to article 14, growth in the contemplative dimension "certainly cannot be reconciled, for example with indiscriminate and sometimes imprudent use of the mass-media; with an exaggerated and extroverted activism; with an

<sup>187</sup> See *FLANNERY*, Vol. 2, pp. 282-283. Emphasis added.

<sup>188</sup> CDRL, Introduction. Translation in *FLANNERY*, Vol. 2, p. 244.

## THE PROXIMATE AND REMOTE CONTEXT

atmosphere of dissipation which contradicts the deepest expectations of every religious life.<sup>189</sup> This document simply repeated the theme contained in *Christus Dominus* 33, and *Mutuae relationes* 14 (a), namely that the importance of religious life goes beyond the work undertaken by each individual institute. The document also quoted from Pope John Paul II's discourse to Superiors General in 1978, where he pointed out the importance of the local Church for the religious vocation. Active presence in the life of the local Church grounds and makes concrete the mission of religious.<sup>190</sup>

Chapter E of the document considers the promotion of the contemplative dimension in the local churches. The three articles of the chapter, 21-23, focus on the pastoral activity of the bishops and reiterate the statements of *Mutuae relationes*. The document begins from the starting point of the bishop as sanctifier of his flock, "zealously promoting the sanctity of the clergy, religious and laity, according to the vocation of each one." Thus article 21 reiterates the role that the bishop has to play in the promotion in the spiritual life of religious. Yet, again, the document makes no specification as to how he would achieve this. It mentions promoting religious vocations, promoting the esteem and understanding for religious life, and providing spiritual assistance by means of suitable confessors and spiritual directors for women religious. The implication would seem to be that where religious cannot provide for themselves, as in the case of confessors for non-clerical institutes, then the bishop is to provide. Further intervention appears to be unwarranted. Such provision seems suitable within an exercise of the principle of subsidiarity.

---

<sup>189</sup> CDRL 14 Translation in *FLINNER*, Vol 2, p 251 McDonough sees this as the danger of reducing religious life to the horizontal or temporal level. E. McDONOUGH, "The Contemplative Dimension of Religious Life," in D. FLEMING and E. McDONOUGH, (eds.), *The Church and Consecrated Life: The Best of the Review - 5*, St. Louis, Review for Religious, 1996, p. 54. Quoting from MR 4, CDRL 17 states that "the primary objective of active institutes is to integrate the interior life and the active life so that each religious will increasingly cultivate the primacy of life in the Spirit."

<sup>190</sup> "Wherever you are in the world, you are, with your vocation, "for the universal Church"; through your mission "in a given local church." Therefore your vocation for the universal Church is realised within the structures of the local church. Every effort must be made in order that "consecrated life" may develop in the individual local churches, in order that it may contribute to their spiritual building up, in order that it may constitute their particular strength. Unity with the universal Church through the local church: this is your way." JOHN PAUL II, Allocution to Superiors General, 24 November 1978, in *Consecrated Life*, 4 (1980), p. 386.

## THE PROXIMATE AND REMOTE CONTEXT

The document continues by stating that religious for their part, must be effective and willing members of the diocesan family. This recalls *Christus Dominus* 34. Asking, rather than commanding, religious to share their spiritual experience with diocesan priests and the laity appears as a new element.

Finally, the document uses the often repeated themes of co-responsibility, harmonious collaboration, and spiritual growth within the local Church to promote meetings between bishops and superiors of religious institutes in the various dioceses. It repeats the call of *Christus Dominus*, *Ecclesiae sanctae*, *Evangelica testificatio*, and *Mutuae relationes* to set up structures of communication at the level of the episcopal conference and the conference of religious. Thus this document continues the growing awareness of mutuality in the mission of the Church.

### 1.5 Conclusion

When the synodal fathers met in Rome in October 1994, they brought with them their own experience of the Church universal as lived in the particular churches. The concerns that they expressed about religious life in the Church today reflected their own particular concerns. The divergence of their opinions, whether they be curial officials, residential or auxiliary bishops, bishops from the First or Third world reflected what they contributed to the various Congregations of the Synod.

The cause of this cultural, ritual, and theological divergence follows as a consequence of the Vatican Council II. When the theology of the Church shifts the focus from a monolithic unity to a communion of diversity, the understanding of relationships within the Church must certainly change. *Lumen gentium* brought about this shift by its emphasis on the Church as mystery and hierarchical communion. To emphasise the particular without destroying the universal, the Council made concrete the particular church and the unifying role of the diocesan bishop within the particular church. His

### THE PROXIMATE AND REMOTE CONTEXT

triple service of sanctifying, teaching, and governing the people in his Church necessarily changed the relationship between himself and religious institutes in his diocese. Exemption, for example, while still retained, lost its absolute quality with the promulgation of *Christus Dominus*. The missionary Church itself, described in *Ad gentes*, gave focus to the purpose of the missionary endeavour of the Church universal, namely to establish particular churches as full signs of the Church universal.

For religious, then, the Council sought to encourage all institutes to look again at their involvement in the particular churches. Beginning with a re-investigation of their constitutions, the Council argued that their life must be evident in the particular church. Hence the Council began a process of encouragement of face-to-face contact between diocesan bishops and conferences of religious superiors. It encouraged bishops to secure the value of the religious life in their dioceses by encouraging vocations to the religious life and being attentive to the pastoral involvement of religious in the life of the diocese. While it exhorted bishops to care for the spiritual life of institutes, the practical mechanics of this remained vague and imprecise.

What the Council did not fully explore was the value of diversification in religious life. The post-conciliar documents, beginning with *Ecclesiae sanctae*, fostered the involvement of religious in the work of the diocese, but not at the expense of the founding reason for their existence. *Evangelica testificatio* mentions the "charism of the founder" and the valuable traditions that followed from it. These gifts of the Spirit are to be discerned by the bishops and to be safeguarded by them as the work of the Spirit in the Church. This will demand then that the relationships between bishops and religious will vary not only on the basis of culture but on the basis of the nature and mission of each particular institute within a diocese. Hence, the post-conciliar documents see a greater need for educating bishops, religious, diocesan priests, and laity involved in the work of the church in order to understand the mission of each.

## THE PROXIMATE AND REMOTE CONTEXT

While all these documents consider the beginning of institutes with their consequent approval by bishops, even to recognising the end of institutes, they do not treat in depth the difficult problem of dying institutes. The distinction between proper and entrusted works suffices if it means that religious perform an apostolate that deepens their spirituality and that of a diocese. However, when proper works are linked to the concept of autonomy and the preservation of institutions becomes a priority, a problem of collaboration, harmony, and cooperation may arise in a diocese.

The Vatican Council II did not mention the word “autonomy.” The post-conciliar documents developed the concept only in so far as identifying something unique in each institute that needed to be preserved and fostered. This was linked to the originating charism. The meaning and extent of autonomy, however, is not developed beyond that which is contained in *Mutuae relationes*. Autonomy is a legal consequence following upon the approbation of an institute’s rules and constitution. It preserves the authority of the religious superior without endangering the authority of the diocesan bishop. So it should not hinder a co-ordinated and effective apostolate in the mission of any diocese. However, two problems remain. How far does the authority of the bishop extend relative to the spiritual life of the religious? If apostolic works enlivened by a particular spirituality focus the life of religious, does it mean that their spirituality suffers when religious are no longer capable of fulfilling that apostolate by reason of age or lack of numbers?

The 1983 *Code of Canon Law* uses the Vatican Council II as its guiding principle. While some matters had been settled by the Council and subsequent experience, much still remains unsettled. The second chapter will investigate how the formulations of the *Code* attempted juridically to embody the principles of the Council. But, as the interventions of the bishops at the 1994 Synod show, they were seemingly not entirely successful.

## CHAPTER TWO: THE 1983 CODE OF CANON LAW

### 2.1 Introduction

Chapter Two comprises two sections. The first considers the fact of autonomy, enunciated in c. 586. CIC/17 did not use the word, *autonomia*, let alone extend it to all institutes of consecrated life. The first part of the chapter will consider the background which gave rise to its acceptance, namely the legacy of CIC/17, the principles of revision for the new Code, and the place of autonomy in CIC/83 in general. Next the chapter will describe the textual formation of the canon which illustrates the meaning of c. 586. The first part of the chapter concludes by analysing the wording of the canon, showing the Church's acceptance of complementary competencies in the exercise of authority.

The second section considers the canons of Book II, Chapter V, concerning the apostolate of religious. First, this analysis will show that the ecclesiology of hierarchical communion motivates these canons. Second, the principles of subsidiarity and solidarity act in a continual interplay within the chapter. Third, an examination of the canons will show that in the apostolate the Code accepts interconnections between different levels of law and authority.

### 2.2 The Legacy of the 1917 Code of Canon Law

In the history of the Church, the CIC/17 produced the first codified systematic body of laws concerning religious life.<sup>1</sup> When one examines the *fontes* of this Code, one sees that Gasparri took from the history of the Church many of the disparate decisions, decrees, constitutions, and indults of past popes and councils, as well as some more

---

<sup>1</sup> M. Said offers two reasons for this, almost stating that there was no need for such systematisation. First, the old monastic institutions and also the ancient mendicant Orders had such deeply rooted traditions and such a well organised proper law that they hardly needed any intervention on the part of the Holy See. Second, between 1566 and 1900 a prohibition existed concerning any form of religious life for women except that of cloistered nuns with solemn vows. See M. SAID, "The Present State of the Reform of the Code Concerning the Section 'De Institutis perfectionis'," in *Studia canonica*, 8 (1974), p. 216.

## THE 1983 CODE OF CANON LAW

modern decisions of the Sacred Congregation for Religious and wielded them into a systematic body of laws. While the CIC/17 was an advance over the previous confused, and sometimes contradictory, situation, the Pio-Benedictine Code possessed its own defects.

Said lists six defects of the CIC/17.<sup>2</sup> 1. The strictly juridical and arid formulas used by the legislation were not appropriate to regulate the lives of persons living in an eminently charismatic state.<sup>3</sup> 2. Unnecessary detail and minute norms made application difficult and brought with it monotonous uniformity across the range of institutes.<sup>4</sup> 3. Said says the whole system of this legislation seemed to have been built on the distinction between exempt and non-exempt institutes.<sup>5</sup> 4. There were too many marked discriminations, especially between institutes of men and institutes of women. 5. Some parts were too complicated for easy implementation.<sup>6</sup> 6. There were too many imposed recourses to the Holy See. In addition to these inadequacies of the Code, in 1947 Pius XII approved a new form of consecrated life, namely secular institutes, which the CIC 17 could have not envisaged.<sup>7</sup> Together with the calls of the Second Vatican Council for a renewal of consecrated life, this part of the Code was ready for a new consideration.

---

<sup>2</sup> M. SAID, "The Present State of the Reform of the Code . . ." pp 217-218

<sup>3</sup> Beyer offers a useful description of renewal in the face of the uniformity when he says it involves a return to the Gospel and to charism, and initiative, and fidelity to the grace of foundation. See J. BEYER, "Ou en est la reforme du droit canon? Les Instituts de vie consacree," in *Vie consacree*, 43 (1971), p. 273

<sup>4</sup> The Norms issued in 1921 by the Sacred Congregation for Religious dictated that the Constitutions were to be regarded as strictly juridical documents. Hence art. 22 required that all references to Scripture be removed, that historical notes and the like be taken out, except for the decrees of praise and approbation. SACRED CONGREGATION FOR RELIGIOUS, *Normae*, 6 March 1921, in *AAS*, 13 (1921), pp. 312-319. It is true that more spiritual notes could be retained in other directories, but the Congregation placed strong emphasis on the juridical.

<sup>5</sup> Canon 488 pointed to a hierarchy of institutes beginning with exempt male Orders and moving down to non-exempt female religious in simple vows. A comparison of cc. 615 and 618, §1 shows the disparity between these in the matter of exemption. See also *Communicationes*, 17 (1985), pp. 242-243

<sup>6</sup> See, for example, Title XVI, cc. 646-672, on the dismissal of religious.

<sup>7</sup> See PIUS XII, Apostolic Constitution, *Provida Mater Ecclesia*, 2 February 1947, in *AAS*, 39 (1947), pp. 114-124

### 2.3 The Principles of Revision

The Synod of Bishops meeting in October 1967 approved ten principles for the revision of the Code of Canon Law. These ten principles rest on one further all-embracing principle, the conciliar principle, which was expressed by John Paul II when he said:

The instrument which the Code is fully corresponds to the nature of the Church, especially as proposed by the teaching of the Second Vatican Council in general and in a particular way by its ecclesiological teaching. Indeed, in a certain sense this new Code could be understood as a great effort to translate this same conciliar doctrine and ecclesiology into *canonical language*. If, however, it is impossible to translate perfectly into canonical language the conciliar image of the Church, nevertheless the Code must always be referred to this image as the primary pattern whose outline the Code ought to express insofar as it can by its very nature.\*

We have already seen that the ecclesiological principles contained in *Lumen gentium* become a basis to situate consecrated life in the Church today.

Following on from *Lumen gentium* and *Christus Dominus*, the fourth and fifth principles of revision of the 1967 Synod have particular relevance in this study.<sup>9</sup> The fourth established the principle that "... faculties to dispense from general law which until that time had been extraordinary were to become ordinary with reservations to the Supreme power of the universal Church or other authorities only in those areas which require an exception on account of the common good."<sup>10</sup> Rather than jurisdiction being

---

\*"Instrumentum, quod Codex est, plane congruit cum natura Ecclesiae, qualis praesertim proponitur per magisterium Concilii Vaticani II in universum spectatum, peculiarique ratione per eius ecclesiologicalam doctrinam. Immo, certo quodam modo, novus hic Codex concipi potest veluti magnus nisus transferendi in sermonem *canonicum* hanc ipsam doctrinam, ecclesiologicalam scilicet conciliarem. Quod si fieri nequit, ut imago Ecclesiae per doctrinam Concilii descripta perfecte in linguam «canonicam» convertatur, nihilominus ad hanc ipsam imaginem semper Codex est referendus tamquam ad primum exemplum, cuius lineamenta in se, quantum fieri potest, suapte natura exprimere debet." JOHN PAUL II, Apostolic Constitution, *Sacrae disciplinae leges*, 25 January 1983, in *AAS*, 75 (1983), pars II, p. xi, English translation in *Code of Canon Law, Latin-English edition*, translation prepared under the auspices of the Canon Law Society of America, Washington, DC, Canon Law Society of America, 1983, p. xiv.

<sup>9</sup>The principles, as quoted here, are taken from the shorter version incorporated in the preface of the Latin text of the Code. The fuller version of the principles may be found in PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENIX, *Communicationes*, I (1969), pp. 77-85.

<sup>10</sup>"... quae huc usque extraordinariae erant facultates circa dispensationem a legibus generalibus, ordinariae fiant, reservatis iis tantum Supremae potestati Ecclesiae universalis vel aliis auctoritatibus superioribus, quae

## THE 1983 CODE OF CANON LAW

received by way of delegation, because of the large number of reservations which existed in the CIC/17, the diocesan bishop, among other ordinaries, now possesses that jurisdiction without the need to resort to Rome continually. The appeals to Rome, common under the former Code, were abolished, and the particularity of the particular church was enhanced and enabled to adopt its own identity. This situation does not weaken the principle of solidarity and unity within the Church, because those matters which are reserved to the supreme authority, are preserved precisely because of that unity.

The Synod of Bishops sought to extend the application of the principle of subsidiarity by adopting it as the fifth principle of revision.<sup>11</sup> Using this principle, the Synod called for the recognition of particular laws of institutes and the recognition of a healthy (*sanam*) autonomy for particular executive power while legislative unity and universal and general law are observed. Since the synodal bishops entrusted to particular law what was "not necessary for the unity of the discipline of the universal Church," they prepared the way for a more complete recognition of the proper law of institutes of consecrated life by a further extension of the same principle. Still, the limit, when applied to the universal church, namely, the unity of discipline, holds true for the relationship between the proper law of institutes and the particular law of dioceses. The adoption of such a principle provides another echo of the healthy tension between various levels of law.

---

propter bonum commune exceptionem exigant." Preface to the Latin Edition of CIC/83, in *AAS*, 75 (1983), pars II, p. xxii, in *Code*, p. xxi.

<sup>11</sup> The use of this principle has not been without controversy. For a summary of the issues in this debate, see J. KOMONCHAK, J., "Subsidiarity in the Church: The State of the Question," in *The Jurist*, 48 (1988), pp. 298-349. J. Beyer sees dangers in the use of the principle. Use of the principle, he says, does not permit the immanence of the universal Church to be fully lived in the particular Church. This is because the Church is not merely a human society, and the principle cannot explain this divine-human structure. It should be noted, however, that Beyer defines subsidiarity in terms of decentralisation only and adds that, thus enunciated, the principle contains nothing to correct abuses at a lower level. J. BEYER, "Principe de subsidiarité ou «juste autonomie» dans l'Eglise," in *Nouvelle revue de théologie*, 108 (1986), pp. 801-822. Decentralisation is a consequence of subsidiarity. It is not subsidiarity itself. The principle of subsidiarity is better described as the appropriateness of decision-making at levels appropriate to its implementation without prejudice to the rights and obligations of higher authority.

## THE 1983 CODE OF CANON LAW

The name of the sub-commission charged with the revision of the law applying to consecrated life was *De Institutis Perfectionis*. At their meetings in January, 1968, the members of the sub-commission adopted four more principles that they used in their deliberations.<sup>12</sup> One can construe the first of these principles as a reaction to the spiritual aridity of the former Code. This principle, which Beyer entitles "Droit et grâce,"<sup>13</sup> states that, while the new law should retain its juridic character in line with the first principle of the Synod of Bishops, it should also "foster the mysterious work of divine grace which is certainly given to those who consecrate themselves to the Lord."<sup>14</sup>

The second principle, the fidelity principle, stated that the new Code should permit the knowledge and maintenance of the spirit of the founders and fidelity to the spiritual patrimony and proper law of each institute. Said points out that this has two consequences. First, the *coetus* considered that the common law should restrict itself to universal and general principles applicable to all institutes. Second, they considered that minute detail would be better left to the proper law of the institutes.<sup>15</sup> This shift from the position of the former Code reflects the conciliar statements in *Perfectae caritatis* nn. 2 and 3 and acknowledges the experimentation permitted in *Ecclesiae sanctae*, II, nn. 1-11. An institute needs an adequate liberty to foster fidelity to the its unique character.<sup>16</sup>

The third principle follows as a logical consequence of the second. If the common law recognises diversity in the type and life of institutes, then it has to acknowledge change necessitated by differences in time and place. Hence, this third principle stands as the flexibility principle. The principle states that, except for essential elements of consecrated life which are constitutive of consecrated life, all other norms should admit some degree of flexibility to meet varying exigencies. To make this

---

<sup>12</sup> The Relator stated these principles in his first report summarising the first four sessions in *Communicationes*, 2 (1970), pp. 170-173. Sixteen years later the report of the debate concerning these four principles appeared in *Communicationes*, 18 (1986), pp. 179-182.

<sup>13</sup> J. BEYER, "Où en est la réforme ...," p. 280.

<sup>14</sup> M. SAID, "The Present State of the Reform of the Code .....", p. 222. See also J. BEYER, "Le nouveau Droit des religieux: un projet original et ouvert," in *Concilium*, 97 (1974), p. 93.

<sup>15</sup> M. SAID, "The Present State of the Reform of the Code .....", p. 223.

<sup>16</sup> *Communicationes*, 18 (1986), p. 180.

possible it was envisaged that more and more would be left to the proper law of an institute.

The fourth principle, the participation principle, called for more participation in the exercise of power in the various institutes. So the canons dealing with the internal government of institutes should ensure the widest possible participation. In one way, this establishes a process of relevancy so that members of an institute can report on the capacity of the institute to adapt itself to changing needs.<sup>17</sup>

In employing these four principles, those framing the new law intended to provide scope for institutes to adapt to changing situations while remaining always faithful to their proper charism, their wholesome traditions, and their mission in the Church.<sup>18</sup> It appears almost as if the framers saw the situation of members of institutes of consecrated life working in various dioceses. Further, they foresaw that much would be left to proper law, especially regarding the internal matters of each institute. The use of these principles also permits a situation where proper law itself does not contain all the norms that need to operate in apostolic situations. Room remains in these principles for a further tier of law, or at least agreements, such as those reached between superiors of institutes and diocesan bishops in the matter of particular apostolates.

#### 2.4 Autonomy in General in the Code of Canon Law

Canon 586 of the CIC/83 states the principle of autonomy as it applies to institutes of consecrated life. But other instances of autonomy also occur in the CIC/83. Just as the principles of the revision demonstrated the necessary interplay between

---

<sup>17</sup> Both Beyer and Said point out that other principles were in operation in the reform process. Both mention the removal of discrimination between male and female institutes. Said adds, under the same title, the abolition of the terms "Orders," "Congregations," or "Societies" in favour of simply "institutes." Beyer also mentions the concern to maintain respect for human dignity as well as for human rights. He also mentions the concern to assure the greatest possible harmony between the common law and particular law. See J. BEYER, "Où en est la réforme . . ." p. 280 and M. SAID, "The Present State of the Reform of the Code . . ." p. 224.

<sup>18</sup> J. BEYER, "Le nouveau Droit . . ." p. 93. Beyer goes so far as to state that this fidelity is a right and obligation which sums up all four principles.

## THE 1983 CODE OF CANON LAW

various levels of law, so too an examination of autonomy in general in the Code better informs us regarding the purpose and extent of c. 586.

CIC/83 uses the word, *autonomia*, eight times.<sup>19</sup> In combination with *piae foundationes*, pious foundations, it occurs a further four times.<sup>20</sup> Apart from the explicit references to institutes of consecrated life in cc. 580, 586, 708, and 806, the Code makes explicit reference to autonomy in c. 323, which concerns private associations of the faithful,<sup>21</sup> and in c. 809, regarding Catholic universities. The aggregation of persons or things who possess statutes approved by a competent authority occurs as the common element in each of these references.<sup>22</sup> In short, these institutes claim juridic personality as described in c. 117.<sup>23</sup>

Further, c. 323, §1 makes explicit reference the c. 321 which states: "The Christian faithful guide and direct private associations according to the precepts of their

<sup>19</sup> Canons 323 (twice), 580, 586 (twice), 708, 806, and 809. See X. OCHOA, *Index verborum ac locutionum Codicis iuris canonici*, Città del Vaticano, Libreria Editrice Lateranense, 1984, p. 53.

<sup>20</sup> Canons 115, §1; c.1303 (three times). See X. OCHOA, *Index verborum ac locutionum Codicis iuris canonici*, p. 201.

<sup>21</sup> If autonomy pertains to private associations of the faithful, then *a fortiori* it belongs to public associations of the faithful.

<sup>22</sup> Kneal points out that the law creates the juridic person as a "fiction of law" so that aggregates of persons, or even things administered by persons, are treated as possessing some of the rights and obligations of human persons, especially, for example, in the matters pertaining to property. See E. KNEAL, "Title VI: Physical and Juridic Persons," in J.A. CORRIGAN, T.J. GREEN, and D.E. HEINTSCHIEL, (eds.), *The Code of Canon Law: A Text and Commentary*, New York, Paulist Press, 1985, p. 80.

<sup>23</sup> This is not say that all aggregates which possess statutes approved by a competent authority are juridic persons. As Jullien stated, "Verum concessio personalitatis iuridicae est factum, quod igitur non praesumitur, sed probari debet." See c. Jullien, 11 July 1940, in *DSRR*, 32 (1940), p. 535. The proof is the formal decree. In the present Code c. 114 speaks of the establishment of juridic persons either by the law itself, as in the case of parishes (c. 515, §3), seminaries (c. 238, §1), and religious institutes, provinces and religious houses (c. 634, §1), or by decree of the competent authority, as in the case of private associations of the faithful (c. 322, §1). The faithful are free to form and govern associations (cc. 215 and 299, §1), to have their own statutes, and not necessarily to seek either the approval of the bishop or to seek juridic personality (c. 299, §3). To be recognised beyond this *de facto* situation their statutes must be approved by a competent authority. Again, the presbyteral council possesses statutes approved by the bishop, but it is not a juridic person. It does not fulfil the requirements of c. 114, §2 regarding works of piety, works of the apostolate, or works of charity. It is strictly an advisory body to the bishop. See A. MCGRATH, "Title VI: Physical and Juridical Persons," in G. SHEEHY *et al.* (eds), *The Canon Law Letter & Spirit: a Practical Guide to the Code of Canon Law*, [= *The Canon Law Letter & Spirit*], Collegeville, The Liturgical Press, 1995, p. 65.

## THE 1983 CODE OF CANON LAW

statutes."<sup>24</sup> Canon 809 speaks of academic or scientific autonomy (*scientifica autonomia*). Statutes again govern this autonomy, required by the Apostolic Constitution, *Ex corde Ecclesiae*.<sup>25</sup> In both cases, however, as in all such autonomous situations, autonomy does not mean independence<sup>26</sup>. Rather, the common law and the statutes of the juridic person limit the extent of its autonomy, or the freedom it affords.<sup>27</sup>

Autonomy, in general, gives a juridic person the ability to act freely within the limits set down by its own statutes and the common law. Autonomy exists as an acquired right granted by the law upon erection by a competent authority.<sup>28</sup> The juridic person can be the aggregate of persons whose statutes have been presented for the purpose of gaining this same juridic personality. This means that a juridic person as a whole or those who represent the juridic person as a whole possess autonomy. Other individuals within the group cannot claim to possess autonomy. We will see that institutes of consecrated life do not depart from these general principles.

### 2.5 The Formulation of c. 586

---

<sup>24</sup> Canon 321 states "Consociationes privatas christifideles secundum statutorum praescripta dirigunt et moderantur"

<sup>25</sup> Art. 1, n.2 of *Ex corde Ecclesiae* requires that statutes be drawn up in accordance with canon law, and as far as possible in accordance with civil law. Article 2, n. 5 states "Freedom in research and teaching is recognised and respected according to the principles and methods of each individual discipline, so long as the rights of the individual and of the community are preserved within the confines of the truth and the common good." See JOHN PAUL II, Apostolic Constitution, *Ex corde Ecclesiae*, 15 August 1990, in *AAS*, 82 (1990), pp. 1476-1477

<sup>26</sup> J. Castaño states: "L'indipendenza indica che un determinato ente giuridico non ha alcun legame con nessun altro ente, giacche ognuno rimane nella propria sfera. L'*autonomia* invece può considerare il fatto che un ente giuridico abbia un legame con un altro ente superiore, ma che rimanga autonomo nel suo operare." J. CASTAÑO, *Gli istituti di vita consacrata, (cann. 573-730)*, Rome, Millenium Romae, 1995, pp. 122-123.

<sup>27</sup> It follows from this that autonomy admits of degrees. It is not an absolute freedom from all vigilance or control, but the degree will vary with the nature of the juridic person described in the statutes and the common law.

<sup>28</sup> The particular church possesses a certain autonomy within the organic relationship that it possesses with the universal Church. It gains this autonomy as a consequence of its valid and lawful erection. Yet, this does not mean that the particular church becomes independent of the universal Church. Any sense, however, that the particular church becomes entirely prior to the universal Church would do harm to the mutual interiority that they possess. See M. WILJENS, "For You I Am a Bishop, With You I Am a Christian": The Bishop as Legislator," p. 73, especially footnote 18.

## THE 1983 CODE OF CANON LAW

Although the *coetus* had discussed the principle of autonomy before Session XVI, which took place between 6-9 May 1974, it had done so only obliquely and in reference to something else. On 22 April 1968, for instance, the *coetus* was discussing exemption.<sup>29</sup> The results of that discussion are best summarised in the words of the Relator, Mark Said:

The Consultors of the sub-commission did not agree with the method used by the legislator in the Code of making exemption a sort of dividing wall between institutes. So, while admitting the principle and fact of exemption - which has been brought down to little more than internal freedom of all institutes - they have stressed the internal autonomy of all institutes. This is comparable to the natural right of the individual to live his own life and to have that freedom of action which is due to him as a man. The internal autonomy seems to be necessary for the normal life of the institute since it prevents all undue and unnecessary interventions from outside.<sup>30</sup>

Obviously from this statement it appears that the *coetus* was concerned to apply to all institutes what had previously only belonged to a few, namely the assurance to live their approved form of life with a guarantee of relative freedom.<sup>31</sup>

In his summary of the first four sessions Said returned again to this discussion of exemption.<sup>32</sup> The language of the summary appears more juridical in tone. Here Said

---

<sup>29</sup> *Communicationes*, 17 (1985), pp 242-243

<sup>30</sup> M. SAID, "The Present State of the Reform of the Code ...," p 230

<sup>31</sup> It is also interesting to note that Said uses the analogy of the natural right of the individual to live his own life and to have that freedom of action which is due to him as a man. The debates of the *coetus* show that the use of this analogy should not be construed as saying that institutes also possess a right to autonomy naturally. See note 34 below

<sup>32</sup> *Communicationes*, 2 (1970), p 179 How to understand exemption occupied the concern of the first part of Session IV, held on 22 April 1968. The Relator drew the attention of the *coetus* to two conciliar principles stated in *Christus Dominus*. The first, drawn from CD 35.4, states that concerning works of the apostolate no difference remains between exempt and non-exempt religious. The second principle, drawn from CD 35.3, states that exemption applies to the internal order of institutes. The Relator concluded that, in light of these principles, differences between exempt institutes and those of pontifical right, especially as they pertained to clerical institutes, had vanished. He continued his argument that exemption in the new law, in the light of *Lumen gentium*, is given to institutes not for their good but for the necessities of the whole flock of the Lord. Therefore there seems no reason, he says, why exemption should not be extended to all institutes of pontifical right as it also does not impede the power of the bishops in performing their pastoral office. See *Communicationes*, 17 (1985), pp. 241-242. We can see here the struggle to discover a new mechanism which would afford to all institutes, including those of diocesan right, the essence of what exemption gave, namely freedom to live faithfully their own life according to their statutes. See *Communicationes*, 7 (1975), p 85. The mechanism becomes the re-statement of their status as juridic persons. It was in considering the relation between the bishop and the various types of institute that the

## THE 1983 CODE OF CANON LAW

attaches the notion of autonomy, not to the preservation of founding charisms, which some would say is the case,<sup>33</sup> but to the notion of juridic person.<sup>34</sup>

Said continued to say that because religious institutes are juridic persons they have a right, *ius*, to follow their proper life according to their proper statutes and without undue external interference so that they can undertake their proper activity and properly grow.<sup>35</sup> The determination of the nature of this right becomes important, especially since the canon itself uses *agnoscitur* and not *conceditur*. Whether the right pre-exists the act of approbation of the religious institute as a juridic person, or whether the right simply follows as the normal consequence of recognising any group as a juridic person appears debateable. We shall examine this more closely later.<sup>36</sup>

In his second and third reports the Relator attended to the principle of fidelity. The second report summarised sessions V to IX. Here the *coetus* employed the principle

---

Relator describes the concept of degrees of autonomy based on the nature of institutes. See *Communicationes*, 17 (1985), pp. 243-245 and 25 (1993), p. 230 which mention the relationship between charism and statutes.

<sup>33</sup>E. HAYES, *Rightful Autonomy of Life and Charism in the Proper Law of the Norbertine Order*, Canon Law Studies No. 532, Doctoral thesis, Catholic University of America, Washington, DC. Ann Arbor, MI, UMI, 1990, p. 69. Even Beyer states that the reasoning behind this statement is not immediately the founding charism, but rather the right of association as a right of the human person, recognised by fundamental law. See J. BEYER, "Où en est la réforme..." p. 296.

<sup>34</sup>"Magis utile Coetui apparuit in hac parte insistere ut in tuto ponatur interna cuiuslibet instituti perfectionis autonomia ad quam ius habet in quantum institutum est ens vel organismum ecclesiale legitime ortum per erectionem competentis auctoritatis ecclesiasticae." *Communicationes*, 2 (1970), p. 179. In his translation of this passage, Beyer translates *ens* by "une personne morale." This article was written in 1971, when the *ius vigens* was CIC/17. In that Code, according to c. 99, besides physical persons, there exist in the Church *personae morales*, further distinguished in to collegiate and non-collegiate moral persons. The language was difficult because non-collegiate moral persons had still to be understood as groupings of physical persons. Second, no distinction was made between those constituted by divine law, as in the case of the Church itself, and those constituted by ecclesiastical law, as in the case of a diocese. The new Code has adopted a distinction based on the source of the constitution, divine or not. See F. URRUTIA, *Les normes générales: commentaire des canons 1-203*, Paris, Tardy, 1994, pp. 187-192. Hence, where Beyer referred to moral person, we use juridic person, the language of the CIC/83. For a general discussion on juridic persons, see A. GAUTHIER, "Juridical Persons in the Code of Canon Law," in *Studia canonica*, 25 (1991), pp. 77-92.

<sup>35</sup>"Sub hoc aspectu quodlibet institutum perfectionis ius habet ad vitam propriam agendam iuxta propria statuta et absque indebitis ab extra ingerentias, ad propriam activitatem peragendam et ad proprium incrementum." *Communicationes*, 2 (1970), p. 179.

<sup>36</sup>See G. PASQUALE, "Autonomia e corresponsabilità dei religiosi nel Codex iuris canonici," in *Commentarium pro religiosi et missionariis*, 76 (1995), pp. 277-278. E. GAMBARI, *I religiosi nel codice. Commento ai singoli canoni*, Milan, Ancora, 1986, p. 50. L. CHIAPPETTA, *Il Codice di diritto canonico: commento giuridico-pastorale*, Napoli, Edizioni Deroniane, 1988, pp. 680-681.

**THE 1983 CODE OF CANON LAW**

of subsidiarity in order to avoid the spiritual aridity of the CIC/17. When all are not reduced to one set of prescriptions, then fidelity to a proper vocation, to the charism of the founder, and the fundamental elements of the institute can facilitate change by adapting to new circumstances.<sup>37</sup> The constitutions and directories of each institute record these elements which require fidelity from members of institutes. The third report states that non-fidelity will lead necessarily to loss of identity within the institute.<sup>38</sup> These same constitutions and directories form the basis for approbation by competent authority.

In session XIV the first text of what was to become c. 586, appeared before the *coetus*.<sup>39</sup> The next nine years brought some changes to the text, but the substance of the canon remained unchanged. The substantial aspect affirms the right of all institutes of consecrated life, erected, approved, and commended as special associations of the faithful, to achieve their life normally and peacefully<sup>40</sup>.

At the time, the *coetus* first received the canon dealing with autonomy, c. 16, as well as the canon dealing with exemption, c. 17; both occurred in Title II of the schema. This title concerned the dependence of institutes of perfection on ecclesiastical authority.<sup>41</sup> While it may appear strange to place canons dealing with autonomy and exemption in such a context, the Relator reported that, since the *coetus* had suppressed a separate section dealing with exemption in 1971, they now occurred together. Yet it could be stated that both autonomy and exemption affect this dependency, although

---

<sup>37</sup> See *Communicationes*, 5 (1973), p. 48

<sup>38</sup> See *Communicationes*, 6 (1974), p. 75

<sup>39</sup> The textual development of c. 586 from May 1974 until its promulgated form in CIC/83 is contained in Appendix I.

<sup>40</sup> "Ceterum, *Instituta perfectionis omnia* cum speciales associationes sint fidelium ad specificum finem ab Ecclesia erectae, approbatae et commendatae, *tus habent ad vitam suam normaliter et pacifice agendam.*" *Communicationes*, 28 (1996), pp. 109-110

<sup>41</sup> *Communicationes*, 28 (1996), pp. 85 - 89. Hayes states that the first appearance of the canon was in the 1977 Schema. As the release of the contents of the XIV Session in *Communicationes*, 28 (1996), show, this statement is not correct.

## THE 1983 CODE OF CANON LAW

negatively.<sup>42</sup> The introductory canon of this section, however, firmly establishes the ecclesial setting for all institutes of consecrated life.

The first canon in this section, c. 13, affirms the power of ecclesiastical authority, especially the supreme authority, to regulate the practice of the evangelical counsels and institutes of consecrated life.<sup>43</sup> Canon law now expressed the doctrine contained in *Lumen gentium*, articles 43 and 45. Competent ecclesiastical authority, under the leadership of the Holy Spirit, possesses the power to interpret the evangelical counsels. The practice of the counsels will be managed by apt laws. Finally, by canonical approbation, competent authority can formally erect and constitute stable forms of consecrated life.<sup>44</sup> In short, 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. In some cases the other partner in the relationship will be the diocesan bishop.

In his synthesis of the fifteen sessions prior to the release of the 1977 schema, the Relator stated that, with this principle in mind, it appeared a good opportunity also to defend the just autonomy of institutes of consecrated life so that they could live their life in freedom from unwarranted and unjust impositions and interferences.<sup>45</sup> In his introduction to the canon itself the Relator outlined six elements placed in jeopardy by such interference. These include the recognition of the character of the institute, its internal organisation, its particular law, the purpose of the institute, its apostolic mission,

---

<sup>42</sup> "Nam, exemptio et autonomia Institutorum hanc dependentiam afficit, etsi negative." *Communicationes*, 28 (1996), p. 103.

<sup>43</sup> This canon occurs in the CIC/83 as c. 576

<sup>44</sup> "Competentis Ecclesiae Auctoritatis est, sub ductu Spiritus Sancti, consilia evangelica interpretari, praxim eorum aptis legibus moderari et formas stabiles vitae consecratae a S. Fundatoribus sub inspiratione Spiritus Sancti conditas approbatione canonica formaliter erigere vel constituere." *Communicationes*, 7 (1975), p. 86

<sup>45</sup> "Si iustum et necessarium apparet potestatem Auctoritatis competentis Ecclesiae in moderanda praxi consiliorum evangelicorum proclamare et defendere, sicut factum est in primo canone huius tituli, maxime opportunum apparet defendere etiam iustam autonomiam internam institutorum vitae consecratae ut libera evadant ab indebitis et iniustis impositionibus et intromissionibus." *Communicationes*, 7 (1975), p. 86.

## THE 1983 CODE OF CANON LAW

its history and healthy traditions.<sup>46</sup> Except for the intention of the founders and their spirit, this list comprises the elements described as the patrimony of an institute in c. 578, and reflects the doctrinal concerns of *Perfectae caritatis* n. 2(b). 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. So, just as the law enjoins upon members of an institute fidelity to the patrimony of the institute,<sup>47</sup> it also provides a space to achieve this fidelity freely by means of autonomy.

The Relator, in the notes attached to the proposed canon, also states that this duty of preserving what has been approved obliges members of an institute.<sup>48</sup> While unwarranted external interference was circumscribed, there remained a recognition that autonomy would not prevent episcopal authority intervening in the case of grave abuses and dereliction of duty by the competent authority of institutes themselves.<sup>49</sup> So, in a sense, a balancing act takes place between internal and external authority as they preserve the proper discipline and the patrimony of the institute.

E. Hayes states that there was an overriding concern for the protection of the charism of institutes, which “gave rise to the concept of autonomy” of institutes. Its purpose is to protect individual charisms from dangers both external and internal to the

---

<sup>46</sup> “Haec namque Instituta eorumque sodales non parum turbant et non raro detrimentum sat grave causare possunt; potissimum si ille qui absque vera iusta causa in vitam internam Instituti sese ingerit illud Institutum bene non cognoscit et quoad indolem, et quoad internam organizationem, et quoad ius eius particulare, et quoad finem et missionem apostolicam, et tandem quoad historicam eius evolutionem et sanas traditiones” *Communicationes*, 28 (1996), p. 109

<sup>47</sup> We may legitimately infer this protection from internal interference from the words “proper discipline” as the subjects of proper law are the members of the institute itself

<sup>48</sup> As we have seen the link in the mind of the *coetus* between c. 586 and c. 576 (see footnote 41), so E. Williamson links c. 586 with c. 578. She says, “Can. 578 enjoins on members of an institute of consecrated life the preservation of the patrimony of the institute. The present canon [c. 586] provides the fundamental juridical structure by which this injunction can be fulfilled, i.e. ‘a true autonomy of life.’” E. WILLIAMSON, “Part III. Institutes of Consecrated Life and Societies of Apostolic Life,” in G. SHEEHY, *et al.* (eds.), *The Canon Law Letter & Spirit*, p. 322. Both links, to c. 576 and c. 578, inherently express a fundamental concern of the law, namely to preserve what has been judged as important to the holiness of the Church. See also L. CHILAPPETTA, *Il Codice di diritto canonico:...*, p. 680.

<sup>49</sup> *Communicationes*, 28 (1996), p. 113. See also *Communicationes*, 7 (1975), p. 86.

## THE 1983 CODE OF CANON LAW

institutes.<sup>50</sup> Without doubt there was a concern to protect the patrimony of an institute. Yet, the patrimony of an institute and its founding charism are not coextensive.<sup>51</sup> Second, the material also shows that the concern arose indirectly from a complex and difficult consideration of exemption. Third, we have seen that the recognition of autonomy does not appear as a new concept in canon law. The use of the concept of autonomy rediscovered what was already available by virtue of juridic personality. This canon stands, then, as a reminder of a juridic reality already in existence rather than creating a new juridic category.

The text of the canon in the 1977 schema was changed only slightly from the text of Session XVI in 1974. Instead of the universalist notion conveyed by *omnibus*, the *coetus* preferred a reference which draws attention to the individual institute, *singulis*. The word *iusta* was added because the limits of this autonomy were contained in other statutes of the schema.<sup>52</sup> Although these statutes are not named, it can be safely presumed that they are those contained in the common law, and in the proper law, which attempts to embody the patrimony of the institute. There was some debate concerning the employment of the adjectives attached to patrimony, namely doctrinal, spiritual, and liturgical. These adjectives did not disappear from the text until after the 1977 schema was returned.<sup>53</sup>

Of more importance, the word "charism" does not appear in the minutes of this first debate. Consultor Six insisted that the principle of autonomy of life and government be affirmed everywhere because institutes of perfection are moral or juridic persons in

---

<sup>50</sup> E HAYES, *Rightful Autonomy of Life and Charism in the Proper Law of the Norbertine Order*, p. 80.

<sup>51</sup> For instance, can one regard the history of an institute as part of its founding charism? If it is then what is to be said concerning reforms, mergers, splits, and other events within the life of institutes?

<sup>52</sup> *Communicationes*, 28 (1996), pp. 87-88.

<sup>53</sup> One also notices two other minor changes. First, the omission of *et* before *praesertim regimini* and, second, the enclosure of this phrase in commas. The result places the emphasis on "autonomy of life" and within that to highlight "governance." Autonomy is not simply a matter concerning internal governance of an institute. This takes CIC/1983 beyond the position reached in MR n. 13, which speaks only of internal autonomy.

## THE 1983 CODE OF CANON LAW

the Church. He concluded that if autonomy is not enjoyed by institutes, then they are not persons.<sup>54</sup>

The second part of the canon concerns the relationship with hierarchical authority. The first debate revolved around the word *sancire*. While one Consultor wanted wording concerned with respecting autonomy, Consultor Six argued that *sancire* should remain, for it implicitly signified the right of the Holy See to legislate the limits and forms of this autonomy.<sup>55</sup> The *coetus* voted on suggested changes, but the paragraph remained unchanged in the 1977 schema.

On 27 February 1979, the text of the canon, now c. 12, underwent further change.<sup>56</sup> The addition of *proinde* was provisional since it referred to c. 11, a canon which required the members of institutes to preserve faithfully the identity of their institutes.<sup>57</sup> In a second change, the passive verb, *agnoscitur*, replaced the imperative indicated by *agnoscenda est*. In a third change, because c. 5 now contained a description of patrimony, a reference to that canon replaced the adjectival qualifiers used previously. So, for this part of the canon, the textual development became a process of clarification, rather than a process of further addition.

More importantly, the *coetus* expanded §2 of the proposed canon. Said, the Relator, added the words, *ius et officium*, to make explicit the right and obligation of the Holy See and bishops in this matter. The *coetus* removed the addition after one consultor made the observation that it did not seem tactful to impose an obligation on the Holy See

---

<sup>54</sup> "Exc mus sextus Consultor censet principium autonomiae vitae et regiminis omnino affirmandum esse, quia Instituta perfectionis sunt personae morales seu iuridicae in Ecclesia: si huiusmodi autonomia non gauderent, non essent personae" *Communicationes*, 28 (1996), p. 87.

<sup>55</sup> *Communicationes*, 28 (1996), p. 88. It should be noted that Consultor One voted against the use of the word, autonomy, in both sections of the canon fearing those who wanted complete autonomy within relations between religious provinces or between institutes and the Holy See. Again, Consultor Eight abstained from voting at all on the first paragraph of the canon. Matters were not resolved unanimously.

<sup>56</sup> For a summary of the reactions to the 1977 Schema and the background to these changes, see E. HAYES, *Rightful Autonomy of Life and Charism in the Proper Law of the Norbertine Order*, pp. 93-101.

<sup>57</sup> *Communicationes*, 11 (1979), p. 51. When that canon was removed from this position, *proinde* was also removed from the text.

## THE 1983 CODE OF CANON LAW

or on the bishops.<sup>58</sup> Another consultor suggested that because the Holy See promulgated the Code of Canon Law, all reference to the Holy See should be removed from the canon.<sup>59</sup> After it voted on the change, the *coetus* removed the reference as superfluous.

The words *et propriis legibus tueri atque fovere* replaced *et in tuto servare* and became the second addition to §2. The addition shows that the *coetus* still was unsure just how to safeguard autonomy. The *coetus* did not seem sure whether it was a guarantee provided by the Holy See or by the bishops. They seemed equally unsure whether proper law was the suitable vehicle to express what was being preserved. The secretary of the *coetus*, Castillo Lara, proposed that these words be removed because, he said, a guaranteed autonomy requires not only proper laws but also other means.<sup>60</sup> By virtue of a vote, the *coetus* deleted *sancire et propriis legibus* from the text. The textual development was not complete still.

Assembling the various parts of the Code produced changes in numbering. Also a comma following *agnoscitur* was added. Apart from these minor corrections, paragraph one did not change from 1979 until its promulgation in the CIC/83. The second paragraph underwent two further changes at the Plenary Commission in 1980. First, Archbishop Henriquez wanted the words, *tueri atque fovere*, removed because they placed a burden on the bishops. The objection was answered in two ways. First, the word, *Episcoporum*, was replaced by *Ordinariorum locorum*, which considerably widens the extent of the subject in accordance with c. 134, §2. Second, *tueri atque fovere* was replaced with *servare ac tueri*.<sup>61</sup>

<sup>58</sup> "... non sembra invece delicato imporre, nel §2, un obbligo alla Santa Sede o ai Vescovi." *Communicationes*, 11 (1979), p. 52.

<sup>59</sup> "Un terzo Consultore pensa che sia meglio non accennare alla Santa Sede nel §2, perché è essa che promulga il CIC." *Communicationes*, 11 (1979), p. 52.

<sup>60</sup> Il Segretario propone di togliere al §2 la frase «*propriis legibus*» perché non è soltanto con le leggi ma anche con altri mezzi che viene garantita detta autonomia." *Communicationes*, 11 (1979), p. 52.

<sup>61</sup> "1. Deletur §2 vel saltem emendetur verba «*tueri atque fovere*», ne imponatur Episcopis hoc onus (Exc. Henriquez)

R. *Animadversio recipitur ad mentem, ita ut novus textus §2 sit: «Ordinariorum locorum est hanc autonomiam servare ac tueri». Deletur ergo verbum «fovere».*" PONTIFICA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENTIX, *Relatio complectens synthesim animadversionum ab em.mis atque exc.mis*

## THE 1983 CODE OF CANON LAW

It seems obvious that the verb, *fovere*, became the object of this complaint. While *fovere* has various meanings, the notion of fostering growth acts as the common element in those meanings.<sup>62</sup> Even if the actual nature of the burden that Archbishop Henriquez envisaged does not appear in the report, the meaning of the word itself seems to imply that the substance of autonomy is not complete in itself and so needs nurturing. *Servare*, however, implies that the substance of the institution is complete.

Cardinal Palazzini raised the second objection. He felt that the canon could not be applied to all institutes because of its connection with c. 519 concerning exemption. The observation was dismissed by saying that exemption and autonomy are two different matters.<sup>63</sup> Except for numbering, there were no further amendments to the text, and it was promulgated as c. 586 on 25 January, 1983.

This study of the formulation of c. 586 demonstrates the following:

1. The notion of autonomy in regard to institutes of consecrated life arose because the *coetus* wished to extend the benefits of exemption to every institute by way of right.
2. The notion of autonomy does not act as a new juridical concept but rather as a corollary to the nature of juridic person.<sup>64</sup>
3. Autonomy becomes a juridical consequence in the erection of an institute as a public juridic person. It is an acquired right, not a right based on the possession of a charism.

---

*Patribus Commissionis ad novissimum schema Codicis iuris canonici exhibitarum, cum responsionibus a Secretaria et Consultoribus datis*, Civitate Vaticana, Typis Polyglottis Vaticanis, 1981, p. 136.

<sup>62</sup> *Fovere* is used 46 times in CIC/83. The word has a number of meanings. But the concept of incompleteness, that is, requiring further growth or fostering, seems to underlie its use. In the present context, the use of the word could have led to some ambiguity. For example, does the act of erection give institutes autonomy or do bishops have to add something to make it complete? Such a concept becomes self-defeating with regard to the purpose of autonomy. See C. DU CANGE, *Glossarium mediae et infimae latinitatis*, Graz, Austria, Akademische Druck- u. Verlagsanstalt, 1954, Vol. II, p. 582.

<sup>63</sup> PONTIFICA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENTINO, *Relatio*..., p. 136.

<sup>64</sup> Note that when speaking of temporal goods, the Code identifies religious institutes, provinces and religious houses (c. 634, §1) and societies of apostolic life (c. 741) as juridic persons. Canon 718 does not explicitly use the term, juridic person, in this situation for secular institutes. Nevertheless, the same status applies to them as to the other two modes of consecrated life.

## THE 1983 CODE OF CANON LAW

4. Autonomy does not mean independence from episcopal authority but rather freedom from unwarranted interference. Its setting always remains ecclesial.

5 The subject of autonomy becomes the institute itself and the competent superiors who represent the institute.

6. The object of autonomy concerns the proper discipline and patrimony of the institute. The charisms of the founder and members are the remote objects only in so far as they are reflected in the observance of the proper discipline and the patrimony.

7. The method of preservation of autonomy remains a practical problem.

Autonomy of institutes, then, acts as a safeguard in the free exercise of their way of life within the ecclesial setting. The appreciation of a *communio*-ecclesiology allows autonomy to exist without its becoming a threat to the role of the hierarchical foundation of the Church.

### 2.6 An Analysis of c. 586

#### 2.6.1 *Agnoscur*

The canon recognises, *agnoscur*, a just autonomy of life for each institute of consecrated life, and, by virtue of c. 732, for each society of apostolic life. The obvious sense of the canon manifests that autonomy is not a concession on the part of the legislator.<sup>65</sup> Exactly why it is “recognised” still remains a question.

J. Beyer states that the autonomy of an institute of consecrated life exists as the normal consequence of its nature. He continues to say that it is founded on a charism which ought to be recognised and incorporated in the life of the Church. Without such autonomy the charism may be at some time deformed, limited, or modified.<sup>66</sup> A. Pinheiro goes even further when he says:

Through CIC 586, the supreme legislator has acknowledged (*agnoscur*, not *conceditur*) the just autonomy (*iusta autonomia*) of every institute of consecrated

<sup>65</sup> E. GAMBARI, *I religiosi nel codice*, p. 50

<sup>66</sup> “L’autonomie d’un institut de vie consacrée est la conséquence normale de sa nature. Il est fondé sur un charisme qui doit être reconnu et incorporé dans la vie de l’Eglise, sans qu’il soit à cette occasion déformé, limité ou modifié.” in J. BEYER, *Le droit de la vie consacrée: normes communes*, Bourges, Tardy, 1988, p. 77.

## THE 1983 CODE OF CANON LAW

life. Such autonomy is a "*ius nativum*," a right derived from the very ecclesial nature and mission of consecrated life in the Church of Christ. It is not a privilege, a possibility, a concession granted by law.<sup>67</sup>

In this approach the emphasis placed on the pre-existent charism becomes problematical.

Obviously, the existence of the charism is antecedent to the erection, approbation, and recognition given to an institute by competent ecclesial authority. Also equally true, a certain autonomy exists before the acts of approbation, recognition, and erection. Canon 215 expresses the right of association of all Christ's faithful - the *de facto* association of the faithful. This justifies the formation of a group.<sup>68</sup> Still, from what we have argued thus far, the just autonomy described in c. 586 arises in a different order.<sup>69</sup> The specific intra-ecclesial dimension brings the institute under the Church's law because the institute seeks the protection of the law so that it can act in the Church's

---

<sup>67</sup> A. PINHEIRO, "Bishop-Religious Relationship according to CIC and CCEO," in *Vidyajyoti Journal of Theological Reflection*, 58 (1994), p. 95. See also E. McDonough, who states that autonomy "is an inherent right recognised by the hierarchy precisely because it is directly rooted in and ultimately derived from the charism." E. MCDONOUGH, "Diocesan Institutes and Pontifical Institutes," in *Review for Religious*, 56 (1997), pp. 96-97. Ghirlanda argues slightly differently. "Iusta autonomia interna et externa omnium institutorum est eorum ius nativum, quod fluit ex ipsa essentia Ecclesiae, quae structuram charismaticam-institutionalem habet, quam vita consecrata iure divino spectat." G. GHIRLANDA, "Iusta autonomia et exemptio Institutorum Religiosorum: fundamenta et extensio," in *Periodica*, 78 (1989), p. 141. This argument parallels the argument in the *Instrumentum laboris*, n. 81. The *Instrumentum laboris*, however, continues to speak of "conferring the fullness of the ecclesial expression on the charism." This action guarantees the authenticity of the charism, but it also confers juridic personality upon the group raising it to the level of an institute of consecrated life and thus conferring the autonomy rightly belonging to such an institute as a juridic person in the Church. In a sense, Castillo Lara is correct when he says that autonomy is not a concession, "sed aequam necessitatem propriae naturae charismaticae." The process of discernment by competent authority concerns the authenticity of the charism. Once this authority assesses that the charism is indeed authentic the process passes to the legal recognition of the institute. Then autonomy is recognised because this is a juridic person. The presence of the charism provides the potency for autonomy. Its actuality, however, occurs with the conferral of public juridic personality by the law itself. R. CASTILLO LARA, "De ecclesialitate vitae religiosae in Codice iuris canonici," in *Periodica*, 74 (1985), p. 426.

<sup>68</sup> It may even be argued that the autonomy consequent upon this right applies to, say, congregations of religious among the separated Churches, as for example, Franciscans in the Anglican or Episcopal communion. Castaño calls this a "natural" autonomy. See J. CASTAÑO, *Gli istituti di vita consacrata*, p. 123.

<sup>69</sup> Before its official erection an institute possesses some form of corporate existence, as, for example, an association of the faithful. Gauthier speaks of "some form of collective personality." But the group does not possess the rights specific to this type of juridic person. Yet, it does possess some rights, for example, the right of association, or even the right to acquire property. See A. GAUTHIER, "Juridical Persons in the Code of Canon Law," pp. 82-83.

name.<sup>70</sup> While the presence of the charism constitutes a necessary part of the discernment process in accordance with c. 576, the just autonomy described in c. 586 has no juridical effect simply because of the presence of the charism. Rather, the act of granting juridical personality to the proposed institute juridically effects this autonomy.<sup>71</sup> "Acquired right" best describes the right to the autonomy mentioned in c. 586.

The concept of acquired right helps greatly in determining what becomes autonomous at the moment of erection of an institute of consecrated life (c. 579).<sup>72</sup> Canon 587 describes the content of the material about which the competent authority made its determination and discernment regarding the erection. While constitutions and such can never capture the entire reality of a charism, their contents stand as a measure of those matters which are considered to be autonomous and capable of juridical

---

<sup>70</sup> Castaño uses this distinction, "intra-ecclesial." See J. CASTAÑO, *Gli istituti di vita consecrata*, p. 123. *Apostolicam actuositatem*, art. 24, describes various associations of Christ's faithful. Some exist in a loose conjunction with the hierarchy. Others "the hierarchy brings into closer conjunction with its own apostolic functions." This act of the hierarchy has received the name of "mandate" in various ecclesiastical documents." AA 24, English translation in *FLANNERY*, p. 790. While this document pertains to the laity, it also describes the process of erecting an institute of consecrated life or a society of apostolic life, for they begin their life in the Church generally as associations of the faithful. Canon 313 describes the steps needed in this process to create a public association of the faithful, namely erection by a competent authority and a mission in the name of the Church. Canon 314 describes the necessity of statutes. Such associations are constituted juridic persons. Hence, c. 114, §3 (useful purpose and resources) and c. 115, §2 also apply. From these canons we can argue that the law requires, among other matters, that the competent authority reach a decision concerning the self-sufficiency, at least in part, of the aggregate of persons applying for the status of public juridic person. When this is granted by mandate, the public juridic person is able to act in the name of the Church, within the confines of the common law and its sanctioned statutes, and to conduct its own affairs, even to the extent of possessing temporal goods as ecclesiastical goods. This qualified self-sufficiency is another way of understanding "autonomy."

<sup>71</sup> Gambari better describes this alternate position when he says, "Si può dire che anche il regime dell'Istituto, come la sua esistenza in seno alla Chiesa, sia frutto dell'azione convergente dell'iniziativa del fondatore e dell'Istituto stesso e dell'azione della gerarchia ecclesiastica. Come la gerarchia riconosce e sancisce il carisma così riconosce e sancisce l'autonomia di regime." in E. GAMBARI, *I religiosi nel codice*, p. 50.

<sup>72</sup> McIntyre shows how canonists have not settled on a definition of acquired rights. Two elements, however, need to be present. First, the acquired right must be based on some *ius*. In the present case, c. 578 expresses the need to preserve the patrimony of an institute. Second, some juridical fact takes place to bring the right into existence. In the present case, c. 587 prescribes the written expression of the patrimony such that their juridical erection can take place according to c. 576. See J. MCINTYRE, "The Acquired Right: A New Context," in *Studia canonica*, 26 (1992), pp. 25-38. See also Roelker who comments that "Michiels maintains that not only must a law exist objectively but also that this law must by some juridical fact be applied." See E. ROELKER, "Acquired Rights and the Retroactivity of Laws," in *The Jurist*, 4 (1944), p. 505.

## THE 1983 CODE OF CANON LAW

determination.<sup>73</sup> Autonomy literally means “own law,” so the juridical determinant of the autonomous elements becomes the written and approved texts. The approved texts identify for the member of an institute those matters demanding fidelity, and for the local ordinary, equally, those matters requiring protection.

### 2.6.2 *Iusta autonomia*

When the legislator presents this canon he makes no attempt to supply a definition of autonomy. Rather, he presents the concept in terms of the object of just autonomy. We will see that attempts at a definition may frustrate the purposes of the canon.

The canon describes the autonomy as “just,” *iusta*,<sup>74</sup> to remove any sense of independence from ecclesiastical authority.<sup>75</sup> This circumscription takes place by virtue of the common law itself and also by virtue of the proper law of the institute. We will

---

<sup>73</sup> The juridical determination concerns how this institute will act *in nomine Ecclesiae* within the limits set for them in view of the common good, in accord with the prescripts of law. See c. 116, §1. For a commentary on this point, see A. GAUTHIER, “Juridical Persons in the Code of Canon Law,” pp. 90-91.

<sup>74</sup> We have already seen other adjectives, such as “healthy” or “certain,” and even the first draft described it as *illa*, “that,” used in reference to autonomy. English translators have used a variety of words to translate *iusta*. The CLSA translation employs “rightful.” *Code of Canon Law, Latin-English edition*, translation prepared under the auspices of the Canon Law Society of America, Washington, DC, Canon Law Society of America, 1983, p. 223. While “rightful” conveys the concept of “based on a right”, in this context *iusta* was intended to convey more. Given that the *coetus* deliberately chose this word in May 1974 because, as Consultor 15 asserted, the word indicates the limits the autonomy by virtue of the law itself, we believe that the correct translation is “just.” See *Communications*, 28 (1996), p. 88. It might also be argued that since this autonomy is an acquired right, the word, “just,” also preserves that notion of right or *ius*. The translation by the Canon Law Society of Great Britain and Ireland employs “true.” *The Code of Canon Law in English Translation*, prepared by the Canon Law Society of Great Britain and Ireland in association with the Canon Law Society of Australia and New Zealand and the Canadian Canon Law Society, London, Collins, 1983, p. 106. The *Code of Canon Law Annotated* commentary also employs “true.” E. CAPPAROS, M. THERIAULT and J. THORN (eds.), *Code of Canon Law Annotated*, Montréal, Wilson & Lafleur Limitee, 1993, p. 414. Again such a translation weakens the intent of the designated word, *iusta*.

<sup>75</sup> The word, “*iusta*,” occurs numerous times in the CIC/83. Canon 218, for instance, speaks of a lawful, *iusta*, freedom of enquiry, which is further acknowledged in c. 386, §2, as a duty of the diocesan bishop to allow rightful, *iusta*, freedom of investigation into the truths of the faith. Canon 1138, §1 appends *iusta* to *mptiae* in order to identify the father of children. The Church can acquire temporal goods by every just, *iusta*, means of natural or positive law permitted to others. Ochoa lists sixty occurrences of the combination *causa iusta*. In each case the adjective points to a body of law, whether it consists of divine law, natural law, or one of the tiers of positive law. Again used in combination with *impedimentum* and *poena*, the adjective, *iusta*, points to the presence of a body of law and, consequently, to the authority that administers that law. See X. OCHOA, *Index verborum ac locutionum Codicis iuris canonici*, pp. 69, 217, 253-254, and 351.

## THE 1983 CODE OF CANON LAW

also argue that the particular law of a diocese, in so far as it pertains to apostolic works, limits the exercise of autonomy.<sup>76</sup>

The nature of each institute, described in common and particular law, will also indicate the degree of autonomy enjoyed by an institute. The degree will vary depending on whether a particular form of consecrated life is a religious institute, a secular institute, or a society of apostolic life. It will vary also because of its status as an institute of diocesan right (c. 594) or pontifical right (c. 593). It will vary also if pontifical rite institutes are exempt institutes or not (c. 591). Whether an institute or society is clerical or lay also will affect its degree of autonomy (c. 588 and c. 134).<sup>77</sup>

### 2.6.3 *Iusta autonomia vitae, praesertim regiminis*

*Lumen gentium* art. 43 expresses not only the necessary presence of consecrated life in the Church but also admits its various forms. If c. 577 expresses this diversity as a matter of law, cc. 578 and 587 provide the means to state this diversity juridically. It seems obvious, then, that autonomy should apply neither simply to governance, nor simply to matters internal to an institute.<sup>78</sup> If this were the case, a dichotomy would

<sup>76</sup> Canon 678 certainly embodies this third tier of particular law

<sup>77</sup> J. BEYER, *Le droit de la vie consacrée: normes communes*, p. 78. See J. Castaño, *Gli istituti di vita consecrata*, p. 123. V. DE PAOLIS, *La vita consecrata nella chiesa*, Bologna, Editoriale Dehoniane, 1992, p. 102. G. GHIRLANDA, "Iusta autonomia et exemptio Institutorum Religiosorum fundamenta et extensio," p. 124.

<sup>78</sup> Beyer best describes this when he says, "L'autonomie concerne toute la vie de l'institut et non pas seulement son gouvernement. Cette vie s'exprime également dans son rayonnement, son action, son travail apostolique. Cette autonomie s'exprime alors par un esprit, une manière d'agir et une méthode de prière, d'action, de retraites spirituelles." J. BEYER, *Le droit de la vie consacrée: normes communes*, p. 77. See also E. McDONOUGH, "Canonical Considerations of Autonomy and Hierarchical Structure," in *Review for Religious*, 45 (1986), p. 671. G. GHIRLANDA, "Iusta autonomia et exemptio Institutorum Religiosorum: fundamenta et extensio," p. 133. Hill seems to have a contrary opinion when he states, "... autonomy of life concerns anything which does not directly affect the apostolic enterprises of the diocese or the public in general." R. HILL, "Autonomy of Life," in *Review for Religious*, 46 (1987), p. 140. This over-simplifies the situation. On the one hand, for instance, apostolic works, proper to an institute, are subject to two authorities, the religious superior and the diocesan bishop (c. 678, §1 and c. 601). On the other hand, the bishop not only is to promote fidelity to the discipline of the institute but to insist upon it (c. 678, §2). Gallen aids the understanding of the text of the canon when he says, "Canon 586, §1 affirms that all religious and secular institutes possess a true and recognised autonomy of *internal* life, especially of government." J. GALLEN, "Authority and Autonomy," in *Review for Religious*, 43 (1984), p. 596. [Emphasis added]. He describes this internal autonomy as the relation of members to superiors of institutes, constitutions and other books as well as the patrimony of the institute. But he does not mention any apostolic works. However, in

## THE 1983 CODE OF CANON LAW

appear immediately between the internal life of an institute and its external expression in the apostolate. Rather than restricting the autonomy of institutes, the issue becomes one of balancing intersecting authorities, namely that of the religious superior and that of the diocesan bishop.

Pasquale makes a distinction between autonomy of governance in the internal order and autonomy of governance through the external order.<sup>79</sup> Regarding the former he says:

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 organisation, 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.<sup>80</sup>

Yet, institutes of consecrated life always remain within the communion of the Church. Hence, they are subject always to an external ecclesial authority. Canon 590 subjects institutes to the supreme authority of the Church (§1) and their members to the Supreme Pontiff (§2). Canon 593 states that with due regard for c. 586, institutes of pontifical right are immediately and exclusively subject to the power of the Apostolic See in internal governance and discipline. Canon 594 leaves institutes of diocesan right under the special care of the diocesan bishop. The Code always envisages that institutes of

---

the case of societies of apostolic life, for instance, the particular existence of their society is dependent upon an apostolic purpose (c. 731, §1, see also c. 675, §1) To exclude these works from autonomy seems inappropriate

<sup>79</sup> G. PASQUALE, "Autonomia e corresponsabilità dei Religiosi nel Codex iuris canonici," pp. 280-282.

<sup>80</sup> "L'ambito proprio in cui si esprime l'autonomia di governo è, innanzitutto, l'ordine interno degli istituti, vale a dire il patrimonio proprio, la professione dei consigli evangelici, la vita fraterna, l'organizzazione interna, la formazione dei membri, i loro obblighi e diritti. Per la strutturazione di questo ordine interno tutti gli istituti di vita consecrata devono avere un diritto proprio, approvato dalla competente autorità, e che si esplicita in diritti e doveri per i singoli membri e i loro raggruppamenti. La cura, la vigilanza e la responsabilità dell'osservanza di questo diritto proprio ricadono principalmente sui superiori interni dell'istituto." G. PASQUALE, "Autonomia e corresponsabilità dei Religiosi nel Codex iuris canonici," pp. 280-281.

consecrated life are not independent of the communion of the Church and its juridical structures.<sup>81</sup>

We have already stated that the external operation or apostolate of institutes of consecrated life does not extinguish their right to autonomy. There exists an intrinsic connection between their internal life and its expression in mission, which constitutes part of the Church's salvific mission (c. 574, §2). Therefore, the right to exercise works proper to the institute (c. 677, §1) becomes qualified in its extent, not in its existence, by participation in the life of a diocese.

The apostolic action of institutes of consecrated life, because it bears the proper peculiarity of the institute and because it is called to be realised in the organic ecclesial communion, is configured as a mixed reality, governed by two authorities, that of pastors (the Supreme Pontiff and bishops) and that of internal superiors; the responsibility for the external works of the apostolate on institutes of consecrated life falls cumulatively on both of these authorities, each in its own proper sphere.<sup>82</sup>

We can conclude that the words, *iusta autonomia vitae, praesertim regiminis*, find a further reflection in the remaining words of the canon, which state the object of autonomy. *Propria disciplina* and *suum patrimonium* reflect a wider reality than internal discipline. The entire life of institutes of consecrated life possesses an ecclesial dimension whether lived internally or externally. The focus-question becomes the proper balancing of authoritative spheres, not the existence of autonomy itself.

#### 2.6.4 §2. *Ordinartorum locorum est hanc autonomiam servare ac tueri*

The second paragraph of the canon makes concrete the duty of the local ordinary to preserve and protect the autonomy of institutes of consecrated life. We have already

<sup>81</sup> V. DE PAOLIS, "Gli istituti di vita consecrata nella chiesa," in G. GHIRLANDA, V. DE PAOLIS and A. MONTAN (eds.), *Il Codice del Vaticano II. La vita consecrata*, Bologna, EDB, 1983, p. 82.

<sup>82</sup> "L'azione apostolica degli Istituti di vita consecrata, perché chiamata ad attuarsi nell'organica comunione ecclesiale, si configura come un *affare misto*, governato da due autorità, quella dei pastori (sommo pontefice e vescovi) e quella dei superiori interni, su ambedue queste autorità, ciascuna per il proprio ambito, ricade cumulativamente la responsabilità per le opere esterne di apostolato degli istituti di vita consecrata." A. MONTAN, "Gli istituti di vita consecrata e le società di vita apostolica. Normativa," in *La vita consecrata*, p. 157.

**THE 1983 CODE OF CANON LAW**

seen that rather than consider this duty as one attached to the regulation of the praxis of the evangelical counsels, the *coetus* eventually intended this paragraph as a reminder of the duty which exists as a correlative to the right in §1.<sup>83</sup> Once one has become conscious of the additions and removals in the history of the formulation of the text, its meaning appears clear.

The paragraph begins with a reference more expansive than the diocesan bishop. Canon 134, §2 states that ordinaries in law, according to c. 134, §1, comprise those to whom the title "local ordinary" applies.<sup>84</sup> Not only does this term emphasise the duty of all hierarchical authority to safeguard and protect this just autonomy, but the term also says something about the territorial extent of the duty. The duty applies in dioceses and in other circumscriptions, in fact, in the whole church without exception.

A re-consideration of *Mutuae relationes*, nn. 9(c), 28, and 52, the sources of this paragraph, demonstrates that the bishop acts not simply as a mere guardian protecting institutes from outside interference. These passages exhort him to be an active agent in the life of institutes and their members, while respecting their particular autonomy. Art. 9(c) speaks of "coordinating multiple energies" and of "caring for religious charisms" because of the very indivisibility of the pastoral ministry making bishops responsible for the perfection of the whole flock<sup>85</sup>. Art. 28 speaks of the bishop as an authentic teacher and guide of perfection for all members of the diocese. In consequence, he becomes the "guardian of fidelity to the religious vocation in the spirit of each institute." With his clergy, also, the bishop becomes a "staunch advocate of the consecrated life, defender of

---

<sup>83</sup> Castaño uses LG art. 43 to explain this duty. He quotes, however, from the passage which speaks of the role of authority in interpreting the evangelical counsels, regulating them and establishing stable forms of life. J. CASTAÑO, *Gli istituti di vita consacrata*, p. 125. V. De Paolis, on the other hand, attends to the preservation of the right to autonomy. He states that the local ordinary has two duties. First, he is to be conscious of the significance of autonomy, knowing that unwarranted interference is *contra legem*, and second, he must defend such autonomy from violations by those within his sphere of influence. V. DE PAOLIS, *La vita consacrata nella chiesa*, p. 102.

<sup>84</sup> See J. BEYER, *Le droit de la vie consacrée: normes communes*, pp. 78-79.

<sup>85</sup> "Ipsis igitur concreditum quoque est munus curandi religiosa charismata; eo magis quod indivisum ipsum pastorale ministerium *perfectores* totius gregis eos efficit." MR 9(c), in *AAS*, 70 (1978), p. 479, English translation in *FLANNERY*, Vol II, p. 216.

**THE 1983 CODE OF CANON LAW**

religious communities, promoter of vocations and firm guardian of the specific character of each religious family in the spiritual and in the apostolic field."<sup>86</sup> Art. 52 speaks of the bishop's duty "to promote and encourage the fidelity and authenticity of Religious and to help them play their part in the communion of the Church and its evangelising action according to their distinctive character."<sup>87</sup> The bishop acts both actively and passively in his protection of autonomy.

The CIC/83 supports these general duties of the diocesan bishop in his own diocese. Four canons in particular make this clear. Canon 383, §1 states that "in the exercise of his pastoral office a diocesan bishop is to show that he is concerned with all the Christian faithful who are committed to his care regardless of age, condition or nationality..."<sup>88</sup> This canon does not explicitly include nor exclude the members of institutes of consecrated life. Further, it does not contain any reference to clergy, including the diocesan clergy. Yet the word, *christifideles*, includes all these groups (c. 204). The canon integrates various parts of the conciliar teaching found in *Christus Dominus* arts. 16, 18, and 23.<sup>89</sup> So, the law entrusts the care of members of consecrated life to the diocesan bishop especially when they live in his diocese.<sup>90</sup> The exercise of that care is not absolute but monitored by other levels of universal and proper law.<sup>91</sup>

---

<sup>86</sup> "Ad Episcopos spectat, utpote qui magistri authentici et perfectionis moderatores sint pro omnibus Dioeceseos membris (cfr. CD. 12, 15, 35.2, LG. 25, 45) etiam fidelitatem erga religiosam vocationem in spiritu uniuscuiusque Instituti custodire. 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." MR 28, in *AAS*, 70 (1978), p. 490, English translation in *FLANNERY*, Vol II, p. 228

<sup>87</sup> "Eius enim proprium officium est vitam consecratam defendere, Religiosorum fidelitatem et authenticitatem promovere ac fovere, eosque adiuvere, ut in suae ipsius Ecclesiae communionem atque in evangelizandi actionem, secundum videlicet propriam eorum indolem, sese inserere valeant." MR 52, in *AAS*, 70 (1978), p. 500, English translation in *FLANNERY*, Vol II, p. 238

<sup>88</sup> Canon 383, §1 states, "In exercendo munere pastoris, Episcopus dioecesanus sollicitum se praebeat erga omnes christifideles qui suae curae committuntur, cuiusvis sint aetatis, conditionis vel nationis..." This concern is the natural consequence of the Church's understanding of the bishop as a constituted pastor in the Church, c. 375, §1. See A. PINHEIRO, "Bishop-Religious Relationship: The 'Apostolic Subjection' of Religious to the Power of Diocesan Bishop in the Exercise of Apostolic Activities in the Diocese (can. 678, §§ 1 & 2)," in *Commentarium pro religiosis et missionariis*, 68 (1987), [= "The 'Apostolic Subjection' of Religious"], p. 38.

<sup>89</sup> T. GREEN, "Section II. Particular Churches and Their Groupings [cc. 368-572]," in *CLSA Commentary*, p. 326.

<sup>90</sup> Canon 381, §1 states the principle of LG art. 28, namely that the diocesan bishop possesses all ordinary, proper, and immediate power required for the exercise of his pastoral office. Immediate power means that

## THE 1983 CODE OF CANON LAW

Second, c. 384 speaks in a general way about the presbyters in a diocese. Again no distinction occurs between diocesan clergy and those belonging to institutes of consecrated life. The canon says:

...he is to protect their rights and see to it that they correctly fulfil the obligations proper to their state and that means and institutions which they need are available to them to foster their spiritual and intellectual life; he is also to make provision for their decent support and social assistance, in accord with the norm of law.<sup>92</sup>

What this may mean in practice will be determined by the norm of law, so the canon says. In the case of priest members of institutes of consecrated life and societies of apostolic life, these matters may be attended to in the proper law of the institute or of the society. But it would seem that the diocesan bishop has an active role, even if only that of exhortation to superiors and members of institutes of consecrated life concerning the welfare of the clergy.

Third, c. 387 states that he has the duty to promote the holiness of the Christian faithful "according to each one's vocation."<sup>93</sup> Again, the proper law of an institute will give members of institutes the grounding for their particular spirituality. But, this canon,

the bishop can exercise that power personally and directly for the benefit of the people entrusted to his care, although he himself may make use of intermediaries in carrying out his office. See T. GREEN, "Section II: Particular Churches and their Groupings [cc. 368-572]," p. 325; Pinheiro points out that priests, religious, and laity are indeed also collaborators and cooperators with the diocesan bishop. A. PINHEIRO, "The 'Apostolic Subjection' of Religious," pp. 41-42. But they all remain subject, in various ways and to greater and less degrees, to the bishop

<sup>91</sup> In the communion of the Church, it must be remembered, for instance, that diocesan bishops have power in their own diocese, but only a solicitude that can be exercised for other particular churches. Their power is exercised only in communion with the head of the college of bishops and its members (c. 375, §1). Further, certain matters remain reserved to the Supreme Pontiff. In the diocese, parish priests are subject to the bishop, but, for instance, he cannot remove them without due process of law (cc. 1740-1747). In the case of institutes of consecrated life he is also unable to contravene their proper law without due process. For instance, he cannot change the constitutions of an institute of pontifical right (c. 593). In the case of institutes, the diocesan bishop of the principal house approves constitutions and changes to them, except where matters have been reserved to the Apostolic See (c. 595, §1).

<sup>92</sup> Canon 384 states, "... eorum iura tutetur et curet ut ipsi obligationes suo statui proprias rite adimpleant iisdemque praesto sint media et institutiones, quibus ad vitam spiritualem et intellectualem fovendam egeant; item curet ut eorum honestae sustentationi atque adistentiae sociali, ad normam iuris, prospiciatur."

<sup>93</sup> Canon 387 states, "... omni ope promovere studeat sanctitatem christifidelium secundum uniuscuiusque propriam vocationem ..."

**THE 1983 CODE OF CANON LAW**

since it expresses the sanctifying office of the diocesan bishop, applies to all the Christian faithful in his diocese. With regard to institutes of consecrated life, this will involve consultation and negotiation between the diocesan bishop and superiors and even the members. For instance, c. 630, §3 mentions ordinary confessors in monasteries of nuns, in houses of formation, and in more numerous lay communities. The local ordinary approves such confessors after consultation with the community. Canon 578 obliges members to remain faithful to the patrimony of an institute, which includes its particular spiritual life. Canons 619 and 678, §2 entrust the primary duty of preserving this to the superiors of the institutes. Yet c. 678, §2 permits the diocesan bishop to insist upon it "in cases which warrant it."

Finally, c. 392, §1 obliges the diocesan bishop to urge the observance of all ecclesiastical laws. Canon 392, §2 specifies certain areas in which he exercises that obligation, namely the ministry of the word, the celebration of the sacraments and sacramentals, the worship of God, devotion to the saints, and also the administration of property. We will see that c. 678, §1 repeats these matters explicitly in the case of religious.

While c. 586, §2 gives to the local ordinary the duty of preserving the autonomy of each institute, the law does not understand the bishop as simply a type of guardian against unwarranted intrusion into the life of the institute and its members. It also envisages him as one who offers encouragement to religious in their fidelity to their particular call to holiness. He may not have the power of superiors of institutes, but equally he need not be absent totally in caring for their internal life. Thus an active as well as a passive interpretation of the role of the local ordinary in this paragraph of the canon reflects more truly the intent of the CIC/83 in general. This discussion prepares us for a second but important consideration.

## 2.7 Religious, Bishop, and the Apostolate

Book II, Title II, Chapter V bears the title, "The Apostolate of Institutes." The chapter contains eleven canons, cc 673-683. These may be divided into two sections. The first group, cc. 673-677, describes the apostolate and apostolic activity; the second group, cc. 678-683, describes the relationship between the apostolate of religious and the diocesan bishop.<sup>94</sup> A consideration of the first section yields an understanding of what constitutes the apostolate for institutes of consecrated life and what constitutes their proper works.

### 2.7.1 Apostolate and Proper Works

*Apostolicam actuositatem*, art. 2, states:

The Church was founded to spread the kingdom of Christ over all the earth for the glory of God the Father, to make all men partakers in redemption and salvation, and through them to establish the right relationship of the entire world to Christ. Every activity of the Mystical Body with this in view goes by the name of "apostolate"; the Church exercises it through all its members, though in various ways. In fact, the Christian vocation is, of its nature, a vocation to the apostolate as well.<sup>95</sup>

F. Morrisey points out that in cc. 211 and 216 the law not only calls for participation in mission but makes it a duty and a right for all *christifideles*.<sup>96</sup> The Council emphasized this participation for religious in *Christus Dominus*, art. 33. *Christus Dominus* avoids any charge of pure activism, though, when it indicates that religious base their mission on the means of prayer, works of penance, and by the example of their own lives. Canon 673 states this religious dimension and repeats it in c. 675, §2.<sup>97</sup> Both canons make this

<sup>94</sup> J. CASTAÑO, *Gli istituti di vita consacrata*, p. 265. Beyer also adopts this division, see J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, Bourges, Tardy, 1988, p. 160.

<sup>95</sup> "Ad hoc nata est Ecclesia ut regnum Christi ubique terrarum dilatando ad gloriam Dei Patris, omnes homines salutaris redemptionis participes efficiat, et per eos mundus universus re vera ad Christum ordinetur. Omnis navitas Corporis Mystici hunc in finem directa apostolatus dicitur quem Ecclesia per omnia sua membra, variis quidem modis, exercet; vocatio enim christiana, natura sua, vocatio quoque est ad apostolatam." AA art. 2, in *AAS*, 58 (1966), p. 838, English translation in *FLANVERY*, pp. 767-768.

<sup>96</sup> F. MORRISEY, "The Apostolate of Religious According to the New Code," in *Australasian Catholic Record*, 60 (1983), p. 381. See also R. HILL, "The Apostolate of Religious" in J. HITE, S. HOLLAND and D. WARD, (eds.), *A Handbook on Canons 573-746*, Collegeville, MN, Liturgical Press, 1985, pp. 197-198.

<sup>97</sup> Canon 674 speaks about institutes wholly ordered to contemplation. The Church regards their life of prayer as so important that the law states that members of these institutes cannot be summoned to aid in

**THE 1983 CODE OF CANON LAW**

spiritual component constitutive for the apostolate of religious.<sup>98</sup> So the apostolate of religious does not begin with active works but with the testimony of their being, according to the principle, *agere sequitur esse*.

Since union with the Lord and apostolic action cannot truly exist without each other, each should lead to the intensification of the other.<sup>99</sup> From their earliest days in formation individual members of institutes are to view the proper works and the mission of each institute centred around the spirit of the institute (cc. 577 and 659). Thus the spirit of the institute becomes a constitutive element of their proper works undertaken in the apostolate.<sup>100</sup>

Although the apostolate inheres in every religious life and there exists a mutuality between prayer and action, the canons consider three specific ways of carrying out the apostolic mission in accordance with the nature of each institute.<sup>101</sup> These ways are not a triple typology of institutes, but simply three broad ways of describing how institutes are active in mission.<sup>102</sup> Hence, c. 674 describes the life of contemplation. Canon 675 describes public apostolic action mandated by the Church and performed in her communion. Canon 676 describes the works of mercy, both spiritual and corporal.

An apostolate proper to an institute and the exercise of the apostolate exist as separable realities.<sup>103</sup> The former comes into being by mandate of the Church so that it

various pastoral ministries. The canon gives a positive directive to the negative contained in CD n. 35. 1, which stated that all other religious could be called upon to help in various pastoral ministries, except the contemplatives. As Williamson says, this is a remarkable example of the law itself protecting the patrimony of an institute. E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 376.

<sup>98</sup> Canon 673 states, "Omnium religiosorum apostolatus primum in eorum vitae consecratae testimonio consistit, quod oratione et paenitentia fovere tenentur" [Emphasis added]. Canon 675, §2 states, "Actio apostolica ex intima cum Deo unione semper procedat eandemque confirmet et foveat."

<sup>99</sup> F. MORRISSEY, "The Apostolate of Religious According to the New Code," p. 384.

<sup>100</sup> V. DE PAOLIS, *La vita consacrata nella chiesa*, p. 345.

<sup>101</sup> E. CAPPAROS, M. THERIAULT and J. THORN (eds.), *Code of Canon Law Annotated*, p. 460.

<sup>102</sup> Morrissey uses the term, "forms" of this triple modality. F. MORRISSEY, "The Apostolate of Religious According to the New Code," p. 386. As such the list formed by these three canons is not an exhaustive one. Canon 605 exhorts diocesan bishops strive to discern such new forms, although their approval is reserved to the Apostolic See alone.

<sup>103</sup> A. PINHEIRO, "The 'Apostolic Subjection' of Religious," p. 54.

## THE 1983 CODE OF CANON LAW

can be carried out in the name of the Church in its communion (c. 675, §3). Canon 586 guarantees the just autonomy of this proper apostolate, described in the written documents of the institute. Consequently, the exercise of that proper apostolate falls under the two authorities, namely that of the diocesan bishop and that of the religious superior, each with his own proper sphere of authority. While the diocesan bishop may not abolish the apostolate proper to an institute, he may curtail its exercise for the sake of a greater good, for example, harmony and coordination in the apostolate of the diocese.

Canon 677 concludes this section. The first paragraph exhorts superiors and members to fidelity and adaptation. *Perfectae caritatis* art. 20, the source of the paragraph, acknowledges that religious life is not a static reality endlessly repeating one set of actions. Rather it forms part of the mission of the Church and needs to adapt to changing circumstances whether they are cultural, temporal, demographic, or whatever else.<sup>104</sup> But because “adaptations do not mean substitutions,”<sup>105</sup> the paragraph recalls the words of c. 578 concerning *sanæ traditiones*.

In the existential situation the development called for by the canon will often take place in the various dioceses where the institute finds itself. This may happen because of the particular nature of the diocese and the request of the diocesan bishop. But the canon does not envisage radical development in the sense of complete departure, but rather development that still remains faithful to the originating charism and the sound traditions.

### 2.7.2 Canon 678 - Subjection of Religious in Matters of the Apostolate

Canon 678, §1 constitutes a key paragraph concerning the relationship between the apostolate of religious and the diocesan bishop. For societies of apostolic life, c. 738,

---

<sup>104</sup> E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 376. J. HITE, “Chapter V. The Apostolate of Institutes (cc. 673-683),” in *CLSA Commentary*, p. 508.

<sup>105</sup> E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 377.

**THE 1983 CODE OF CANON LAW**

§2 provides a similar statement. Even so, a difference in wording takes place in the two canons. Canon 678, §1 states:

Religious are subject to the authority of bishops, *whom they are obliged to follow with devoted humility and respect*, in those matters which involve the care of souls, the public exercise of divine worship and other works of the apostolate.<sup>106</sup>

The highlighted clause does not appear in c. 738, §2. The omission occurs because often clerics of such societies are incardinated in the diocese and owe the diocesan bishop this devotion and respect under that title.<sup>107</sup>

Both canons prescribe the submission of religious to the power of the diocesan bishop in three areas. To find the fundamental reason for this submission, however, we look to other places in the Code. Canon 392 obliges the bishop to protect the unity of the universal Church, an obligation which requires him to promote common discipline. In his diocese, according to *Lumen gentium*, art. 23, the bishop acts as the visible source, foundation, and guarantor of that unity. So the law obliges him to see to it that abuses do not arise, for example, in the celebration of the sacraments.<sup>108</sup>

Canon 394 contains another reason. It states that the bishop has the power, *inter alia*, to coordinate the works of the apostolate under his direction, *sub suo moderamine*. CD art. 17 presents the *terminus a quo* for this coordination when it says, "Thus all the undertakings and organisations ... will act together in harmony, and the unity of the

---

<sup>106</sup> Canon 678, §1 states, "Religiosi subsunt potestati Episcoporum, *quos devoto obsequio ac reverentia prosequi tenentur*, in iis quae cura animarum, exercitium publicum cultus divini et alia apostolatus opera respiciunt." [Emphasis added]. The original text of this canon was first presented on 25 January 1980. What is now c. 678, §1 was c. 1, §2 in that draft. It read, "Subsunt etiam Ordinariolorum locorum iurisdictioni ad normam iuris, prout horum pastorale munus perfungendum et animarum rite ordinanda curatio requirunt." *Communicationes*, 13 (1981), p. 202.

<sup>107</sup> This section of the Code was not created until 1980. See *Communicationes*, 13 (1981), pp. 380-389. The wording of this paragraph, as first presented by the Relator, contained the reference to incardination. But this was dropped for the present reference on the areas of dependence. See *Communicationes*, 13 (1981), pp. 393-396. See also c. 273.

<sup>108</sup> For a fuller discussion on this point, see A. PINHEIRO, "The 'Apostolic Subjection' of Religious," pp. 50-51.

**THE 1983 CODE OF CANON LAW**

diocese will be more closely demonstrated.”<sup>109</sup> Besides the concern for unity, often there exists a legitimate fear concerning the duplication of apostolic works and a dissipation of resources. So with good practical reasoning the Code considers the bishop as head of the apostolate in his diocese.<sup>110</sup>

Both c. 678, §1 and c. 738, §2 mandate the submission of religious and members of societies of apostolic life to the diocesan bishop in the matters mentioned. Yet, the extra clause of c.678, §1 warrants some brief attention. The Code addresses this canon to individual religious and not to institutes. This is obvious from the content of the second paragraph. Hence, the clause in question qualifies the relationship between the individual religious and the bishop. Yet, it must be remembered that this represents only one of several relationships contained in the paragraph. Besides this submission to bishops, §2 describes their submission to their proper religious superiors and their fidelity to the institute. Added to this, c. 680 mentions the relationships between institutes, and therefore their members, with the secular clergy. Also, since religious can receive an ecclesiastical office, for example, that of parish priest or judge in the Tribunal, they also have a relationship with the diocesan community.<sup>111</sup> The canon, therefore, does not contain any sense of absolute obedience, especially in the light of the acknowledged dual authority relationship associated with the proper superior and the diocesan bishop.

Nonetheless, the relationship does demand more than “devoted humility and respect” as the Canon Law Society of America has translated the phrase.<sup>112</sup> The difficulty most obvious in this passage arises with a suitable translation of *obsequium*. There are four uses of this word in the Code, three of which are attached to the teaching

<sup>109</sup> “... omnium operum apostolatus, ... ad concordem redigantur actionem, qua simul clarius dioecesis unitas eluceat.” CD 17, in *AAS*, 58 (1966), p. 681. English translation in *FLANNERY*, p. 574.

<sup>110</sup> A. PINHEIRO, “The ‘Apostolic Subjection’ of Religious,” p. 52. Also E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 378

<sup>111</sup> V. DE PAOLIS, *La vita consacrata nella chiesa*, p. 347.

<sup>112</sup> *CLSA Code*, p. 257. The *Code of Canon Law Annotated* commentary translates this clause as “sincere submission and reverence,” E. CAPPAROS, M. THIERIAULT and J. THORN (eds.), *Code of Canon Law Annotated*, p. 462. The translation which occurs in *The Canon Law Letter & Spirit* also uses “submission.” E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 378. An earlier translation used the clause, “... bound to treat with sincere obedience and reverence.” *CLSA/GBI Code*, p. 123.

## THE 1983 CODE OF CANON LAW

authority.<sup>113</sup> Using the meaning that the Latin words possess as his standard, Pinheiro translates *obsequium* as obedience (submission). He regards the bishop, in the area of apostolic activities, as the legitimate ecclesiastical superior of religious. Consequently, religious are pledged and obliged to obey the diocesan bishop in the exercise of their apostolate in the diocese. From this obligation only the Roman Pontiff (c. 590) can exempt an institute, its communities, and its members (c. 591).<sup>114</sup> Hence, we suggest the following translation, "... whom they are obliged to follow with faithful submission and respect."

Turning now to the three areas requiring this submission and respect, the nature of those areas becomes important. For J. Gallen these areas appear to be specific, rather than generic. He presents a list of works where religious are subject to bishops. Having mentioned these three, he then adds the words, "the following are to be added from other authentic documents."<sup>115</sup> Indeed, *Christus Dominus*, art. 35, 4 and *Ecclesiae sanctae* I, nn. 25-27 contained a longer list of items. The *coetus* Secretary proposed, however, that the three matters which necessarily needed to be expressed were public cult, the "cura animarum," and the apostolate. It seems that, in his mind, they were generic and indicative of all other possibilities.<sup>116</sup>

*Christus Dominus*, art. 35, 1 says that religious should treat bishops as successors of the apostles. Canon 375, §1 continues to say that bishops "are constituted pastors within the Church" exercising the triple *munera*. While all the *christifideles* share in the exercise of the triple *munera*, the diocesan bishop alone possesses all necessary power for the exercise of his pastoral office (c. 381, §1). Hence, the triple *munera* of the bishop as pastor underpins the generic formula of c. 678, §1.<sup>117</sup>

<sup>113</sup> Canons 218, 678, §1, 752 and 753. See X. OCHOA, *Index verborum ac locutionum*, p. 312.

<sup>114</sup> A. PINHEIRO, "The 'Apostolic Subjection' of Religious," pp. 43-50.

<sup>115</sup> J. GALLEN, "Authority and Autonomy," in *Review for Religious*, 43 (1984), p. 598.

<sup>116</sup> "In realtà le uniche tre cose a cui sembra necessario accennare espressamente sono: il culto pubblico, la «cura animarum» e l'apostolato." The first Consultor supported the move saying it was not possible to make a complete list and so it was better to use a generic formula. *Communicationes*, 13 (1981), p. 203.

<sup>117</sup> R. HILL, "The Apostolate of Institutes," p. 206. A. PINHEIRO, "The 'Apostolic Subjection' of Religious," pp. 56-57.

The *cura animarum* stands as a classic canonical expression indicating the diverse functions that the sacred minister is called to fulfil. In particular the pastoral charge has been the focal point of this expression and applies strictly to those with the power of orders (c. 274, §1). Even so, c. 517, §2 allows for a share in the pastoral care, a *cura pastoralis*, of parishes by others. It can be argued that in c. 678, §1 the *cura animarum* covers all those matters which would be subject to public worship and other works of the apostolate in so far as it usually implies the triple *munera*.<sup>118</sup> Notwithstanding, Pinheiro considers that the focus here amounts to matters concerning the *munus docendi*.<sup>119</sup> He states that the *munus sanctificandi* largely concerns the “public exercise of divine worship.” “Other works of the apostolate” reflect the *munera* of teaching and sanctifying.<sup>120</sup> Pinheiro identifies ten concrete areas for the *cura animarum*, in whose exercise religious are subject to the power of the diocesan bishop.<sup>121</sup>

<sup>118</sup> V. DE PAOLIS, *La vita consacrata nella chiesa*, p. 350.

<sup>119</sup> Pinheiro argues from the source text, CD 35, 4, which appears to emphasise this aspect of the *cura animarum*. A. PINHEIRO, “The ‘Apostolic Subjection’ of Religious,” p. 58 and footnote 79.

<sup>120</sup> A. PINHEIRO, “The ‘Apostolic Subjection’ of Religious,” p. 58.

<sup>121</sup> The following compose this list: 1) parish ministry (c. 520); 2) rector of a church (c. 557, §2); 3) chaplain (c. 565, although the canon mentions the right of appointment by the local ordinary, the prescription of c. 682, §1 regarding presentation by the religious superior would have to be followed. This same prescription would be operative in the case of parish ministry and rector of a church); 4) preaching to the people (c. 772, §1. Again, the religious would be bound by the particular laws of the diocese concerning, for instance, particular days set aside by the bishop to preach about certain matters. He is the moderator of the entire ministry of the word - c. 756, §2); 5) catechetical-liturgical instruction (c. 776, which includes the instruction that religious and others “are not to refuse their services willingly unless they are legitimately impeded); 6) Religious-moral-catholic education, (cc. 804-806 - schools, c. 810, §1 - appointment of teachers in universities); 7) Media of social communication and written publications (cc. 822-832); 8) Associations of the faithful, (c. 677, §2 mentions associations of the faithful which may be proper to the institute. As such they would be covered, in so far as they are proper works, by c. 586, §1. However, as far as they involve the faithful of the diocese and their activity affects the mission of the Church in a diocese they would be subject to the local ordinary (c. 311). If, however, a public association was erected by the diocesan bishop (c. 312, §1, 3°), it becomes entirely subject to the bishop even if religious are part of the association.); 9) Public comportment (cc. 284 and 669 apply to religious dress. In this area of public comportment Pinheiro also includes the matters of Mass stipends (c. 952, §3) and the collection of offerings (c. 1266). Canon 672 also binds religious to matters relating to the public behaviour and decorum as mentioned in cc. 277, 279, 285, 286, 287, and 289); 10) Missionary activities (c. 790). See A. PINHEIRO, “The ‘Apostolic Subjection’ of Religious,” pp. 60-76 and 193-194. A series of articles by A. Gutiérrez contains much of this material also. See A. GUTIERREZ, “Canones de institutis vitae consecratae extra partem propriam vagantes,” in *Commentarium pro religiosis et missionariis*, 64 (1983), pp. 72-96 and 255-280, and 65 (1984), pp. 7-22, 207-222, and 315-325. De Paolis also has exactly the same ten items. See V. DE PAOLIS, *La vita consacrata nella chiesa*, p. 350. With some combining of items it is also the list compiled by Gallen. See J. GALLEN, “Authority and Autonomy,” in *Review for Religious*, 43 (1984), p. 598.

The canon speaks of the public exercise of divine worship. The exercise of divine worship involves more than the celebration of liturgy, which is, of its nature, public because it is a celebration of the Church itself (c. 837, §1). Divine worship also involves those elements commonly called paraliturgical worship,<sup>122</sup> as well as those exercises which are devotional.<sup>123</sup>

Therefore, some actions are subject to the bishop because of their public nature,<sup>124</sup> and others are subject because of the presence of the faithful who are not members of the institute. Still, some institutes have acquired rights regarding the divine office, liturgical calendars and the like. These pertain to the proper law and patrimony of an institute and are not subject to the bishop. Even if a few of the faithful attend devotional exercises of an institute, their presence does not render the act a public act of worship. These are private exercises of worship. R. Hill describes public worship thus:

To the extent, however, to which public worship involves many people, is open indiscriminately to all, or is known by many, it is public and is the object of regulation and supervision by the bishops, either individually or through their conferences. ... A bishop, however, has no way of exercising his authority when the celebration of divine worship, even of liturgical worship, is in fact private without violating the legitimate autonomy and privacy of a religious community, since this would of necessity imply an unwarranted intrusion into its internal governance.<sup>125</sup>

<sup>122</sup> R. HILL, "The Apostolate of Institutes," p. 206

<sup>123</sup> E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 378.

<sup>124</sup> Pinheiro again provides a useful, though not exhaustive list. He lists six concrete areas in this regard: 1) The sacraments (including "communicatio in sacris" - cc. 840-1165); 2) the sacramentals (cc. 1166-1172); 3) ecclesiastical funeral rites (cc. 1176-1185); 4) veneration of the saints, sacred images and relics (cc. 1186-1190); 5) sacred places (cc. 1205-1243); 6) sacred times (cc. 1244-1253). See A. PINHEIRO, "The 'Apostolic Subjection' of Religious," pp. 194-206. Hill adds a further item, namely religious profession because he says it is properly an act of Christ and his Church. R. HILL, "The Apostolate of Religious," p. 206. While a bishop may actually receive vows or other bonds, however, the ceremony of profession may well be governed by the proper law of the institute. He may have authority in the liturgy which takes place at the same time. Yet, it is still doubtful that a matter, so intimate to an institute, would be entirely subject to the authority of the local ordinary.

<sup>125</sup> R. HILL, "The Apostolate of Religious," pp. 206-207

**THE 1983 CODE OF CANON LAW**

“Other works of the apostolate” remains the third area where religious are subject to the power of the diocesan bishop according to c. 678, §1. Morrissey points out that any works of the apostolate become a means for the promotion and fostering of ecclesial communion (c. 675, §3). “Apostolates that are not undertaken in a spirit of communion are divisive of the unity of the particular church and counter-productive.”<sup>126</sup> It seems clear enough to say that not all works performed by individual religious are works of the apostolate. Some religious, for example, have entered the secular work-force. Others have undertaken work in other denominations. These appear to be matters pertaining more to the competence of the religious superior, rather than that of the diocesan bishop. According to c. 678, §2 he might insist upon fidelity to the discipline of the institute, but essentially it remains for the religious superiors to supervise their own members.

The particular works intended in this part of the canon pertain to those matters over which the bishop has power. Canon 394, §1 describes these as “the various aspects of the apostolate in his diocese.” V. De Paolis and Pinheiro state that this expression extends to any other aspect which belongs to the pastoral life of the diocese not covered by *cura animarum* and the exercise of divine worship.<sup>127</sup> So this part of the canon applies to areas including the spiritual and corporal works of mercy (c. 676).<sup>128</sup> Canon 394, §1 states that the bishop exercises his *munus regiminis* here in coordinating the mission of the Church in his diocese.

Canon 678, §2 states that,

In exercising an external apostolate, religious are also subject to their own superiors and must remain faithful to the discipline of the institute, which

---

<sup>126</sup> F. MORRISSEY, “The Apostolate of Religious,” p. 386.

<sup>127</sup> A. PINHEIRO, “The ‘Apostolic Subjection’ of Religious,” p. 206. V. DE PAOLIS, *La vita consacrata nella chiesa*, p. 350.

<sup>128</sup> Canon 612 also states that, where the original purpose for which a house was established changes, the consent of the diocesan bishop is required. This may become more and more the case when the members of houses become more aged or fewer in numbers and the original work is not able to be undertaken successfully.

## THE 1983 CODE OF CANON LAW

obligation bishops themselves should not fail to insist upon in cases which warrant it.<sup>129</sup>

The canon has three parts. The first recalls the prescription of c. 601, which states that the evangelical counsel of obedience requires “a submission of the will to legitimate superiors, who stand in the place of God when they command according to the proper constitutions.”<sup>130</sup> The second part obligates members of institutes to be faithful to the discipline of the institute. The third part of the canon requires bishops to insist upon this obligation in cases which warrant it.

The purpose of the canon, according to J. Castaño, is to remind members of institutes that, in undertaking an external apostolate, they are not freed from the jurisdiction of their religious superior or of the discipline of the institute.<sup>131</sup> In a sense the paragraph harkens back to c. 673 where the apostolate begins with the interior life of the member. *Christus Dominus* art. 35, 2 does not emphasise the subjection of the member to the proper superior but begins with an inspirational motif.

Religious who are engaged in the external apostolate should be inspired by the spirit of their own institute, should remain faithful to the observance of their rule, and should be obedient to their superiors. Bishops should not fail for their part to insist on their obligation.<sup>132</sup>

The canon does not permit the individual religious to seek an apostolate, let alone another type of work, without proper permissions. But the basis of any decision becomes again the written material which describes the patrimony of the institute.

---

<sup>129</sup> Canon 678, §2 states, “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.”

<sup>130</sup> Canon 601 states, “... obligat ad submissionem voluntatis erga legitimos Superiores, vices Dei gerentes, cum secundum proprias constitutiones praecipiant.”

<sup>131</sup> J. CASTAÑO, *Gli istituti di vita consacrata*, p. 272.

<sup>132</sup> “Religiosi autem, in externum apostolatum immissi, spiritu religionis propriae imbuti sint, atque fideles permaneant regulari observantiae et subiectioni erga proprios Superiores; quam obligationem ipsi Episcopi urgere ne omittant.” CD n. 35, 2, in *AAS*, 58 (1966), p. 691, English translation in *FLINNERY*, p. 584.

## THE 1983 CODE OF CANON LAW

While the canon reminds all that even in the apostolate religious remain religious, the application of the canon in the existential situation can give rise to a potential problem. It may be possible that the individual religious becomes the subject of conflicting demands made by the bishop and the religious superior. Canon 631, §2 of CIC/17 gave precedence to the orders of the bishop. That canon, however, has no parallel in CIC/83. De Paolis argues that CIC/17 presumed cases of such incompatibility resulting in the inclusion of c. 631, §1. But he continues to argue that CIC/83 emphasises the authority of the religious superior. Further, the submission to the bishop differs from that due to the religious superior. Even if the bishop determines the plan for the pastoral ministry in the diocese, he also commits himself to respect the autonomy of the pastoral ministry of institutes defined in their constitutions. So it seems that CIC/83 does not reverse the precedence of CIC/17, but rather it recognises different areas of responsibility. Really, we are recognising another application of the principle of subsidiarity.

The third part of the canon obliges the bishops to insist upon fidelity to the discipline of the institute in those cases that warrant it. There are limits on what the bishop can do in his insisting. The 1980 *Relatio* records the request of Cardinal Hume that the bishop should have the right to know whether the religious living in his diocese were observing their constitutions. The request received a negative reply because such a proposed norm would be contrary to the legitimate autonomy of the institute.<sup>133</sup> It would seem that insistence might mean nothing more than an exhortation to the members and then to the appropriate superiors,<sup>134</sup> and, failing that, recourse to the appropriate curial congregation in Rome.<sup>135</sup>

---

<sup>133</sup> Cardinal Hume was speaking of c. 604 of the 1980 Schema, the present c. 678. "Episcopus ius quoque habere debet cognoscendi an religiosi in dioecesi degentes proprias Constitutiones observent. Compleatur hoc in sensu §2 canonis. Hoc videtur necessarium tum pro bono ecclesiae tum pro bono ipsorum Institutorum religiosorum." (Card. Hume)

R. *Animadversio recipi nequit, quia norma proposita esset contra legitimam autonomiam Institutorum.* PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Relatio*, p. 152. See A. PINHEIRO, "The 'Apostolic Subjection' of Religious," pp 219-221.

<sup>134</sup> Canons 596, 617-619 give superiors the necessary authority within the institute over members.

<sup>135</sup> The Apostolic Constitution, *Pastor bonus*, grants the Congregation for Institutes of Consecrated Life and for Societies of Apostolic Life competence in this case in art. 107.

Canon 678, §3 necessitates consultation to avoid such potential conflicts.<sup>136</sup> It recognises the need for cooperation and discussion between the bishop and religious superiors regarding the works of the apostolate.<sup>137</sup> In the existential situation it may not always be so easy to determine the limits of the competence of the bishop and that of the religious superior.<sup>138</sup> *Mutuae relationes*, nn. 62-65, spells out various steps that could be taken to obviate difficulties. It considers extra guidelines according to regional needs (n. 62), mixed commissions of bishops and religious superiors (n. 63), participation of major superiors in various commissions of the episcopal conference (n. 64), and a mutual presence at each other's major assemblies would be beneficial. Whatever the means taken, the canon rests firmly on the principle of a dual authority being exercised consistently in the apostolate. The canon really considers the twin evils of interventionism on the part of bishops and isolationism on the part of religious superiors as equally damaging to the apostolate.

### 2.7.3 Canon 679 - Prohibition from Living in the Diocese.

Canon 679 gives a diocesan bishop the power to forbid a member of a religious institute from remaining in his diocese.<sup>139</sup> At first sight this canon appears contrary to the understanding of c. 586 and the autonomy of religious superiors to assign their

<sup>136</sup> V. DE PAOLIS, "Schema of an Agreement for the Assignment of a Parish to Religious," in *Consecrated Life*, 12 (1988), pp. 226-232. See also B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* p. 78.

<sup>137</sup> Castaño states that the basis for such cooperation and discussion is the sense of ecclesial communion. See J. CASTAÑO, *Gli istituti di vita consecrata*, p. 273.

<sup>138</sup> De Paolis states that a further sensitivity is required on the part of the bishop, namely, what constitutes the identity of each religious institute in his diocese. Also, on the part of the religious superior, there should be a sense of the apostolate as belonging to the nature of the institute and a necessary dimension of religious life. V. DE PAOLIS, *La vita consecrata nella chiesa*, p. 351.

<sup>139</sup> The Latin text of c. 679 contains the following phrase, "... quominus in dioecesi commoretur, ...." The sense of *commoretur* is to linger or remain. Should a bishop choose to act in accordance with this canon, other considerations will be involved. Most democracies regard as a right the freedom to choose a place of residence. For a bishop to forbid a religious, or anyone for that matter, residence in a certain place would appear to jeopardise the exercise of a civil or even a natural right. While the religious may be bound to his or her superior by a vow of obedience, the same bond does not bind the religious to the bishop.

## THE 1983 CODE OF CANON LAW

members where the superior desires (c. 618).<sup>140</sup> The canon, however, does not envisage the exercise of this power as an arbitrary act on the part of the bishop.

First, the matter prompting such a prohibition must be found within the competence of the bishop. A purely internal matter relating to the institute would not be within his competence. Rather, the matter prompting the action pertains to those areas mentioned in c. 678, §1.<sup>141</sup>

Second, the text says that the cause for action must be *urgente gravissima causa*. Since this action would restrict the free exercise of rights, c. 36, §1 demands a strict interpretation. There are two causes here. Whatever prompts the action must be both “urgent” and “very grave.” Both English translations of this phrase, however, inadequately express the dual condition.<sup>142</sup> Castaño indicates, by way of commentary, that the cause must be not only evil but also scandalous both for the religious community and the wider ecclesial community.<sup>143</sup> When either of these two elements is missing, any action by the bishop would constitute a violation against the autonomy of the institute. In such situations competence rests with the appropriate religious superior.

Two other conditions are also required before any action takes place. First, the bishop must advise the major superior of the religious in question. This condition appears natural given what we have said concerning the spheres of competence.<sup>144</sup> Second, the canon does not allow the bishop to act until the major superior has failed to do so. Even then, the matter must be referred to the Holy See immediately.

<sup>140</sup> See J. CASTAÑO, *Gli istituti di vita consacrata*, p. 274

<sup>141</sup> E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 379

<sup>142</sup> One translation is “... when a most serious reason demands it ...,” *CLSA Commentary*, p. 257. It might be argued that “demands it” involves *urgente*, but it is not clear. “Demands” does not express the notion of urgency. The other translation says “For the gravest of reasons,” omitting the *urgente* entirely. E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 379. The French and Italian translations incorporate both elements. The French states, “... pour une cause très grave et pressante...,” *French Code*, p. 125. The Italian states, “... per una causa molto grave e urgente ...,” *Italian Code*, p. 435.

<sup>143</sup> J. CASTAÑO, *Gli istituti di vita consacrata*, p. 273

<sup>144</sup> The bishop would be required to inform the major superior not only of the deed and circumstances bringing on this action, but also of his intention to act under this canon’s prescription. Otherwise the major superior may believe that action in the matter still remains within his or her competence.

In this canon the law establishes links to various ecclesial entities. Involving the bishop, the religious, the major superior, and the Holy See acts to provide checks and balances against arbitrariness. Moreover, it preserves the ability to act quickly in a delicate situation. Still the canon continues to acknowledge a dual authority in the matter of the apostolate.<sup>145</sup>

#### 2.7.4 Canon 680 - Orderly Cooperation and Coordination

Canon 680 acknowledges the various relationships which are possible among those involved in the pastoral ministry. The only group not mentioned are the *christifideles* not bound by some form of bond to the Church. The canon speaks of the cooperation between religious institutes themselves, and between them and the secular clergy. All apostolic activity within the diocese takes place under the direction of the bishop. But he must still respect the autonomy of institutes. *Christus Dominus* art. 35, 5 speaks of this coordination and cooperation. But, the article indicates that the foundation for such activity will depend not on more legislative activity, but on "a supernatural attitude of mind and heart grounded on charity."<sup>146</sup> Hence, the Code provides various mechanisms to facilitate this cooperation and coordination. At the diocesan level the pastoral council affords religious a means of making others aware of their proper works in the apostolate and the spirituality which underlies them (c. 512). The presbyteral council also provides a means for the religious clergy involved in the apostolate to share practically in the life of the local church (c. 498, §1, 2<sup>o</sup>). The figure of the vicar for religious also becomes a focal point (c. 476). Likewise *Mutuae relationes*, n. 59, speaks of associations of religious on the diocesan level. In this role they act to promote and assist in the renewal of religious life. They provide a focus for discussion about the mixed problems between bishops and superiors. In addition, these associations act as a

---

<sup>145</sup> Williamson describes this action as a necessary administration of discipline, which is not a penalty. Canon 1320 is the further canon describing penalties. See also c. 1337, 1341-1353. E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 379

<sup>146</sup> The latin text reads as , " ... a supernaturali animorum et mentium habitu, in caritate radicato et fundato." CD art. 35, 5, in *AAS*, 58, 1966, p. 692. English translation in *FLANNERY*, p. 586.

## THE 1983 CODE OF CANON LAW

means for coordinating the activities of the religious institutes. Other mechanisms include consultations, written agreements, consents, prior notices and so on.<sup>147</sup> It seems obvious that the underlying ecclesiology here is that of *communio*, marked by various parts adding to the life of the whole.

### 2.7.5 Canon 681 - Entrusted Works

Canon 681 speaks of works entrusted to religious by the diocesan bishop. The canon also refers to the written agreement which must be drawn up between the bishop and the superior of the institute. Ultimately, all apostolic works undertaken by religious are entrusted to them by the Church (c. 675, §3). In the case of a diocesan right institute, the diocesan bishop could be entrusting works to an institute for whom he has already approved a proper work (cc. 579; 589; 595, §1).

Still, the basis of the distinction between proper works and entrusted works originates in the act by a competent authority of confiding them as one or the other.<sup>148</sup> Because a description of the proper works of an institute forms part of the proper law of the institute these proper works exist as a constitutive element in the patrimony of the institute.<sup>149</sup> An entrusted work, on the other hand, remains a diocesan work. The bishop

---

<sup>147</sup> R. OMBRES, "Iusta autonomia vitae. Religious in the Local Church," in *Clergy Review*, 69 (1984), p. 318.

<sup>148</sup> The competent authority may not necessarily be the diocesan bishop. For instance, in 1969 the Sacred Congregation for the Evangelisation of Peoples issued a draft contract to help the implementation of its instruction *Relationes in territoriis*. The draft contract was a suggested form of contract to be used in mission territories between residential bishops, or other ordinaries, and missionary institutes. It describes proper works thus: "6 (a) If the work, which is the object of the contract, was founded by the Institute itself, or is to be founded by it, at its own expense, greater autonomy will be given to it, always under the vigilance of the Ordinary in accordance with canon law." Entrusted works are described in the following way: "(b) If, on the contrary, the work was founded, or is to be founded, by the Diocese at diocesan expense, its real director is the Ordinary who will, as a rule, name a member of the Institute as director delegate. In such cases, the Institute will not be autonomous in the direction of the work, except in what concerns the religious life of its members." See SACRED CONGREGATION FOR THE EVANGELISATION OF NATIONS, *Suggested Forms of Contract in Mission Territories between Residential Bishops, or Other Local Ordinaries, and Missionary Institutes*, 1969, in *CLD*, Vol 7, p. 859.

<sup>149</sup> See Canon 677, §1. Sweeney describes the purpose, *finis*, of an institute (c. 578) as the ministry undertaken by the institute. The purpose of an institute "delineates more specifically the particular nature of an institute by indicating the particular apostolate for which it was established - education of the young, care of the sick, etc. ... It is a constitutive element of an institute and must be present in its definition." B. SWEENEY, *The Patrimony of an Institute in the Code of Canon Law*, p. 67.

**THE 1983 CODE OF CANON LAW**

does not confide it as a proper work to an institute, nor does the institute require it. As such, "the work is diocesan, if it has been determined, founded and established as a work of the diocese which equally protects the ownership of buildings and the work instruments."<sup>150</sup>

In the existential situation of the diocese the bishop may entrust to religious some apostolic work which can be of a kind normally considered their proper work.<sup>151</sup> For example, a diocesan school may be committed to an institute whose proper work concerns the education of the young. The mere presence of members of the institute, however, does not change the status of the work as a diocesan work which the bishop entrusted to the institute. It does not become a proper work. Canons 609 and 611 tie the right to engage in works proper to an institute to the establishment of a religious house.<sup>152</sup> Simply put, if no house has been established, then apostolic works undertaken by religious remain entrusted works. Canon 612 states that if the apostolic works for which it was established are changed, such an action requires the consent of the diocesan bishop. So, the law does not envisage a total liberty from the bishop even if the works are proper to an institute.

The canon speaks of works "committed to religious," *committuntur religiosis*. The text is not specific.<sup>153</sup> It can refer to an institute or to an individual member or members of an institute.<sup>154</sup> The question arises from a consideration of *Ecclesiae sanctae* I, n. 31, which says in part, "Even when a task is assigned to *a religious* by the

---

<sup>150</sup> "L'oeuvre est diocésaine, si elle a été voulue, fondée et établie comme oeuvre du diocèse qui garde également la propriété des bâtiments et des instruments de travail." J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, p. 169

<sup>151</sup> R. HILL, "The Apostolate of Institutes," p. 211.

<sup>152</sup> It must be remembered that the diocesan bishop still retains his leadership over the apostolate, and so for reasons of harmony and unity he can prohibit the exercise of some proper works in the diocese. However, to prohibit all works would be contrary to c. 586 and c. 680.

<sup>153</sup> V. DE PAOLIS, *La vita consacrata nella chiesa*, p. 354

<sup>154</sup> The concern that exists here is that if the bishop approaches an individual concerning some apostolic work then that might appear to infringe on the autonomy of the religious superior and their right of presentation.

## THE 1983 CODE OF CANON LAW

local ordinary or by the episcopal conference ...<sup>155</sup> While authors are divided over whether the individual or the institute is responsible for the work once the bishop entrusts the work,<sup>156</sup> the fact remains that the religious are subject to the authority and direction of the bishop in the exercise of the work. But the canon also places limits on the bishop enjoining on him the prescriptions of c. 678, §§ 2 and 3.

The second paragraph of the canon speaks about the written agreement, *conventio scripta*, which is to be drawn up between the diocesan bishop and the competent superior of the institute. This is a new element in the Code not found in CIC/17.<sup>157</sup>

Various paragraphs in *Ecclesiae sanctae* I and *Mutuae relationes* form the basis of this paragraph.<sup>158</sup> *Ecclesiae sanctae* I, n. 30, §1 speaks of a written agreement between the local ordinary and the competent superior of an institute in the matter of entrusted works thereby forming the framework for the second part of the paragraph. Number 31 implies a written agreement between the local ordinary or the episcopal conference and a religious superior when an individual religious undertakes an entrusted

<sup>155</sup> "Etiam cum ab Ordinario loci vel a Conferentia Episcopali aliquod munus alicui Religioso committendum sit, id fiat de consensu eius Superioris et per conventionem scriptam." ES I, 31, in *AAS*, 58 (1966), p. 771. English translation in *FLANNERY*, p. 606 ES I, 30 (1)

<sup>156</sup> Pinheiro states that in offering the work to an institute the bishop deals only with the superior and the institute guarantees the proper and effective exercise and fulfillment of the work given. In the second case, however, while the consent of the superior is necessary (ES I, 31), the responsibility for the exercise and fulfillment of the work rests on the individual. The only responsibility of the institute is to place the determined religious at the disposal of the bishop. The institute does not necessarily accept a responsibility to replace a religious if the original person becomes incapacitated. A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese According to the Code of Canon Law*, Doctoral thesis, Rome, Pontifical Lateran University, 1986, pp. 62-63. De Paolis argues that the management and the vitality of the work is guaranteed by the institute. V. DE PAOLIS, "Gli istituti di vita consacrata nella chiesa," p. 128. As Malvaux points out, in the concrete situation of the diocese, such entrusted works are the responsibility of the diocesan bishop. B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical*, p. 82. As such, the bishop can terminate the work, change its direction, and so on. It would seem that the consultation required by c. 678, §3 would be operative in this situation.

<sup>157</sup> References to written agreements are found in cc. 271, §1, 365, §1, 2°, 520, §2; 681, §2; 738, §3; 790, §1, 2°

<sup>158</sup> The sources of this canon are ES I, n. 30, §1, n. 31, n. 33, §§1 and 2; MR n. 56 b; n. 57. However, MR n. 56 b does not exist, but MR n. 58 contains a reference to the written agreement. It seems there is an error and it should read MR n. 57 b and MR n. 58. See *Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus fontium annotatione et indice analytico-alphabetico auctus*, in Città del Vaticano, Libreria Editrice Vaticana, 1989, p. 190

**THE 1983 CODE OF CANON LAW**

work. Number 33, §1 speaks of a written agreement between the local ordinary and the competent superior of the institute in the matter of entrusting a parish to a religious institute. The next paragraph, n. 33, §2, speaks of a special and appropriate agreement between the local ordinary and the competent superior of the same institute when the parish priest is a religious. *Mutuae relationes*, n. 57(b) repeats *verbatim Ecclesiae sanctae* I, n. 30, §1. *Mutuae relationes* n. 58 advises that agreements be worked out in advance for stability of the work and for the devolution of goods in case the undertaking should be suppressed.<sup>159</sup> The canon does not describe the local ordinary as a party to the agreement. Therefore, according to c. 134, §3, a vicar general or other episcopal vicar can sign such an agreement only if he had received a special mandate. Further, the competent religious superior would appear to be the person normally charged with assigning the members of an institute to a task, namely, at least a provincial superior.<sup>160</sup>

Hill uses the terms "contract" and "written agreement" interchangeably.<sup>161</sup> But an examination of the canons which use the words, *conventio scripta*, indicates that the concept of "written agreement" becomes much broader than "contract."<sup>162</sup> While the written agreement may contain some contractual elements, these are not necessary to complete an agreement. Rather the written agreement becomes a mutual agreement or accord which creates reciprocal obligations and rights for both the diocesan bishop and

---

<sup>159</sup> MR n. 58 also gives as examples offices and works where written agreements may be deemed necessary. The appointment of pastors, deans, episcopal vicars, assistants for catholic action groups, secretaries of pastoral action, diocesan directors of catholic colleges are some examples.

<sup>160</sup> J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, p. 170.

<sup>161</sup> For example, "This contract or agreement is of the utmost importance ..." and "Commonly there exist standardized contracts ..." R. HILL, "The Apostolate of Institutes," p. 211 and p. 212.

<sup>162</sup> Black's Law Dictionary defines "contract" as an agreement between two or more persons which creates an obligation to do or not to do a particular thing. Its essentials are competent parties, subject matter, a legal consideration, mutuality of agreement, and mutuality of obligation. Pp. 291-292. "Agreement" is defined as "in law, a concord of understanding and intention between two or more parties with respect to the effect upon their relative rights and duties, of certain past or future facts or performances." P. 62. Nevertheless the concept of "agreement" is broader than "contract" because it may lack an essential element of a contract. It contains the concept of a mutual obligation. H. C. BLACK, *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern*, 5th ed., by the Publisher's editorial staff, St Paul, West Publishing Co., 1979, pp. 62, 291-292.

## THE 1983 CODE OF CANON LAW

the competent religious superior.<sup>163</sup> Both parties are bound to the agreement only to the extent that they mutually agree to be bound.

The necessity of the written agreement acknowledges the involvement of two authorities in the process. In entrusting apostolic works to an individual or to an institute the diocesan bishop retains authority over, and the direction of, the work, but the religious superior retains authority over the personnel performing the work. Hence, the agreement becomes a mode of protecting the rights and obligations of both the authorities and their subjects.<sup>164</sup> *Mutuae relationes*, n. 58, indicates two further benefits, namely the stability of the work and the devolution of goods if the work fails. Stability of the work will also entail stability for those who perform the work. E. Williamson takes a practical view saying that experience demonstrates that prior consultation and negotiation will likely prevent "an unedifying and destructive conflict at some stage in the future."<sup>165</sup> So, many reasons exist to favour the process of written agreements. This process further demonstrates theologically a doctrine and practice underpinned by an appreciation of the *communio* of Church. It does not deny the central figure of the bishop, but, following the principle of subsidiarity, shows acceptance of other authorities and competencies even at the level of the particular church.

Canon 681, §2 also specifies four areas to be contained in the written agreement. Three of these appear almost obvious given the reason and intent of the document. First,

---

<sup>163</sup> See A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese According to the Code of Canon Law*, pp. 66-69. De Paolis states that the Code frequently uses the term "agreement" to denote an accord intended to be of wider extent than a contract. He contrasts c. 520 and c. 1290 concluding that contract in the Code applies purely to financial arrangements. See V. DE PAOLIS, "Schema of an Agreement for the Assignment of a Parish to Religious," in *Consecrated Life*, 12 (1988), p. 135.

<sup>164</sup> Morrisey identifies this dual authority when he points out the matter of "agency." The agreement, he says, should specify when the religious involved in the work acts as an agent of the institute and when the religious acts as an agent of the diocese. He motivates his concern from the incidence of malpractice suits and the like and the "principal-agent" connection. F. MORRISSEY, "The Apostolate of Religious," p. 388. Hill touches on the same point using the notion of accountability. R. HILL, "The Apostolate of Institutes," p. 212.

<sup>165</sup> E. WILLIAMSON, *The Canon Law Letter & Spirit*, p. 380. Pinheiro adds that should a difficult situation arise, then the rule of justice can prevail because of the presence of the agreement. A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese According to the Code of Canon Law*, p. 65.

## THE 1983 CODE OF CANON LAW

the document must “expressly and accurately” define what pertains to the work. Generalised statements, for example “work in the hospital,” do not fulfil the requirement of “expressly and accurately.” Hence, the result will look more like a detailed work description which details lines of communication and accountability. Such a description prevents the diocesan bishop from adding more tasks to the work, unless the parties renegotiate the agreement. Equally, the written agreement prevents the religious adding or subtracting from the entrusted work. Thus the written agreement protects the rights and obligations of all parties concerned.

The canon describes the second element as “the members to be devoted to it.” While it seems obvious that this requires the names of members, it could also describe the qualifications that religious personnel need to carry out the entrusted work.<sup>166</sup> Again proof of competence to perform the entrusted work could prove valuable in a later situation (c. 149).

The canon mentions economic matters as the third area of the written agreement. This section requires a just and equitable plan which meets the needs of the diocese and those of the members of institutes involved in the work. Thus this section of an agreement will express more than salary concerns.<sup>167</sup>

Finally, the phrase, “among other matters,” shows the intent of the legislator to leave great flexibility in the demands of the canon. Different types of works, different dioceses, different cultures, and the like will make different demands on the parties

---

<sup>166</sup> Morrisey describes personnel issues as the most difficult ones to cover, “but they usually are the issues which occasion the most difficult and serious disagreements” F. MORRISEY, “The Apostolate of Institutes,” p. 212. Questions of presentation and conferral would also arise when the entrusted work involves an ecclesiastical office (c. 682, §1).

<sup>167</sup> “Financial arrangements should include, in addition to salary or its equivalent, housing or housing allowance, travel and transportation, equipment and furnishings, health and retirement benefits, and continuing education and sabbatical provisions, whenever appropriate. It should be made clear to whom and at what intervals such compensation will be made” R. HILL, “The Apostolate of Institutes,” p. 212. The complexity of such arrangements can be seen when one considers that some of these economic issues, such as hours of service, vacation, periods of retreat, which have links to economic matters are treated by Pinheiro as personnel issues. See A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese According to the Code of Canon Law*, p. 70.

## THE 1983 CODE OF CANON LAW

involved. Hence, other matters can be contained here. This general category permits consideration of such items as the life of the agreement, procedures to change the terms of the agreement, termination issues, and the like.

The written agreement has become an important feature of diocesan administration. Changing social patterns, declining numbers of secular clergy, and changes to institutes necessitated by increased age and diminution of numbers have seen greater integration of religious into diocesan life. There are always dangers, not the least being the loss of religious identity.

### 2.7.6 Canon 682 - Religious and Ecclesiastical Office

Canon 682 appears as a more specific form of the material considered in c. 681.<sup>168</sup> In this canon the subject of the conferral is an individual religious, not the institute itself.<sup>169</sup> Canons 145-196 describe the object of the conferral, the ecclesiastical office.<sup>170</sup> The present canon describes a process in concord with these canons. Canon 682, however, refines the process to presentation or least consent by the religious superior and conferral by the diocesan bishop. It ignores the two methods of election and postulation.

While CIC/17 recognised the conferral of some ecclesiastical offices upon religious, for example, the office of parish priest, c. 626, §1 stated that there were some

---

<sup>168</sup> P. PFAB, "The Particular Church and the Consecrated Life," in *Consecrated Life*, 19 (1996), p. 65

<sup>169</sup> This canon and c. 679 remain the only canons in Chapter V of Book II that address the individual religious directly. R. HILL, "The Apostolate of Religious." In this case it is because of the nature of ecclesiastical offices; that is, they can only be conferred upon individuals (c. 149). Canon 520, §1 speaks about entrusting a parish to a clerical religious institute, or clerical society of apostolic life. But the assignment of a parish is clearly distinct from the nomination of a parish priest. The CIC/83 does not follow the CIC/17, c. 456, which spoke simply of "parishes confided to religious." The CIC/83 expressly forbids the bishop entrusting a parish to a juridic person as parish priest. The description of a parish in c. 515, §1 expresses the reason for this when it implies that the parish priest is a physical person. De Paolis maintains, however, that the prohibition placed on juridic persons is a matter for the future (c. 9), thus preserving any former entrustments by virtue of an acquired right. See V. DE PAOLIS, "Schema of an Agreement for the Assignment of a Parish to Religious," p. 146.

<sup>170</sup> Canon 145, §1 defines ecclesiastical office in the following terms, "Officium ecclesiasticum est quolibet munus ordinatione sive divina sive ecclesiastica stabiliter constitutum in finem spiritualem exercendum."

**THE 1983 CODE OF CANON LAW**

ecclesiastical offices which were incompatible with the religious state and could not be conferred without an indult from the Apostolic See.<sup>171</sup> This prohibition *per se* has disappeared in the new legislation. This means that, at least theoretically, religious are eligible to hold any ecclesiastical office.<sup>172</sup>

The first paragraph of c. 682 omits the process of nomination by the local ordinary himself which was part of *Ecclesiae sanctae* I, n. 31 (2). Apart from that the canon repeats *Ecclesiae sanctae* I, 31 n. (2). The canon accommodates different methods for the conferral of the office.

The diocesan bishop may approach one or several competent religious superiors requesting nominations for the particular office. From the subsequent nominations the bishop may choose a suitable candidate and confer the office.<sup>173</sup> Even so, the bishop is not bound to choose any of those nominated (c. 157). Alternatively, the bishop may have a particular person in mind and suggests this person to the competent religious superior for the necessary assent. Upon receiving that assent, the bishop can confer the office.<sup>174</sup> Yet, the superior is not bound to give that assent. Again, the canon preserves the autonomy of the physical and juridical persons involved in the process.

The situation of the dual authority continues once the bishop has conferred the office. The religious in question remains a religious bound by obedience to the

---

<sup>171</sup> Canon 626, §1 of CIC/17 states, "Religiosus nequit, sine Sedis Apostolicae auctoritate, ad dignitates, officia aut beneficia promoveri, quae cum statu religioso componi non possint." See J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, p. 171

<sup>172</sup> Some offices of their nature require the power of orders and so those in orders become the only possible candidates (c. 150). An extensive list of such offices as may be conferred can be found in A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese According to the Code of Canon Law*, p. 78. See also J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, p. 172.

<sup>173</sup> The right of free conferral is not absolute. Canons 523, for parish priests, and 547, for parochial vicars, both limit the bishop's right by referring to c. 682, §1. The obvious reason is that these offices can be conferred on religious priests. In that case the rights of the competent religious superior have to be respected.

<sup>174</sup> Pinheiro prefers the first method because it preserves the office and power of the bishop and the autonomy of the competent religious superior. The second method he regards as open to abuse forcing the superior to accede to the demands of the bishop. A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese according to the Code of Canon Law*, p. 81.

**THE 1983 CODE OF CANON LAW**

competent superior.<sup>175</sup> The work for which the office was conferred remains under the authority of the bishop. The principle of subsidiarity continues to operate in this situation.

Although this canon follows logically from the previous, c. 681, §2, a notable omission exists in the present canon. The canon makes no mention of a written agreement. While not strictly mentioned in relation to offices *per se* in *Ecclesiae sanctae*, there was one exception made when a religious becomes parish priest (*Ecclesiae sanctae* I, n. 33, 2). *Mutuae relationes*, n. 58, uses the words, "...for whom a written agreement *may* be deemed necessary ..." The canon itself remains silent, meaning that no obligation occurs in the matter of the written agreement under the canon.<sup>176</sup>

Canon 682, §2 concerns the removal of a religious from a diocesan office. Either authority may remove the religious concerned. The law does not require the consent of the other. But the authority removing the religious must give prior notice to the other authority. In this way, the law safeguards the freedom of action of both the diocesan bishop and the religious superior, each acting in their proper sphere of competence.

Ecclesiastical office may be lost in one of six ways: by lapse of a predetermined time, by reaching the age determined by the law, by resignation, by transfer, by removal, or by privation (c. 184). Canon 682, §2 concerns removal only.<sup>177</sup> It, therefore,

---

<sup>175</sup> The religious is obliged to remain faithful to his/her institute (c. 677, §1). Beyer states that one would hope that they would continue to live the life of the community in a house of the institute (c. 665, §1). J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, p. 172

<sup>176</sup> Pinheiro favours such a written agreement, but he correctly points out that the actions of one bishop or major superior cannot bind their successor beyond the provisions of law. Therefore such agreements may have to be renegotiated. A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese according to the Code of Canon Law*, p. 82. See also R. HILL, "The Apostolate of Institutes," p. 215

<sup>177</sup> As is clear from Book I, removal and privation remain distinct entities. Removal is not a penalty but an administrative procedure, and, as such, unjust removal makes hierarchical recourse possible. The diocesan bishop can make recourse against the superior, the superior against the bishop, the removed religious against either authority or both, the religious and bishop against the superior, and the religious and superior against the bishop. See A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese according to the Code of Canon Law*, pp. 86-87. The right to appeal in *devolutivo* contained in ES I, 32 did not survive into the Code. Yet a person wishing recourse could do so under cc. 1732-1739. This right of

**THE 1983 CODE OF CANON LAW**

corresponds to cc. 192-195. Should c. 682, §2 be read in conjunction with cc. 192-195? Hill points out that *Ecclesiae sanctae* I, n. 32 required a grave cause to motivate removal. Canon 193, §3 requires only a just cause. Canon 682, §2 states that a religious can be removed *ad nutum* of the authority who made the appointment or the competent religious superior. Hill simply concludes that c. 682, §2 contains "an even stronger formula."<sup>178</sup> Yet, using an application of c. 17, it seems proper to say that the provision of c. 193, §3 requiring a just cause applies here in like manner.<sup>179</sup>

### 2.7.7 Canon 683 - The Right of Visitation of the Diocesan Bishop

The last canon of chapter V, c. 683, deals with two issues. The first, contained in c. 683, §1, considers the right of visitation of the bishop. The second, contained in c. 683, §2, concerns the duty of the bishop to correct abuses in the face of the inactivity of the local superior.<sup>180</sup> Once again c. 683 preserves the equilibrium between the submission to the diocesan bishop and the just autonomy of the religious.<sup>181</sup>

The bishop possesses the right and obligation to visit his diocese annually, either in its entirety or in part, so that he visits the entire diocese at least every five years (c. 396, §1).<sup>182</sup> Persons, Catholic institutions, sacred things and places within the diocese are

recourse belongs to any one who is baptised, and not only to them. The first draft of the canon contained the phrase concerning recourse, but it was suppressed for the reason that it was not necessary to repeat what is in the general law (*Communicationes*, 13 (1981), p. 207

<sup>178</sup> R. HILL, "The Apostolate of Institutes," p. 215. The difficulty here concerns the arbitrariness seemingly contained in the canon.

<sup>179</sup> De Paolis points out that when the office in question is that of a parish priest, the diocesan bishop does not possess such liberty for removal for diocesan clergy. He wonders why cc. 1740-1752 are not applicable in such cases. He concludes that in the case where the parish is entrusted to an institute then the parish priest remains the subject of his own superior and can be removed, for instance, if needed elsewhere. He concludes that the reason for removal may involve internal matters of the institute and so compromise the institute's just autonomy. He indicates that the bishop must tread warily in such cases because "the pastoral problems are not easily separated from the religious." V. DE PAOLIS, "Schema of an Agreement for the Assignment of a Parish to Religious," pp. 222-224.

<sup>180</sup> Beyer interprets this possibility of correction of abuse as the exercise of the right of vigilance on the part of the bishop. See J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, p. 172.

<sup>181</sup> J. CASTAÑO, *Gli istituti di vita consacrata*, p. 281.

<sup>182</sup> This canon repeats the second part of c. 343, §1 of CIC/17. The prescription in the CIC/17 began by listing the purposes of the visitation. It said, "Ad sanam et orthodoxam doctrinam conservandam, bonos mores tuendos, pravos corrigendos, pacem, innocentiam, pietatem et disciplinam in populo et clero promovendam ceteraque pro ratione adiunctorum ab bonum religionis constituenda, ...." The former Code considered visitation purely an act of governance. The present Code considers visitation in the wider role of

**THE 1983 CODE OF CANON LAW**

subject to ordinary episcopal visitation (c. 397, §1). The diocesan bishop, however, can visit members of religious institutes of pontifical right and their houses only in those cases expressly mentioned in law (c. 397, §2).<sup>183</sup> According to c. 628, §2, "The diocesan bishop has the right and duty to visit the following, even in respect to religious discipline: (i) the autonomous monasteries mentioned in CIC/83 c.615; (ii) the individual houses of an institute of diocesan right in his territory."<sup>184</sup> On the other hand, the right of visitation expressed in c. 683, §1 does not concern religious discipline.

The context of the canon is the apostolate of religious, whether it is carried out through the undertakings proper to the institute or through the works entrusted to them by the bishop. Canons 678, §1 and 683, §1 divide the provisions of c. 397, §1 between them. Canon 678, §1 applies c. 397, §1 to this context. Because religious involved in those works of the apostolate are subject to the bishop, they become subjects of the episcopal visitation in so far as they are agents of the diocese. Canon 683, §1 itself refers to the other elements of c. 397, §1, namely, catholic institutes, sacred places, and things.

*Ecclesiae imago*, the Directory on the Pastoral Ministry of Bishops, considers episcopal pastoral visitation in paragraphs 166-170. Concerning visitation the Directory states:

The pastoral visitation is one of the ways, indeed it is the bishop's very one way, of coming into personal contact ... with the clergy and other faithful of the People of God that he may know, direct and encourage them to the practice of their faith and the Christian way of life, and during the visitation he can experience for himself and evaluate the real effectiveness of the structures and tools at the service of the pastoral ministry.<sup>185</sup>

---

the bishop as pastor. See T. REILLY, *The Visitation of Religious*, Doctoral Thesis, Washington, DC, The Catholic University of America, Doctoral Thesis, 1938, p 147 SACRED CONGREGATION FOR BISHOPS, Directory on the Pastoral Ministry of Bishops, *Ecclesiae imago*, 22 February 1973, arts. 166-170.

<sup>183</sup> Canon 397, §2 states, "Sodales institutorum religiosorum iuris pontificii eorumque domos Episcopus visitare potest in casibus tantum iure expressis." This necessarily includes exempt institutes as well. The principle behind this limitation reflects the special relationship between pontifical right institutes and the Apostolic See (cc. 589, 593, and 591).

<sup>184</sup> A. PINHEIRO, "Bishop-Religious Relationship according to CIC and CCEO," in *Vidyajyoti Journal of Theological Reflection*, 58 (1994), p 245

<sup>185</sup> "Visitatio pastoralis unus est, quidem peculiaris, ex modis, quibus Episcopus, ... congressus personales cum clero ceterisque fidelibus Populi Dei fovet, ut eos cognoscat et dirigat, hortetur ad fidem vitamque christianam exercendam, atque structuras et instrumenta, quae servitio pastoralis destinantur, in sua vera

Pastoral charity remains the soul of the visitation. Indeed its purpose remains the good functioning of the communities and institutions of the Church.

The pastoral visitation offers the bishop a favourable opportunity to praise, inspire and comfort those laboring for the Gospel and to see for himself the difficulties of evangelisation and the apostolate, to observe and evaluate the whole program of pastoral action, to touch the hearts of his brethren, to bring new life to forces that have slackened off, and finally, to call all the faithful to a new consciousness and more earnest apostolic action.<sup>186</sup>

Visitation aims to bring sacred ministers help rather than judgement. This pastoral perspective provides the context for interpreting the juridical meaning and significance of the pastoral visitation of the bishop. The more solemn duties described in CIC/17, c. 343, §1 remain in force, but the pastoral context ameliorates the emphasis on just the act of governance. It is possible now to see visitation as an act of the pastor, the source and foundation of unity for the particular church (LG art. 23), experiencing at close hand the life of the church he serves.<sup>187</sup>

The Directory, art. 168 (f), states that in his pastoral visitation the bishop strives to speak with the clergy, religious, and those of the laity who direct pastoral undertakings in the parish. Canon 683, §1 speaks first of two kinds of visitation, that which takes place at the time of pastoral visitation, or "ordinary" visitation, and that which occurs *in casu necessitatis*, or "extraordinary" visitation.

---

efficientia experiatur ipse ac perpendat " SACRED CONGREGATION FOR BISHOPS, *Directorium de pastorali ministerio episcoporum* [=Directory], *Ecclesiae imago*, 22 February 1973, Civitate Vaticana, Typis Polyglottis Vaticanis, 1973, art. 166, pp 162-163 English translation by Benedictine Monks of the Seminary of Christ the King, Mission, B.C., *Directory on the Pastoral Ministry of Bishops* [=Directory], Ottawa, Publications Service of the Canadian Conference of Catholic Bishops, 1974, p. 85

<sup>186</sup> "Pastoralis visitatio .... felicem praebet Episcopo occasionem operariis evangelicis laudem, stimulum, solatium afferendi, evangelizationis et apostolatus difficultates suis ipse oculis perspicendi, organicae actionis pastoralis rationem iterum investigandi atque perpendendi, corda fratrum attingendi, vires forte languidas excitandi, omnes denique fideles advocandi ad novam sui conscientiam ac diligentiore actionem apostolicam." *Ecclesiae imago* 166, in *Directorium*, pp 163-164. English translation in *Directory*, p. 85. This quotation comes from an allocution of Pope Paul VI on the opening of the pastoral visitation of the diocese of Rome, 9 April 1967, in *AAS*, 59 (1967), p. 414

<sup>187</sup> For a fuller discussion, see A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese according to the Code of Canon Law*, pp. 88-94.

**THE 1983 CODE OF CANON LAW**

Pastoral visitation of the parish constitutes a limitation on the ordinary visitation of religious according to c. 683, §1. The canon, however, does not seem to permit another period of visitation, or visitation at his discretion, except in the case of necessity. The necessity demanded by extraordinary visitation would be instances of abuse or negligence, as described in c. 683, §2.<sup>188</sup> The canon does not oblige the bishop to make this visitation of religious. The text states *Episcopus dioecesanus visitare potest*, removing any sense of the mandatory. The text also provides that the visitation may be made either by the bishop personally, or through the agency of another.<sup>189</sup> The canon does not oblige the bishop to make the visitation personally. Thus the text demonstrates that the diocesan bishop has the power to make a visitation to those religious involved in the apostolate, but he need not exercise that power either personally or at all.

We have seen that c. 397, §2 permitted the bishop to visit members of houses of pontifical right only in cases expressly provided for by law. Canon 683, §1 stands as one instance where the law permits such visitation to these members.<sup>190</sup> The tone of the paragraph, however, makes it clear that the visitation concerns those matters pertaining to the apostolate and not the internal operation of the institute.

The canon prescribes that the diocesan bishop may visit churches of religious or their oratories, which the faithful habitually attend. Given what follows regarding entrusted works, the canon refers to churches and oratories of an institute itself. But the canon provides the condition that they are attended habitually by the faithful. This would

---

<sup>188</sup> J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, p. 173. See also A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese according to the Code of Canon Law*, p. 96.

<sup>189</sup> Castaño makes the point that in view of c. 134, §3 the words "personally or through the means of another" are superfluous. See J. CASTAÑO, *Gli istituti di vita consacrata*, p. 281. Yet, their inclusion does emphasise that the visitation is not solely an act of governance.

<sup>190</sup> ES I, n. 39 (2), a source of this canon, itself makes no exclusions either. Further, CD art. 35, (4), also a source of this canon, expressly mentions the exempt and non-exempt. Still, CD art. 35, (4) contains the material considered in c. 678, §1. See J. CASTAÑO, *Gli istituti di vita consacrata*, p. 281. E. CAPPAROS, M. THERIAULT, and J. THORN, (eds.), *Code of Canon Law Annotated*, p. 464.

## THE 1983 CODE OF CANON LAW

seem to imply that fulfilment of this condition requires more than the presence of the faithful.<sup>191</sup>

The bishop may also visit schools. Doubtless, he has the right to visit pastorally the schools committed or entrusted to religious. Such schools remain part of the diocesan apostolate. We have noted too that the bishop may entrust only some schools to religious, even though the work constitutes a kind normally considered their proper work.<sup>192</sup> The canon itself excludes those schools which are open to students belonging to the institute.<sup>193</sup> A further category are the schools conducted as a proper work of the institute.<sup>194</sup> *Romanos pontifices* exempted the Jesuit schools of England from the control of the hierarchy of England. These schools were boarding schools where the students assembled from a number of dioceses and from the jurisdiction of various bishops. In virtue of c. 4, such schools remain exempt and beyond this pastoral visitation. Yet, c. 806, §1 gives a fuller expression of this right of visitation. It states that the right of visitation extends to schools "which have been established or are being directed by members of religious institutes." These schools are proper works of the institutes. Even so due regard must be given for the internal management of such schools.

The other area mentioned by c. 683, §1 concerns "other works of religion or charity, whether temporal or spiritual, entrusted to religious."<sup>195</sup> These works, entrusted

---

<sup>191</sup> De Paolis states that there needs to be an express statement when a church is closed to the faithful, otherwise he regards it as open. But the canon demands more than just doors being open to admit casual visitors, it requires attendance on a habitual basis. See V. DE PAOLIS, *La vita consacrata nella chiesa*, p. 359.

<sup>192</sup> Pinheiro points out that they may not even be "catholic" schools (c. 803), just entrusted to religious. A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese according to the Code of Canon Law*, p. 101.

<sup>193</sup> Among these schools we can include major and minor seminaries, juniorates, novitiates, postulancies, and the like. Although the bishop is excluded by law from visiting such places, he may be invited to make a visit in accordance with c. 678, §3.

<sup>194</sup> Pinheiro makes a distinction between the visitation described in c. 683, §1 and that of c. 806, §1. He gives no basis for this distinction, he simply claims they are distinct. There seems to be no justification for such a distinction given that both are concerned with works of the apostolate. See A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese according to the Code of Canon Law*, p. 100.

<sup>195</sup> The latin text of c. 683, §1 reads as follows, "... aliaque opera religionis vel caritatis sive spiritualis sive temporalis religiosis commissa ..."

## THE 1983 CODE OF CANON LAW

to religious according to c. 681, §1, always remain under the direction and authority of the diocesan bishop. Consequently, they become the object of the pastoral visitation.<sup>196</sup>

Canon 683, §2 deals with the discovery of abuse by the bishop, presumably while making his pastoral visitation to religious. The canon implicitly states that the bishop cannot go looking for abuse. It says, "But if by chance he discovers abuses...."<sup>197</sup> The competent superior remains the authority responsible for the actions of the members of an institute. For the bishop to begin a process of seeking out such abuse would be a violation of the autonomy of the institute and, perhaps, a usurpation of the authority of the competent religious superior.

Since this paragraph occurs at the end of the chapter V, logically it follows that the abuse involves something regarding the apostolate.<sup>198</sup> The elements mentioned in c. 678, §1 become relevant here. However the matter could relate to either proper or entrusted works in the apostolate.

The canon preserves the authority of the religious superior by limiting the power of the bishop to act. He cannot do so without two previous stages. First, he must notify the superior. Secondly, the notification is in vain, *frustra*. Most translators render *frustra* as "in vain." The concept of "no effect" operates here. It covers cases where the superior fails to act, or acts inappropriately, or acts in such a way that no change comes about in the situation. The canon does not expressly state who makes a decision regarding this. In any event the bishop remains the subject of the canon, and the presumption remains that he makes the decision.

---

<sup>196</sup> J. BEYER, *Le droit de la vie consacrée: instituts et sociétés*, p. 173.

<sup>197</sup> Canon 683, §2 uses the following words, "Quod si forte abusus deprehenderit, ..."

<sup>198</sup> A. PINHEIRO, *Bishop-Religious Relationship in the Apostolic Activities of the Diocese according to the Code of Canon Law*, p. 102. Pinheiro extends this to include the matters regarding morals and doctrine in schools conducted for members of the institute only. Canon 683, §1 specifically excluded these schools from the pastoral visitation. Leaving aside the matter of public reports, it would seem difficult to understand how the bishop would become aware of such abuse unless he had exceeded already the limits placed on him by the law in visiting such schools! However, if the matter became a public scandal due to the inaction of the competent superior, the bishop could then provide a remedy by using c. 679.

If all conditions have been fulfilled, then the bishop can provide to correct the abuse by his own authority. The canon does not specify what the provision could be. Canon 679 appears as a last resort, but the bishop can also invoke the prescriptions of the penal law, if the case warrants it.

#### 2.7.8 Overview of Book II, Chapter V

Canons 673-683 of Chapter V, Book II, of the *Code of Canon Law* reflect their foundation in the doctrinal and normative principles of the Second Vatican Council. *Ecclesiae sanctae*, *Ecclesiae imago*, and *Mutuae relationes* support the principles found in *Lumen gentium*, *Perfectae caritatis*, *Christus Dominus*, and *Apostolicam actuositatem*. The chapter then takes its place in the Code, too, illustrative of the revision principles of the 1967 Synod of Bishops clearly visible in the canons.

The canons of the chapter follow from the acceptance of differing competencies for different authorities. Based on the life of prayer, penance, and works of the apostolate, the chapter recognises the important role of the superior in religious institutes. The canons call for fidelity to the institute as a basic prerequisite, but they also direct the superior into modes of discussion, collaboration, mutuality of purpose, and contribution to the life of the particular church. Since the superior acts as the competent authority representing the public juridic person of the institute, the canons usually address the superior, not other individuals.

For his part, the canons recognise and appreciate the diocesan bishop acting in hierarchical communion with the institutes of consecrated life. The canons emphasise his role as animator, coordinator, collaborator, and most of all, the pastor of the People of God. Objectively, the bishop partly achieves the activation of a unified apostolate by entrusting apostolic works and offices to religious as well as the integration of the proper works of the institutes of consecrated life.

## THE 1983 CODE OF CANON LAW

The canons of this chapter always respect the intrinsic autonomy of the institutes of consecrated life. The authority of the bishop and the authority of the superior, however, are not without limits. So this chapter attempts to provide some means to achieve the continual balancing which will take place in the existential situation.

### 2.8 Conclusion

This consideration of the CIC/83 produces the following observations:

1. The Code continues the conciliar process of renewal by emphasising ecclesial communion. This ecclesiology can entertain multiple competencies and authorities without compromising the hierarchical nature of the Church.
2. In any diocese instances of universal law, particular law, and proper law will comprise three interrelated tiers of legislative practice. Consequently, competencies and accountabilities will vary when different tiers touch and interact.
3. Institutes of consecrated life possess their autonomy in the Church intrinsically by virtue of their status as public juridic persons.
4. Autonomy, an acquired right, concerns the freedom from undue influences as well as the freedom for competent authority to act appropriately.
5. The law understands that the apostolate of religious begins in a life of prayer and personal dedication. Fidelity to this way of life as lived in a particular institute exists as a presupposition.
6. The law regarding the apostolate of religious becomes an exercise in the principle of subsidiarity that requires an appreciation of different competencies in different situations. The diocesan bishop, however, acts as the animating pastor of the particular church effecting harmony and unity in the apostolate. Yet, this does not extinguish the competence of religious superiors relative to their institutes and members.

7. To facilitate the interrelation of bishops and religious the law foresees structures for consultation, collegiality, participation, resolution of dispute, and remedy in cases of negligence or abuse.

The appreciation of multiple competencies in the one hierarchical Church brings its own difficulties. First, the legislation of the Code often appears more exhortatory than juridical. Second, bishops and religious acting in the existential situation can experience difficulties determining where one competency ends and another begins. Third, changing cultural, demographic, historical, and social milieux cause certain tensions in realising the apostolate of particular churches. The third chapter will consider some of the concerns that appeared at the 1994 Synod of Bishops.

## CHAPTER THREE: FROM THE CODE TO THE 1994 SYNOD

### 3.1 Introduction

After the promulgation of the 1983 *Code of Canon Law*, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life issued two documents, the first, *Potissimum institutioni*, appearing on 2 February 1990. Just before the Ninth Ordinary Synod of Bishops, the Congregation issued *Congregavit nos in unum* on 2 February 1994. Although neither document directly concerns the relationship between bishops and members of consecrated life, they do bear on the life of the local church. The first document, an instruction on religious formation, refers to the preparation for a life lived in Church - communion. The second document expresses a concern for fraternal life. But it also reflects on the place of consecrated life in the particular church. An analysis of these two documents comprises the first part of chapter three.

A study of the various moments, before, during, and after the Ninth Ordinary Synod of Bishops, constitutes the remainder of this chapter. The study will first examine the process prior to the Synod by analysing the *Lineamenta* and the *Instrumentum laboris*. Next the synodal event entailed two reports from the Relator, together with interventions from the participants, reports from language groups, a final message, and the propositions. Finally, the post-synodal apostolic exhortation, *Vita consecrata*, constitutes the final part of the synodal event. While examining the documents of the synodal process, the relationship between bishops and members of consecrated life remains the main focus of the study.

### 3.2 Other Documents

#### 3.2.1 *Potissimum institutioni*

On 2 February 1990, the Cardinal Prefect of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life signed the Instruction, *Potissimum*

## FROM THE CODE TO THE 1994 SYNOD

*institutioni*, which presents certain directives on formation in religious institutes.<sup>1</sup> Although the Instruction had been in preparation since 1969, Pope John Paul II had delayed its publication until after the promulgation of CIC/83. This delay necessitated certain revisions of the text.

While the Instruction does not directly concern the relationship between religious and the diocesan bishop, it still makes valuable remarks concerning this relationship in the context of religious autonomy. Cardinal Hamer, the Prefect of the Congregation, stated that the Instruction permitted a certain flexibility:

This flexibility should permit, and perhaps even stimulate, possible adaptations in respect to diverse cultures, with regard to the constitutions fully approved by the Holy See for each institute in full communion with the particular church where it is situated.<sup>2</sup>

For Cardinal Hamer, then, full communion for any religious institute finds its concrete expression within the particular church.

Again, the Instruction speaks of formation carried on in communion with the Church. In this communion religious are members of the Church "filially obedient to her pastors."<sup>3</sup> While this formation for the apostolate requires that religious collaborate with the structures of the Church, this Instruction attempts to treat filial obedience positively. "The nature of the specific pastoral charity of religious must lead the individual communities and individual religious to harmonise their activities with the initiatives of the universal and local church. (CD arts. 33, 35; MR n. 20)."<sup>4</sup> Indeed, to avoid the situation of a church within a church, religious become experts in communion through their collaboration.<sup>5</sup>

---

<sup>1</sup> J. BONFILS, "The Genesis of the Document," in *Consecrated Life*, 16 (1991), p. 160.

<sup>2</sup> J. HAMER, "Introduction," in *Consecrated Life*, 16 (1991), p. xi.

<sup>3</sup> "Munus institutionis igitur perficiendum est necessario in communione cum Ecclesia, cuius religiosi sunt filii, atque in filiali oboedientia erga eius Pastores." PI, n. 23, in *AAS*, 82 (1990), p. 488, English translation "Directives on Formation in Religious Institutes," in *Consecrated Life*, 15 (1990), Supplement, [= *PI Supplement*], p. 15

<sup>4</sup> J. PFAB, "Formed for the Mission" in *Consecrated Life*, 15 (1991), p. 33

<sup>5</sup> See PI, n. 25.

*Potissimum institutioni* nn. 94-97 are situated under the title, "D) Episcopal Ministry and the Religious Life." Because the Instruction concerns formation, this section considers the relationship between institutes and the *munus docendi* of bishops. Only one allusion to the apostolate of religious exists, and this occurs as a reference to c. 678 in n. 96. The Instruction attempts to relate this duty of the bishop to the responsibility which he possesses in "watching over the progress that religious are making towards holiness."<sup>6</sup>

Quoting *Mutuae relationes*, the section begins by reminding religious to respect the bishops' pastoral care for religious life. A sentence accepting the dual competencies of both religious superiors and bishops immediately follows this reminder. It states that, "the ministry of the bishop and the office of the religious superior are not in competition."<sup>7</sup> The Instruction then recognises "an internal order of institutes" which enjoys autonomy even though the growth of religious life takes place "within the framework of organic ecclesial communion." By restricting autonomy to the internal order of religious institutes, the Instruction states no more than *Mutuae relationes* n. 13 (c). Because it adopts this restriction, however, the Instruction steps back from the position of the Code of Canon Law, which recognises the inadequacy of the internal-external distinction, especially in what concerns the exercise of the apostolate.

In n. 95 the Instruction uses a three step argument to assure the religious superiors' teaching office within their institutes. First, the Instruction quotes c. 586, §§ 1 and 2, in order to assure that institutes possess their own autonomous discipline. Second, the Instruction situates the program of formation within the proper law or discipline of these institutes (c. 659, §2). Third, by quoting *Mutuae relationes* n. 13 (c), the Instruction states that:

<sup>6</sup> The Latin text states, "... non tamen dispensatur invigilare itineri religiosorum ad sanctitatem quod attinet." *PI*, n. 97, in *AAS*, 82 (1990), p. 526. English translation in *PI Supplement*, p. 58.

<sup>7</sup> "Inter Episcopi munus ac religiosi superioris officium nulla interest contentio." *PI*, n. 94, in *AAS*, 82 (1990), p. 525. English translation in *PI Supplement*, p. 57.

.... religious superiors have the competency and authority of spiritual director in relation to the evangelical purpose of their institute. In this context, therefore, they must carry on a veritable spiritual direction of the entire congregation and of its individual communities. They should accomplish this in sincere harmony with the authentic Magisterium of the hierarchy.<sup>8</sup>

An obvious progression takes place here in two respects. The Instruction no longer speaks just of the internal formation of candidates but acknowledges that the religious superior possesses a teaching role relative to all members and communities of the institute. Second, the evangelical purpose of the institute, as we have seen, cannot be confined to the internal order of the institute. It necessarily impacts upon the life of the particular church. So the Instruction must proceed to recognise the relationship between the teaching office of both the religious superior and the bishop.

*Potissimum institutioni*, at n. 96, treats the teaching office of the bishop. By using c. 753 and *Lumen gentium*, art. 25, the Instruction states that bishops act as "authentic teachers" and "witnesses of divine and Catholic truth." Then the Instruction employs *Mutuae relationes*, n. 33, to state that bishops have a responsibility for the doctrinal teaching of the faith both in the centres where its study is promoted and in the means used to transmit it. The Instruction alludes to *Mutuae relationes*, n. 28, thereby linking the bishop's doctrinal responsibility to his guardianship of fidelity to the religious vocation. The link seems tenuous at best. While we can accept the duty of the bishop to encourage the growth to holiness, the subject of n. 97, linking fidelity to religious vocation with the bishop's doctrinal role appears an over-statement. Fidelity to vocation is not entirely a doctrinal matter.

The last part of this section, n. 97, re-states part of the wording of c. 586, §1. The Instruction sees no opposition between the autonomy of institutes and the duties of the

---

<sup>8</sup>"Quoad munus docendi: Superiores Religiosi competentiam habent et auctoritatem "magistri spiritus" secundum evangelicam proprii instituti conformationem; quare in eius ambitu veram explere debent spiritualem directionem totius Congregationis et singularum ipsius Communitatum; quam quidem ipsi perficient in sincera concordia cum authentico Hierarchiae magisterio." PI, n. 95, in *AAS*, 82 (1990), p. 525. English translation in *PI Supplement*, p. 58.

bishop. The Instruction states again that he must have respect for the autonomy of institutes, which limits the exercise of his authority. But the bishop retains some duty to watch over the progress that religious are making towards holiness. Hence, major superiors should at least (*saltem*) inform bishops of particular churches "regarding current programs of formation in centres for religious formation situated in their pastoral territories."<sup>9</sup> The Instruction attempts to balance two competencies regarding formation.

The Instruction's treatment of the bishop-religious relationship shows the inherent tension that exists in the concrete situation.<sup>10</sup> Determining exactly the bishop's duty to foster the growth in holiness does present a difficulty. A danger arises when the bishop's solicitude becomes intervention. Yet, the formation of religious takes place in a particular church. So equally there exists a danger of isolationism when formation according to proper law becomes separated from the communion in the particular church. The Instruction sees some solution in mutual consultation and establishment of organs of coordination (n. 97). Apart from general principles, however, resolutions of problems in such cases will depend on a case by case collaboration between religious superiors and bishops.

---

<sup>9</sup> This piece of pastoral advice causes problems for Malvaux who states that this seems to contradict the concept of autonomy. For him this section of the document views communion with the Church as obedience to the hierarchy and the notion of autonomy is presented in a restrictive manner. Malvaux's attitude seems to read too much into the text. Certainly, overstatements of the bishop's power do exist, yet, by and large, the Instruction does attempt to provide a balance. The last advice to major superiors is not an imperative but an encouragement. The document does not demand that superiors must provide details concerning the formation program. Rather the Instruction reminds the bishop of the solicitude he should have for all the faithful in his diocese, but at the same time reminding him of the limits to his intervention. Given its limitations, the section can still be viewed more as an invitation both to bishops and superiors to participate in an active, open communion. Malvaux's claim that the Instruction calls for communion only in terms of obedience to the bishop seems unfounded. See B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* p. 104.

<sup>10</sup> J. Giallanza does not see this in terms of a tension. Rather he says that the document does not acknowledge that religious can act as a prophetic sign for the Church itself. He views such a sign simply in terms of a challenge to authority. Instead of tension he posits a mode of confrontation. See J. GIALLANZA, "Life in Community: A Recent Roman Document," in *Religious Life Review*, 33 (1994), p. 148.

### 3.2.2 *Congregavit nos in unum*

On 2 February 1994, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life published *Congregavit nos in unum*, a document on fraternal life in community. Like *Potissimum institutioni*, this document does not directly concern the bishop - religious relationship, but it does make a contribution to our study. Further, since the preparations for the 1994 Synod were well under way at the time of the document's release, the considerations contained therein indicate some concerns of officials in the Congregation just prior to the Synod.

In n. 1 (a) the document explains its motivation when it states, "In some places, it seems that religious community has lost its relevance in the eyes of women and men religious and is, perhaps, no longer an ideal to be pursued."<sup>11</sup> Consequently, in n. 6, the document enunciates its two objectives. First, it supports the efforts of religious to improve the quality of their fraternal life. Second, it offers reflections for those who have distanced themselves from the community ideal in order to motivate them to return.<sup>12</sup>

In n. 9 the document bases communion in the Spirit's work of gathering all as one. The document acknowledges community in religious life as a continuity of the life of Jesus' early followers (n.10). There are many ways in which this takes place so "it is impossible to speak of religious community univocally." Yet, the fraternal fellowship with the Spirit:

... will be all the more visible to the extent that they [religious] not only think with and within the Church, but also feel themselves to be Church, identifying themselves with her in full communion with her doctrine, her life, her pastors, her faithful, her mission in the world.<sup>13</sup>

---

<sup>11</sup> CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, *Fraternal Life in Community*, Sherbrooke, Éditions Paulines, 1994, p. 6.

<sup>12</sup> See *Fraternal Life in Community*, n. 6, p. 13. See P. CABRA, "Congregavit nos in unum Christi amor," in *Vita consecrata*, 30 (1994), pp. 263-264.

<sup>13</sup> *Fraternal Life in Community*, n. 10, p. 18.

At this point the document does little else than indicate some of the relationships that need attention within the communion of the Church.

*Congregavit nos in unum Christi amor* considers the presence of a religious community in the particular church in nn. 60-70.<sup>14</sup> By twice recalling the fact that the missionary presence of religious institutes in the particular church grounds their existence, it anchors the existential situation of religious institutes. First, in n. 60, the document states that mere presence of a religious community constitutes its primary mission. Fidelity to this objective condition opens the particular church to a more universal dimension by enriching the local church with the charisms of religious life. Again, n. 60 considers certain dangers for any religious community. It says,

The growing difficulties of mission work and the scarcity of personnel can tempt both a religious community and the particular church to a certain isolation; this, of course, does nothing to improve mutual understanding and collaboration.

The document proceeds to describe the problems as isolationism on the part of the religious community,<sup>15</sup> interventionism on the part of the particular church,<sup>16</sup> and ignorance on the part of both religious and bishops regarding their respective places in the Church.<sup>17</sup> The Congregation thereby acknowledges the creative tension that continues to exist within the relationship.

The document considers various places in the apostolate where such tension can arise. In n. 61, it says that religious may find difficulty in coordinating parish life and

---

<sup>14</sup> Although the document adds a new heading, "Some Particular Situations," after n. 62, it considers material that remains *ad rem* to the particular church

<sup>15</sup> "The religious community runs the risk, on the one hand, of being present in the particular Church with no organic link to its life or to its pastoral programme and, on the other hand, of being reduced to merely pastoral functions." *Fraternal Life in Community*, n. 60, p. 51.

<sup>16</sup> "Just as a religious community cannot act independently of the particular Church, or as an alternative to it, or much less against the directives and pastoral programme of the particular Church, so the particular Church cannot dispose, according to its own pleasure and according to its needs, of a religious community or any of its members." *Fraternal Life in Community*, n. 60, p. 51.

<sup>17</sup> "At the root of many misunderstandings is perhaps a mutual partial knowledge either of the particular Church or of religious life, and of the responsibilities of the bishop for religious life." *Fraternal Life in Community*, n. 60, p. 52. The document sees a remedy to this mutual ignorance by providing courses in seminaries and places of religious formation concerning religious life and the nature of the particular church.

community life. Number 62 recalls that religious have found “lively spirituality and apostolic vitality” in various ecclesial movements. But the document also calls for careful discernment so that religious remain with their primary commitment to their community and institute. The following numbers repeat the same message: insertion into poor neighbourhoods (n. 63); the dangers of small communities (n. 64); the problem of religious living alone (n. 65); and the demands that can be made by diverse cultures (n.66). In each case the document refers religious back to their primary obligation, their fidelity to their institute. Only in n. 65 (d) does any mention of the bishop occur, and this merely repeats c. 678, §1.

Finally, in n. 67 the document faces the reality of change. It says, “Changes in the cultural and ecclesial conditions, internal factors in the development of institutes and changes in their resources can require a reorganisation of the works and of the presence of religious communities.” The document continues, “A trusting and ongoing dialogue with the particular Church is therefore essential, as is effective connection with those responsible for communion among the religious.”<sup>18</sup> *Congregavit nos in unum* illustrates the Congregation’s view that the fruitfulness of the apostolate requires cooperation and collaboration. This has to happen when more than one competency occurs in the apostolate. The Congregation does not envisage a monopoly of authority belonging either to the bishop or to the religious superior. The apostolate will only be successful as a collaborative undertaking.

By way of summary, therefore, these two documents prepare the way for the Synod. First, both emphasise the broader pastoral basis in which the bishop - religious relationship functions. The requirements of law do not exhaust the extent of the relationship. The Synod itself will continue this expanded outlook as it speaks from the practical experience of the particular churches. Second, both documents herald a strong theme echoed during the Synod, namely the necessity of collaboration between the two parties who possess authority within their own areas of competence.

---

<sup>18</sup> *Fraternal Life in Community*, n. 67, p. 60

### 3.3 Preparation for the Synod

#### 3.3.1 The Normative and the Descriptive

Apart from broad generalisations, it is almost impossible to describe univocally, comprehensively, and accurately the lived nature of religious life in the Church today.<sup>19</sup> Not only does consecrated life itself exist in a state of “transformational process,”<sup>20</sup> but its existential situation varies proportionately according to any number of ecclesiastical, sociological, and other parameters. To this point, this work presents an ideal of religious life including its relationship with bishops. The conciliar ecclesiology grounds this ideal. Yet, the acceptance of a *communio* ecclesiology, however, necessarily means accepting diversity. Further, besides admitting an unevenness of change, attempts at centralised and uniform control will be difficult if not impossible.<sup>21</sup> Thus the existential reality of the relationship between bishops and religious may be somewhat different from any ideal of harmony and unity.

The study by D. Nygren and M. Ukeritis concerning institutes of consecrated life in the United States presents something of the reality in that country. The authors state that, on the one hand, some religious de-emphasise the distinctiveness of the religious life in favour of sponsoring the emerging distinctiveness of the laity in the Church. The authors say that “the generosity among some religious is being eclipsed by self-

<sup>19</sup> One can reach such broad generalisations by examining the Church’s own official texts. For instance, the demographic figures contained in the Statistical Yearbook of the Church, published by the Secretariat of State, make it clear that “the consecrated life is in its overwhelmingly majority lay (82.2%) and feminine (75.5%) and is only in a minority way masculine (27.5%) and clerical (17%).” Further, “the consecrated life is migrating from the North to the South and from the West to the East.” See UNION OF SUPERIORS GENERAL, *Consecrated Life Today. Charisms in the Church for the World*, Slough - Maynooth - Homebush, St Pauls, 1994, p. 264.

<sup>20</sup> This expression comes from the study of US religious orders of priests, brothers, and sisters. The study begins with the admission of decline in religious life but that new understandings are arising. But these new understandings come at some cost. See D. NYGREN and M. UKERITIS, “Future of Religious Orders in the United States,” in *Origins*, 22 (1992-1993), p. 260.

<sup>21</sup> Arbuckle argues that such unevenness, which sometimes may look like chaos, becomes a necessary feature for renewal. See G. ARBUCKLE, *Refounding the Church: Dissent for Leadership*, New York, Orbis Books, 1993, pp. 135-144. See also R. WIAKLANI, “Religious Life in the U.S. - Understanding the Moment,” in P. PHILIBERT, (ed.), *Living in the Meantime*, New York, Paulist Press, 1994, pp. 207-211.

preoccupation, stark individualism and a lessening of the willingness to sacrifice."<sup>22</sup> On the other hand, they speak also of religious deeply committed to their institutes and working with others with no sense of personal gain. The authors see this unevenness repeated, for example, in respect to internal and external authority,<sup>23</sup> apostolic work and corporate identity, and the option for the poor.

The presence of such a scientifically robust study appears unavailable for other countries. Anecdotal evidence from religious and bishops during the 1994 Synod indicates, however, that particular churches in Africa, Asia, and Eastern Europe do not seem to experience similar problems.<sup>24</sup> Perhaps where there exists a more identifiable external "evil," such as poverty, hunger, or political repression, internal concerns of the Church assume less prominence.

Nevertheless, a general development in the relationship between religious and bishops has occurred. In May 1988 the Congregation for Institutes of Consecrated Life and for Societies of Apostolic Life invited bishops and major superiors to reflect on the realisation of the directives presented by *Mutuae relationes*. Jean Bonfils reports that by

<sup>22</sup> D. NYGREN and M. UKERITIS, "Future of Religious Orders in the United States," p. 270

<sup>23</sup> The authors state, "Religious, in particular, are clear in their lowered respect for the magisterial authority of the church and the U.S. hierarchy in general. And within their own congregations, the interpretations of authority vary widely." D. NYGREN and M. UKERITIS, "Future of Religious Orders in the United States," p. 271. The data of their survey shows the following results. When asked if it was easy to work with the hierarchy of the Church, 31% of sisters said it was, but 44% said it was not easy. Brothers replied 37% affirmative and 34% negative. Priests replied 47% in favour and 30% against. The difference between the sisters and priests responses could suggest other concerns of religious women. When asked if it was easy to work with the laity, the three groups showed little variation and their positive responses were 75%, 76%, and 79% respectively. The same pattern of variation concerning questions related to the hierarchy, as well as the low positive scores, resulted when religious were asked if the bishops of the Church should be influential in determining the future of religious life. All agreed that laity and bishops do not have a clear picture of what religious do. The authors conclude that their data suggests "significant alienation from the hierarchy." Whatever the history of causes for this situation in the US, it does not augur well for relations between bishops and religious in the United States. See D. NYGREN and M. UKERITIS, "Transforming Tradition, Shaping the Mission and Identity of Religious Life in the United States," in UNION OF SUPERIORS GENERAL, *Consecrated Life Today: Charisms in the Church for the World*, p. 32-33.

<sup>24</sup> For example, one can read the following contributions at the Synod: Sr Anna Stara from Belarus and Sr Katarina Havlova from the Czech Republic in *L'Osservatore romano*, n. 43, 26 October 1994, p. 11; Archbishop Orlando Quevedo from the Philippines, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 9; and Archbishop Gabriel Gonsuam Ganaka from Nigeria, in *L'Osservatore romano*, n. 46, 16 November 1994, p. 7.

the end of June 1989 the Congregation had received various replies from the Latin rite. Bonfils, however, concludes that "the content of the replies is so diversified and at times so little coherent with the questions that it limits value of the responses to the enquiry."<sup>25</sup>

*Mutuae relationes*, n. 63, encouraged the erection of mixed commissions of bishops and major religious superiors to consider questions relevant to both. Such commissions were established "here and there." Added to this geographic unevenness, Bonfils reports that their statutes reflect further diversification based on a variety of elements ranging from the country of establishment, to numbers of religious, and the perceived urgency of matters to be treated.<sup>26</sup>

Moreover, Bonfils reports that the implementation of the office of episcopal vicar displays the same uneven treatment. While the implementation has become more general than previously attempted, some bishops still become personally involved in the promotion of consecrated life, either for personal motives, or because of the small number of religious. Yet, even when implemented, certain bishops limit the effectiveness of the office by restricting its competency.<sup>27</sup>

---

<sup>25</sup> J BONFILS, "Mutuae relationes: Ten Years Later," in *Consecrated Life*, 17 (1993), pp 122-123. The returns to the dicastery were indeed small. Fifteen episcopal conferences out of a total of one hundred and three replied. Twenty-three personal replies came from bishops, most of which originated in France, thirteen from the national conferences of major superiors out of one hundred and fifty-three, thirteen from institutes of women religious and four from institutes of men religious. No replies were received from major superiors in the United States of America, Canada, India, and the Philippines. However, the Canadian episcopal conference made a reply. The Congregation also used other anecdotal information gathered from visits to the dicastery by bishops and major superiors, as well as information from periodic reports of institutes. However, such returns in similar situations to Roman offices tend to be small. Therefore, one should not hastily conclude that either religious or bishops were not interested, or that the state of relations that exists between them consists of something less than satisfactory. The important feature to note is the diversity of content. This speaks more about acceptance of a *communio* ecclesiology necessitating specification of the relationship in particular churches than about definition from a centralised body.

<sup>26</sup> J BONFILS, "Mutuae relationes: Ten Years Later," p. 123.

<sup>27</sup> Bonfils describes such limitations as, for instance, limiting the role to women religious only, or dealing with religious clerics solely through the presbyteral council. See J. BONFILS, "Mutuae relationes: Ten Years Later," p. 124. Kerkhofs also reports that European superiors point to this tendency to reduce religious clerics to a pool of priests available to the bishop for service in the diocese. Such action fails to acknowledge that religious life has value of itself. J KERKHOFS, "The Synod Lineamenta: European Religious Respond," in A. FLANNERY, (ed), *Towards the 1994 Synod of Bishops: The Views of Religious*, Dublin, Dominican Publications, 1993, pp. 69-70.

## FROM THE CODE TO THE 1994 SYNOD

“Women and men religious,” continues the Bonfils report, “are being invited more and more to participate in diocesan planning.” Not only are religious in charge of parishes, but they have also filled the gap created by the lack of personnel available for the diocesan apostolate. When religious, however, make this diocesan involvement their first priority, they can endanger the distinctiveness of their own vocation. Certainly, bishops, who lack the knowledge about the responsibilities of religious to their own institute and employ religious in the diocese accordingly, place religious at risk in their distinctive calling. “It is not objectively easy for many religious to reconcile in a balanced manner their bond with the particular church and the universal dimension of their charism (MR 18).”<sup>28</sup>

The relationship between bishops and members of institutes of consecrated life and societies of apostolic life has changed since Vatican II, and especially since the introduction of *Mutuae relationes*.<sup>29</sup> The documents of Vatican II asked the bishop to take a greater pastoral interest in the life of religious. Yet some religious interpret such interest as interference, and some bishops interpret wariness as opposition. Again, the style of governance of each individual bishop can invite religious to exercise their ministry in open communion, whereas another style of governance can equally alienate religious. A bishop can encourage or stifle the activity of the Spirit in religious institutes. In another example, a bishop can support a superior to the detriment of members, or a bishop can support a pressure group within a particular community or institute to the detriment of legitimate authority in the community. So, there can be trust and mistrust on both sides of the relationship.

---

<sup>28</sup> J. BONFILS, “*Mutuae relationes*: Ten Years Later,” p. 128. Bonfils reports that some religious priests, especially, have become so integrated into the diocesan clergy that their proper character which would permit them to give due witness to their vocation no longer appears.

<sup>29</sup> Malvaux prefers to state that, undeniably, the relationship has improved, *indéniablement améliorée*. B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical*, p. 121. Such a positive statement certainly needs proof and given the increasing diversification of the relationship that proof may not be forthcoming. So much depends on which particular church an observer considers

The changed perspective with regard to the role of the bishop in the particular church included new initiatives on the part of bishops to enter into the inner life of the religious communities.<sup>30</sup> Because these initiatives are new, their exercise can be the subject of misunderstandings regarding their extent and scope on the part of both bishops and religious. Yet, the acceptance of a *communio* ecclesiology forces the observer to view the structure of the Church as a dynamic with a necessary tension between individuals and groups becoming part of its creative dynamism. Indeed, the unevenness of the relationship can be the sign of a healthy Church. Moreover, the contributions to the Ninth Ordinary Synod of Bishops can be interpreted in this light.

### 3.3.2 The *Lineamenta*

Pope John Paul II announced on 30 December 1991 that the Ninth Ordinary Synod of Bishops would take place in Rome during the autumn of 1994.<sup>31</sup> The Pope called on the bishops to consider the topic: *De vita consecrata deque eius munere in Ecclesia et in mundo*. During the next month the Secretariat of the Synod began work on the first paper for the Synod, the *Lineamenta*.

The sole purpose of the *Lineamenta* is to introduce the topic and to foster a preliminary study of it. Consequently, the Instruction should not be seen as anticipating any possible conclusions of the Synod, much less as an exhaustive treatment of the subject of the consecrated life.<sup>32</sup>

The *Lineamenta* appeared on 24 November 1992.

Besides an introduction and conclusion, the *Lineamenta* contain three sections. Part I, nn. 5-24, considers the nature and identity of the consecrated life, attempting to describe the essential elements common to all forms of consecrated life. Part II, nn. 25-

<sup>30</sup> R. WEAKLAND, "Religious Life in the U.S. - Understanding the Moment," p. 200.

<sup>31</sup> *L'Osservatore romano*, n. 3, 22 January 1992, p. 12. See also JOHN PAUL II, Homily, "On the Feast of the Presentation," in *L'Osservatore romano*, n. 5, 3 February 1992, pp. 1-2.

<sup>32</sup> J. SCHOTTE, "Preface," in *The Consecrated Life and Its Role in the Church and in the World: Lineamenta*, Ottawa, Canadian Conference of Catholic Bishops, 1992, p. 3. See also P. HEBBLETHWAITE, "The Shape of the 1994 Synod," in A. FLANNERY, (ed.), *Towards the 1994 Synod: The Views of Religious*, p. 85.

## FROM THE CODE TO THE 1994 SYNOD

33, considers the existential reality of consecrated life in the Church and in today's world. Part III, nn. 34-44, considers the role of consecrated life, treating, especially, with the relationships between consecrated life and other persons and bodies in the Church and in the world.

The *Lineamenta* adopt a deductive model to describe consecrated life.<sup>33</sup> The text contains 130 end notes, the majority of which cite conciliar documents, Roman curial documents, the Code of Canon Law, and the teaching of recent popes.<sup>34</sup> Therefore, the *Lineamenta* tend to be more normative than descriptive. That is, the document tends to relate what should be, rather than what is.<sup>35</sup> The *Lineamenta* also treat the relationship between bishops and those belonging to the consecrated life normatively. But the description appears to emphasise only the authority of bishops. Consequently, the document appears biased and heavy handed. In general, reactions to its structure and language were not favourable.<sup>36</sup>

<sup>33</sup> MAJOR SUPERIORS OF GERMAN WOMEN RELIGIOUS, "General Reflections," in A. FLANNERY, (ed.), *Towards the 1994 Synod: The Views of Religious*, p. 138

<sup>34</sup> Montan gives a summary of the sources in A. MONTAN, "Un documento 'organico e completo,'" in *Vita consacrata*, 30 (1994), pp. 25-28

<sup>35</sup> "The Nygren-Ukeritis study puts faith in 'mission rather than canons' but the *Lineamenta*'s faith is put in canons embodying and formulating consecration and mission." S. O'RIORDAN, "Religious Life in a Time of Turbulence," in A. FLANNERY, (ed.), *Towards the 1994 Synod: The Views of Religious*, p. 46

<sup>36</sup> For example, one commentator stated that the language used in the *Lineamenta* speaks about consecrated life *per se*, rather than about the persons involved in consecrated life. See G. CUSSON, "Attentes des religieux et des religieuses à l'approche du Synode sur la vie religieuse," in *Vie consacrée*, 65 (1993), p. 228. Then a group of German religious observed that the language "is quite inaccessible and in many places almost unintelligible nowadays for the religious themselves." See CONFERENCE OF GERMAN RELIGIOUS SUPERIORS (VDO) AND CONFERENCE OF RELIGIOUS SUPERIORS OF THE GERMAN ORDERS AND CONGREGATIONS OF BROTHERS (VOB), "General Remarks," in A. FLANNERY, (ed.), *Towards the 1994 Synod: The Views of Religious*, p. 145. The Major Superiors of German Women Religious state that the language "is foreign to today's experience." MAJOR SUPERIORS OF GERMAN WOMEN RELIGIOUS, "General Reflections," p. 137. Cusson maintains that the traditional language style of the *Lineamenta* would be better served by a modern style of language reflecting the value of the words and the realities of consecrated life as actually lived. G. CUSSON, "Attentes des religieux et des religieuses à l'approche du Synode sur la vie religieuse," in *Vie consacrée*, 65 (1993), p. 229. Spanish religious considered that the *Lineamenta* rely excessively on the Code of Canon Law and thereby ignore the charismatic and the specific prophetic dimensions of religious life. See B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, Milan, Figlie de San Paolo, 1995, p. 148. Another female institute of consecrated life, reacting to the language of the *Lineamenta*, asked the Synod to address the future of religious life "by underpinning its reflections with Scripture, theology and spirituality, rather than concentrating largely on canon law and Roman documents." See SISTERS OF NOTRE DAME: DE NAMUR, ENGLAND AND WALES, untitled submission, in A. FLANNERY, (ed.), *Towards the 1994 Synod: The Views of Religious*, p. 151.

The Introduction and Part I contain few references to the relationship between bishops and consecrated life. The Introduction, at n. 3, exhorts consecrated life to maintain "its straining toward perfection within an increasing close-knit ecclesial communion." In n. 9 the *Lineamenta* continue to expand this theme by saying that the community of consecrated life, as a reflection of Church communion, "is not a unit closed in upon itself." Prayer, apostolic service, and collaboration with other members of the Church open the community to a multiplicity of relationships.<sup>37</sup> The *Lineamenta* reiterate the CIC/83 concerning the role of bishops in discerning charisms and their juridic approval (nn. 15 and 17) and in assessing new forms of consecrated life (nn. 18 and 24 ). No reference to autonomy occurs in this section.

Part II begins by stating that the Ninth Ordinary Synod of Bishops provides an occasion to take an "objective discernment of the present situation of consecrated life" (n. 25). The text begins by stating that "the situation of the consecrated life is not the same everywhere" (n. 25). Number 30 repeats this theme. There the text acknowledges the departure of many from the consecrated life in the Western countries as well as the lack of vocations (n. 30a). In n. 30b, the text speaks of a rebirth of consecrated life and new vocations in Eastern Europe. The text describes the search for new methods to link communal life and commitment to the apostolate.<sup>38</sup> When speaking of the "younger" churches of the North and South, the *Lineamenta* state that a proper balance should exist

<sup>37</sup> Another major criticism says, however, that the *Lineamenta* view suspiciously any relationship with the world. Secondin cites the following examples: on youth (44b), on modernity and secularism (29e), on feminism (29d), and on individualism (28b). B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, p. 146. From this defensive mode, some have interpreted the *Lineamenta* maintaining a separation from the world, rather than a relatedness to it. See H. O'DONOGHUE, "What Hopes for the Synod?" in A. FLANNERY, (ed.), *Towards the 1994 Synod: The Views of Religious*, pp. 61-64.

<sup>38</sup> The English text speaks of a "proper relationship with the bishops." However, the Latin text speaks of *concorditer cum episcopis*, which simply asks for harmony. COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consacrata deque eius munere in Ecclesia et in mundo: lineamenta*, 24 November 1992, n. 30b, Libreria Editrice Vaticana, 1992, p. 37 (English translation *The Consecrated Life and Its Role in the Church and in the World: Lineamenta*, n. 30b, Ottawa, Canadian Conference of Catholic Bishops, 1992, p. 38).

between the identity of consecration and one's own culture.<sup>39</sup> Given this great variety of experiences in consecrated life, any normative statement of objective standards is sure to meet difficulties in application.

"A better ecclesial sense of the consecrated life" becomes another theme in Part II. One of the fruits of renewal, the document says, has been "a more generous participation of those in consecrated life in apostolic activity through the development of new relationships of communion and collaboration with priests and the lay faithful" (n. 26e). The document returns to this theme in n. 27a where it grounds the ecclesial sense in "the emergence of a theology of the Particular Church." In n. 31d, the document states that intensification of communion and ecclesial service brings about a renewal of the consecrated life. The *Lineamenta* describe the test for any authenticity of renewal as "communion with the Pope and Bishops, so that all can participate actively and responsibly in the many endeavours undertaken in the life of the Universal Church and in Particular Churches."<sup>40</sup>

Part III of the *Lineamenta* begins with a quotation from *Christifideles laici*, n. 19, stating that "the ecclesiology of communion is the central and fundamental concept in the conciliar documents."<sup>41</sup> Certainly, this Part gives a central place to this ecclesiology and continues the impetus found in Part II.<sup>42</sup> Numbers 34-41 view the ecclesial aspects

<sup>39</sup> In 29c the *Lineamenta* speak of the grounding of the particular church in various cultures. A search for new forms of consecrated life, more attuned to those cultural needs has resulted. The Indonesian religious criticised the *Lineamenta* on just this point, saying that they reflected the traditional Christian milieu of Europe and did not speak of their experience. See B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, p. 148.

<sup>40</sup> "Communio cum Summo Pontifice et cum episcopis habenda est pignus authenticitatis, ita ut omnes actuose et responsabiliter participare possint multiplicia incepta tum Ecclesiae universalis tum ecclesiarum particularium." COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: lineamenta*, 24 November 1992, n. 31d, p. 39. (English translation *The Consecrated Life and Its Role in the Church and in the World: Lineamenta*, n. 31d, p. 40.)

<sup>41</sup> "Ecclesiologia communionis idea centralis ac fundamentalis in documentis Concilii est." COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: lineamenta*, 24 November 1992, n. 34, p. 43. (English translation *The Consecrated Life and Its Role in the Church and in the World: Lineamenta*, n. 34, p. 44.)

<sup>42</sup> Cabra says that the ecclesial dimension of consecrated life has been the object of study for several years. Therefore it is not surprising that the main preoccupation of the document appears to be prevalently ecclesiological. His concern becomes, therefore, the necessity to recover a christology for consecrated life.

**FROM THE CODE TO THE 1994 SYNOD**

of consecrated life only through the relationships of those in consecrated life with the pope, bishops, and laity. So the document intends that the role of consecrated life has meaning only within these ecclesial relationships. The document allows no place for any concept of a church within a church.

Number 35 attempts to construct its argument for participative communion by linking together quotations and references to *Lumen gentium*, *Perfectae caritatis*, *Mutuae relationes*, *Christifideles laici*, and *Potissimum institutioni*.<sup>43</sup> It concludes:

Men and women religious, as well as the others who live the consecrated life, develop and manifest a genuine ecclesial sense, not only in seeing themselves to be *with* and *in* the Church, but also, in feeling themselves *to be* the Church, identifying themselves with her, in full communion with her doctrine, her life, her Pastors, her faithful and her mission in the world.<sup>44</sup>

The *Lineamenta* describe the meaning of this communion in the following paragraphs. In n. 36, they speak of "a relationship of loving communion and obedience to the Roman Pontiff." Number 37 says institutes of consecrated life and societies of apostolic life "ought to show towards bishops reverence and obedience required by canonical laws." Again, in n. 37, the document adds the submission to authority of bishops regarding tenets of the faith to the three areas of c. 678.<sup>45</sup> In n. 38, the document speaks of "a correct and exemplary sense of hierarchical communion" regarding the structures for coordination.<sup>46</sup> Number 39 speaks of "necessary submission to bishops." One easily

---

See P. CABRA, "A Reflection for the Synod on the Consecrated Life From the *Lineamenta* to the *Instrumentum laboris*," in *Consecrated Life*, 19 (1996), p. 53

<sup>43</sup> The explicit references that the *Lineamenta* make are to LG art. 44; PC arts. 2c, 7-11; and PI nn. 21-24

<sup>44</sup> "Necessarium est ut religiosi, religiose ceterique consecrati verum sensum ecclesiale evolant et manifestent, non solum sentiendo *cum et in Ecclesia*. Sed etiam *sentiendo Ecclesiam*, se cum illa agnoscendo in plena communione cum eius doctrina, eius pastoribus, eius fidelibus, eius munere in mundo" COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: lineamenta*, 24 November 1992, n. 35, p. 44

<sup>45</sup> The question arises, therefore, whether these four elements share a common basis to be so linked. It does not seem that subjection to the bishop in matters of the diocesan apostolate is the same as the submission to the ordinary magisterium of the bishops in the matter of faith

<sup>46</sup> As McDermott points out the structures mentioned are those pertaining to supra-diocesan structures. The document has "no discussion of the many and various ways they can contribute to pastoral planning in the dioceses" R. McDERMOTT, "Consecrated Life and Its Role in the Church and the World: the *Lineamenta* for the 1994 Synod of Bishops," in *The Jurist*, 53 (1993), p. 258. Maccise speaks of a tri-level communion: theological, ecclesial, and pastoral. He distinguishes the ecclesial level, where there exists a communion

## FROM THE CODE TO THE 1994 SYNOD

gains the sense that the *Lineamenta* does not see the relationship in terms of one between equals, which had been developing in the earlier documents. This document certainly suggests that subordination to the bishop really means obedience to the bishop.<sup>47</sup>

This view of hierarchical authority affects the way in which one reads nn. 39-40, which deal with consecrated life in the particular church. While the document speaks of the just autonomy of institutes in n. 37, it contents itself there with a quotation from *Mutuae relationes*, n. 28, to explain the role of the bishop relative to institutes and societies. The role of religious in the diocese receives great emphasis, but fidelity to their vocation and institute as well as submission to the bishops become characteristic of the document. Moreover, there exists a reminder that to reduce the presence of institutes to the parochial ministry would be a grave impoverishment, because the richness of their spirituality and their proper charismatic service would be lost. Nevertheless, the document does refer to the directives of *Mutuae relationes* when it says:

Among these recommendations those in consecrated life should keep in mind the principle of obedience to the Pastors of the Church, faithfulness to the nature of one's institute and the necessary submission to one's proper superior. In reference to these recommendations, the bishops on their part ought to recall the legitimate autonomy of institutes, coordination and collaboration with the clergy and the faithful of the diocese, and an appropriate participation of religious in presbyteral and pastoral councils.<sup>48</sup>

---

with the community of faith, through one spirit of fraternity and of service, from the pastoral level, which implies a communion with the pastors. The danger of the distinction is to leave the bishops outside the community of faith. See C. MACCISE, "Favorire la comunione fra gli istituti di vita consacrata (*Lineamenta* n. 38)," in *Vita consacrata*, 30 (1994), p. 81.

<sup>47</sup> Gutierrez states that the presentation of authority is unilateral emphasizing the obedience, submission, reverence, and dependence of religious to the bishops. L. GUTIERREZ, "Sinodo de obispos - 1994 Observaciones a los Lineamenta," in *Commentarium pro religiosis et missionariis*, 75 (1994), p. 122. McDermott calls this presentation of hierarchical authority "unbalanced." If the presentation is taken seriously it has the potential to "affect the morale" of members of institutes and "deprive bishops" of the rich experience and insights of religious. R. McDERMOTT, "Consecrated Life and Its Role in the Church and the World: the *Lineamenta* for the 1994 Synod of Bishops," in *The Jurist*, 53 (1993), p. 257. German religious superiors see in the language a decline in mutuality in favour of subordination. See also CONFERENCE OF GERMAN RELIGIOUS SUPERIORS (VDO) AND CONFERENCE OF RELIGIOUS SUPERIORS OF THE GERMAN ORDERS AND CONGREGATIONS OF BROTHERS (VOB), "Religious and the Church," in A. FLANNERY, (ed.), *Towards the 1994 Synod: The Views of Religious*, p. 146.

<sup>48</sup> "Inter has commendationes memoranda sunt principium oboedientiae erga pastores Ecclesiae, fidelitas erga indolem proprii instituti, necnon necessaria observantia erga proprios superiores ab ipsis episcopis commendanda, legitima autonomia institutorum, coordinatio et collaboratio inter clerum et christifideles dioeceseos, congrua participatio religiosorum in consiliis presbyteralibus et pastoralibus." COUNCIL OF THE

The just autonomy of institutes appears simply as something that bishops have to work around. It does not appear as a positive attribute in the life of the diocese. The section entitled "The Consecrated Life in Church Communion" views consecrated life passively relative to the bishops. Since fidelity and obedience appear to be the only recognised responses for those in consecrated life, the text says little about the bishops' responsibility to foster cooperation. There appears no sense of differing spheres of competence for superiors and bishops, and no understanding of an active collaboration and consultation in sharing the one mission of the Church.<sup>49</sup>

Beyer correctly asserts that the *Lineamenta* depart from the doctrinal progression undertaken at Vatican II.<sup>50</sup> Besides its normative language, Beyer finds deficiencies in their terminology and doctrine.<sup>51</sup> The origin of the *Lineamenta* was the Secretariat of the Synod, not the Congregation, and that may indicate a lack of familiarity with the developing doctrine. Nevertheless, despite their very weaknesses, the *Lineamenta* achieved their aim.<sup>52</sup> They prompted discussion, debate, and much writing. Such

---

GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: lineamenta*, 24 November 1992, n. 40, p. 47 (English translation *The Consecrated Life and Its Role in the Church and in the World: Lineamenta*, n. 40, pp. 48-49)

The final statement from the International Congress of the Union Superiors General, held in Rome 22-27 November 1993, provides a contrast to the *Lineamenta*. In 2.3.b. they said, "We wish to foster relations that are inspired by and lead to communion, esteem and mutual respect, consultation, dialogue, subsidiarity, just autonomy." See UNION OF SUPERIORS GENERAL, *Consecrated Life Today: Charisms in the Church for the World*, Slough - Maynooth - Homebush, St Pauls, 1994, p. 255

<sup>49</sup> J. BEYER, "Gli aspetti 'giuridici' della vita consacrata nei Lineamenta," in *Vita consacrata*, 29 (1993), p. 569

<sup>51</sup> J. BEYER, "La vita consacrata nella Chiesa e nel mondo," in *Vita consacrata*, 30 (1994), p. 179

<sup>52</sup> After reviewing the current literature, McDermott makes note of the following five criticisms of the *Lineamenta*: "1) the failure of part one of the document to present a thorough doctrinal basis in presenting consecrated life within the Mystery of Christ and the Church, 2) the imprecise canonical description of consecrated life vis-a-vis the revised law of the Church, 3) the rather negative critique of «shadows» affecting institutes of consecrated life in their attempts at renewal, 4) the rigid authoritarian tone of part three of the *lineamenta* in its discussion of the relationships of consecrated persons with the hierarchy, and 5) the minimal recognition of the witness, contributions and role of women religious in the life and mission of the Church." R. MCDERMOTT, "The Ninth Ordinary Session of the Synod of Bishops: Four Moments and Six Canonical Issues," in *Commentarium pro religiosis et missionariis*, 77 (1996), p. 265.

## FROM THE CODE TO THE 1994 SYNOD

consultation and response ensured that the *Instrumentum laboris* was destined to become a vastly different document.<sup>53</sup>

### 3.3.3 The *Instrumentum laboris*

The Council of the General Secretariat of the Synod issued its second paper on 20 June 1994. The *Instrumentum laboris*, the working paper of the Synod, exists in order to “offer topics for the synod’s discussion”<sup>54</sup> in response to questions and reflections which follow the *Lineamenta*.<sup>55</sup> As such, the *Instrumentum laboris* serves a critical purpose because it becomes the basis on which the synodal fathers make their interventions, or reply to the problems presented to the Synod for discussion. Yet, it remains only a working paper without any other canonical status.

Unlike the *Lineamenta*, which took a classicist approach by beginning with definitions and theoretical principles, the *Instrumentum laboris* begins with a phenomenological approach.<sup>56</sup> Moreover, the document favours an inductive style of investigating and a narrative style of reporting. The *Instrumentum laboris*, considerably longer than the *Lineamenta*, contains 111 paragraphs, and 268 end-notes.<sup>57</sup>

---

<sup>53</sup> Only the *Lineamenta* for the 1974 Synod on Evangelisation (74.38% response rate), and that for the 1977 Synod on Catechesis (67.18%) drew more responses than these *Lineamenta* (66.05%). See NONA ASSEMBLEA GENERALE ORDINARIA DEL SINODO DEI VESCOVI, *La vita consacrata e la sua missione nella Chiesa e nel mondo*, Vatican City, *L'Osservatore Romano*, 1994, p. 7

<sup>54</sup> The *Instrumentum laboris* “is meant to illustrate, pinpoint and delve deeper into these aspects in the light of the responses, bearing in mind the complexity of the consecrated life, its universal reality and the pastoral nature of the synod. At the same time, it must not fail to highlight some specific questions which many responses entrust to the Synod’s reflection.” COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *1994 Synod Working Paper Consecrated Life’s Role in the Church and the World*, n. 4, in *Origins*, 24 (1994-1995), p. 100

<sup>55</sup> The description of the widespread response to the *Lineamenta* is detailed in the *Instrumentum laboris*, n. 3

<sup>56</sup> S. FAGAN, “Preparing for the Synod: The *Instrumentum laboris*,” in *Religious Life Review*, 33 (1994), pp. 259

<sup>57</sup> McDermott points out that the length of this document “could be accounted for in large part to the significant expansion of part two (nn. 41-65) in contextualising consecrated life within the mystery of Christ and the Church.” She goes on to call this section “perhaps the most valuable and welcomed addition to the second document ...” In addition the section on contemporary challenges of consecrated life expands from three paragraphs in the *Lineamenta* to twenty five paragraphs in the *Instrumentum laboris*. See R. McDERMOTT, “The Ninth Ordinary Session of the Synod of Bishops: Four Moments and Six Canonical Issues,” p. 266. She also notes that Part 3 of the *Lineamenta*, “Consecrated Life in Ecclesial Communion,” expands from eight to twenty paragraphs in the *Instrumentum laboris* and is the most reworked part of the

## FROM THE CODE TO THE 1994 SYNOD

The first part, entitled "Consecrated Life Today," nn. 8-40, describes the present day witness and apostolic activity of those living the consecrated life. The document uses this part to summarise the contributions made during the post-*Lineamenta* process. The first part prescind from the judgemental style of the *Lineamenta*<sup>58</sup> by simply stating the profound changes that have taken place in consecrated life. Some have been beneficial, while others not so. This part also describes the world in which consecrated life exists. But the *Instrumentum laboris* uses the language of challenge rather than the condemnatory terms of the previous document.<sup>59</sup>

From the outset, the *Instrumentum laboris* acknowledges the complexity of the phenomenon described as consecrated life. "There is no such thing as consecrated life in the abstract; rather it is expressed in diverse forms and institutes, incarnated in real persons - women and men - in diverse settings, situations, spiritualities and apostolates."<sup>60</sup> This variety of forms scattered throughout the particular churches acts as a sign of ecclesial communion and Christian community (n. 10) and cannot be reduced in perspective or stifled (n. 11). The distinctive charism of each institute acts as the key for interpreting the experience of consecrated life, the practice of the evangelical counsels, one's own spirituality, apostolate, community life, formation, and organisation (n. 11). The consecrated life consists in "being" holy, not just "doing" the holy.<sup>61</sup>

The first part of the document makes few references to the relationship between the bishop and those in consecrated life. In n. 20, the *Instrumentum laboris* states that

*Lineamenta* See R. McDERMOTT, "The Fruits of Consultation The 1994 Synod's *Instrumentum Laboris*," p. 185

<sup>58</sup> S. O'RIORDAN, "The Synod on the Consecrated Life," in *The Furrow*, 46 (1995), pp. 79-80. See also B. SECONDINI, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, pp. 153-154.

<sup>59</sup> R. McDERMOTT, "The Fruits of Consultation The 1994 Synod's *Instrumentum Laboris*," in *Review for Religious*, 54 (1995), pp. 182-183

<sup>60</sup> *Instrumentum laboris*, n. 8. In n. 15, the *Instrumentum laboris* acknowledges the unevenness of the reform since the Council. But that change resides within the Church. The document also acknowledges the extra-mural influences of culture and social change (nn. 16-19), politics (n. 28), ideology (n. 20), economics (n. 16), and the like on consecrated life

<sup>61</sup> *Instrumentum laboris*, n. 15

## FROM THE CODE TO THE 1994 SYNOD

“bishops are called to discern and offer guidance in all that concerns consecrated women. These confidently look to them for a helpful word.” No similar exhortation appears for male members of consecrated life! More positively, the document states in n. 22 that an awareness of baptismal consecration has created an understanding of the ecclesiality of consecrated life leading to a renewed sense of communion with bishops, priests, deacons, and laity. Number 26 expresses some problems that have arisen because of the improved involvement of religious in the local churches. First, “mutual relations have not been properly achieved.” This seems to imply that some bishops do not respect the autonomy of institutes. Second, some superiors produce instability by changing personnel in diocesan apostolates too frequently. Third, some members of consecrated life become so identified with diocesan apostolates that they lose their own identity and fidelity to the spirituality and mission of their own institute. Number 29 states that some episcopal conferences, for cultural reasons, have asked that vocations receive their early formation in their own culture. Unwarranted interference, over-extended involvement, and ill-defined agreements seem to be at the root of these experiences.

The second part of the *Instrumentum laboris*, nn. 41-65, has the title, “Consecrated Life in the Mystery of Christ and of the Church.” While this second part corresponds to the first part of the *Lineamenta*, it provides more material and considers the theological themes more deeply. One finds a christological theology of consecrated life, a theology absent from the *Lineamenta*.<sup>62</sup> In fact, this section “moves freely between the christological, pneumatological and ecclesiological, in line with its generally narrative style.”<sup>63</sup> This section provides a doctrinal basis for consecrated life as well as a more developed treatment of consecrated life as a prophetic sign, n. 64.

---

<sup>62</sup> Cabra remarked that ecclesiology cannot explain the entire reality of consecrated life. He maintained that a developed christology was also needed. P. CABRA, “A Reflection for the Synod on the Consecrated Life: From the *Lineamenta* to the *Instrumentum laboris*,” p. 53.

<sup>63</sup> S. FAGAN, “Preparing for the Synod: The *Instrumentum laboris*,” p. 260. Secondin sees more structure in the theological presentation than Fagan seems to indicate. Secondin sees that the theological synthesis offered by the USG document in 1993 provides the theological orientation for this section. There are certainly many similarities between the two documents. See B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, pp. 155-156. UNION OF SUPERIORS GENERAL, *Consecrated Life Today. Charisms in the Church for the World*, pp. 263-284.

## FROM THE CODE TO THE 1994 SYNOD

There are few references to the relationship between the hierarchy and those professing the consecrated life. In n. 41, the document links the ecclesial dimension of consecrated life to the ministry of the Church's pastors, for they establish the state of consecrated life and present it as consecrated to God.<sup>64</sup> Further, the document, citing *Mutuae relationes*, n. 8, unites the mission of institutes to communion with the pastors of the Church and fidelity to the spirit of the founders and foundresses.<sup>65</sup>

Even though a unity exists between vocation, consecration, and mission (n. 47), this part of the *Instrumentum laboris* accepts, as a given, the diversity of mission, apostolate, ways of living the fraternal life in common (n. 57), and types of community (n. 56) among the various institutes. Yet, the document does not envisage that these diverse ways of living the consecrated life lead to independence from authority. For "every institute must take particular care to delve deeper into, assimilate and manifest its essential core, which is characterised by its foundation in Christ and in the Gospel, and by its communion with other ecclesial vocations."<sup>66</sup>

---

<sup>64</sup> This is a reference to LG art. 45

<sup>65</sup> At this point, the document begins a treatment of charism in the church. Besides the charism of the founders and foundresses (n. 45), the text recognises charisms given to individual members in order to live the consecrated life (for example, nn. 46 and 50). Three times it uses the words, "collective charism" *collectivum charisma*, in nn. 42, 59, and 60. It is clear from the three passages that the concept implies a sharing by individual members. Number 60 speaks of "a collective charism passed on to each member and to individual communities only through the institute which extends the charism in time." Number 59 states that superiors in exercising their authority must use the consultative structures of the institute because they "authentically interpret a collective charism shared by all the members of the community." Number 42 speaks of a better formation for members because they participate in a collective charism. Does the charism belong to the institute independently of the members? Analogously, the text could be read this way, giving rise to the expression "the charism of the institute." The text, however, always implies the action of the members when it speaks of this collective charism. The charism does not reside in any other place but the members of the institute. The collective nature of the charism exists as the commonality of their experience, graced as they are by the Holy Spirit. During the Synod bishop Puljic of Croatia proposed that the term "collective charism" be changed. His reasons were that the Spirit gives charisms to individuals. Second, to use the term leads to putting the institute on the same level as the founder. Third, a collective notion can lead to a loss of personal responsibility for the life of the institute. See Bishop Zelimir Puljic, *L'Osservatore romano*, n. 46, 16 November 1994, p. 6.

<sup>66</sup> "Quodvis igitur institutum peculiarem adhibeat curam in perspicendo, in assumendo et in manifestando ea quae propria sunt inspirationis christologicae et evangelicae unde enatum est, communionem cum aliis vocationibus ecclesialibus." COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: instrumentum laboris*, 20 June 1994, Rome, Libreria Editrice

## FROM THE CODE TO THE 1994 SYNOD

Part 3 of the *Instrumentum laboris*, "Consecrated Life in Ecclesial Communion," describes the relationship of consecrated life to the universal and local church.<sup>67</sup> The ecclesiology of communion presented in the first section follows logically from Part 1 of the document. The document states that through Baptism all the *christifideles* share in the priestly, prophetic, and kingly office of Christ. Hence, all share a true equality in dignity and in action for the building up of the body of Christ. The pluriform gifts of the Spirit, exercised in charity,<sup>68</sup> should not produce polarisation.<sup>69</sup> Rather "equality is thus enriched by a pluriform diversity."<sup>70</sup> The section accepts the diversity that exists among those *christifideles* professing the consecrated life and explains how they share in the triple *munera*.

The second section most concerns the relationship between the diocesan bishop and those in consecrated life. The document repeats here many themes already

---

Vaticana, 1994, p. 60 (English translation, *1994 Synod Working Paper Consecrated Life's Role in the Church and the World*, p. 115)

<sup>67</sup> Whereas the *Lineamenta* used eight paragraphs, nn. 34-41, in part 3 to discuss this topic, the present document reworks and expands the material into twenty paragraphs, nn. 66-85. Two sub-divisions within this part are entitled "Ecclesiology of Communion," nn. 66-71, and "Communion in the Universal Church and in the Local Churches" nn. 72-85.

<sup>68</sup> In n. 67 the *Instrumentum laboris* makes an important remark, which distinguishes the approach of this document from the *Lineamenta*. Whereas the *Lineamenta* presented obedience and submission as the determining principle of the relationship between bishops and religious, the *Instrumentum laboris* states, "Caritas enim censenda est fundamentale ac determinans principium quo omnes Ecclesiae relationes sociales instruuntur. Caritas principium est quo reguntur relationes Institutorum vitae consecratae cum Summo Pontifice, cum episcopis, cum aliis Dei populi membris, ut ex eorum concordia splendeat, quid Ecclesia sit, communio in Filio, inter unius Patris filios, per Spiritus opus." COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: instrumentum laboris*, n. 67, p. 83.

<sup>69</sup> In commenting on this paragraph, Fagan states "unfortunately [it] goes on to say that there can be no charity without subordination, which leaves the impression that religious endanger communion." S. FAGAN, "Preparing for the Synod: The *Instrumentum laboris*," p. 262. Malvaux and Giovannini make similar observations. See B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata"*, p. 130. L. GIOVANNINI, "Un 'itinerario' di discernimento e di incoraggiamento per la vita consacrata e il suo futuro," in *Vita consacrata*, 30 (1994), pp. 524. Malvaux incorrectly states that the context implies religious. The text at this point is speaking of all the baptised. It does not begin to speak of religious until after this sentence.

<sup>70</sup> "Atque hinc compertum apparet aequalitatem per multiformem varietatem ditari." COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: instrumentum laboris*, n. 66, p. 81 (English translation, *1994 Synod Working Paper Consecrated Life's Role in the Church and the World*, n. 66, p. 121).

### FROM THE CODE TO THE 1994 SYNOD

considered in this work. But, unlike the *Lineamenta*, the *Instrumentum laboris* predicates the relationship on the basis of charity, the foundation of organic communion (n. 73). This moves G. Ghirlanda to remark that the two fundamental principles which ought to dominate the relationship are recognition and respect,<sup>71</sup> whereas the *Instrumentum laboris* describes the relationship in terms of mutuality. The *Instrumentum laboris* exhorts bishops to acknowledge the charismatic identity of every form of consecrated life (n. 76); to discern “the authenticity of the various charisms present in his church” (n. 75); and to appreciate all the service that consecrated life offers the pastoral life of his diocese (n. 74). With reference to respect, the *Instrumentum laboris* reminds the bishop to preserve and safeguard the autonomy of institutes (n. 81); exhorts him to enter into dialogue with moderators of institutes to avoid pastoral duplications (n. 76); and to accept, for instance, that priests belonging to institutes and societies can “contribute the richness of their own charism and pastoral methods” to the particular church (n. 79).

The *Instrumentum laboris* exhorts those in consecrated life “to overcome a sense of self-sufficiency and overattachment to their works so as to foster relationships of trust and cooperation” (n. 74). It reminds them that while their vocation may be for the universal church, its realisation takes place within the structures of the local church (n. 73).<sup>72</sup> The document asks those in consecrated life to recognise that fulfilling their own

---

<sup>71</sup> G. GHIRLANDA, “L’*Instrumentum laboris* per il Sinodo sulla vita consacrata,” in *Periodica*, 83 (1994), p. 461

<sup>72</sup> The concept of universality is treated in various places in the text. In n. 72, when referring to consecrated life in general the document says, “Given their supradiocesan character, rooted in the Petrine ministry, all these ecclesial realities are also elements at the service of communion among the various particular churches.” See COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *1994 Synod Working Paper (Consecrated Life’s Role in the Church and the World)*, n. 72, p. 123. While it is comprehensible that institutes and societies of pontifical rite (n. 82), including those retaining the privilege of exemption (n. 83), possess a supradiocesan character, one cannot apply this term substantially to institutes and societies of diocesan right. The document makes two arguments to attempt this prove this substantiation. First, the document states that the close bond which all institutes have with the successor of St. Peter adds the note of universality to particular churches (n. 72). There is a closer bond with the Roman Pontiff possessed by another in the diocese, namely the bishop himself who with his fellow bishops and the Roman Pontiff form the College of Bishops. It does not seem necessary to argue that institutes and societies of consecrated life are essential to bring this catholic note to a diocese. It is there already in the presence of the bishop. Secondly, there is a degree of exaggeration in n. 72 when it says that, regardless of their nature and end, institutes of consecrated life tend to spread throughout the whole church very quickly. They certainly tend to extend beyond the particular church of their foundation, but this may not necessarily occur. Some institutes, like some monasteries, remain within the diocese. In n. 82, the text states that “the bishop’s

## FROM THE CODE TO THE 1994 SYNOD

particular mission by fidelity to their own charism becomes their first apostolic priority (nn. 77 and 78).<sup>73</sup> Nevertheless, an institute shows respect for the local church by “harmonising with local pastoral needs the fundamental demand of fidelity to its own mission and works” (n. 77).

We have already noted that the *Instrumentum laboris* speaks of autonomy as a “native right” of institutes in n. 81.<sup>74</sup> While such an expression occurs in an official document for the first time here, the *Instrumentum laboris* remains merely a discussion paper without any teaching authority. The document also states that autonomy “is an adaptation of the principle of subsidiarity to the life of the church to the extent that it is a coordination between universal and particular law in the church” (n. 81). This echoes the fifth principle of revision of the Code of Canon Law. But, overall, the *Instrumentum laboris* does not add further to the understanding of autonomy.<sup>75</sup>

concern is to be directed to the development of the institute, which by virtue of its charism generally tends toward universality.” A careful interpretation needs to be made of this statement, for the bishop, while he is to have a concern for the churches outside his own, nevertheless, has no power to erect houses within the particular church of another bishop

<sup>73</sup> The following sentence occurs in the English translation of the *Instrumentum laboris*, “An institute or society is not, however, to take on works or activities which might not correspond to its proper founding charism.” The Latin text reads as, “sed non poterit assumere opera et activitates quae nihil fortasse commune habent cum proprio fundationis charismate.” The French rendition of this passage removes the adverb *fortasse* from its Latin context and applies it to *assumere*. So it reads, “Un institut, ou une Société ne pourra peut-être pas assumer des oeuvres qui ne correspondent pas à son propre charisme de fondation.” Malvaux correctly points out that such a translation stands contrary to CD 35, 1. Also it acts against the spirit of c. 677, §1. See COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: instrumentum laboris*, n. 77, p. 93 (English translation, *1994 Synod Working Paper Consecrated Life's Role in the Church and the World*, n. 77, p. 125. French translation, *La vie consacrée et sa mission dans l'Église et dans le monde*, Ottawa, Conférence des évêques catholiques du Canada, 1994, n. 77, pp. 91-92) B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata"*, p. 133, footnote 37.

<sup>74</sup> See Chapter two, footnote 63. The Latin text reads, “Est ergo autonomia nativum instituti ius ....” The French translation goes even further, calling it “droit naturel.” The Latin text does not go to this extreme. See COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: instrumentum laboris*, n. 81, p. 99 (French translation, *La vie consacrée et sa mission dans l'Église et dans le monde*, n. 81, p. 99).

<sup>75</sup> The document reiterates that autonomy involves not only internal government but also apostolic works. It states that the autonomy is “just” insofar as it is determined and protected by common and proper law. The English text here refers to “particular law.” This is an incorrect translation of the Latin text, *ius proprium*. Yet, a bishop could legislate in particular law to protect the autonomy of institutes. He could, for instance, restrict the access of the faithful to a contemplative monastery. Again, he could direct that members of a certain institute were not to be involved in a certain type of entrusted work, deeming such a work contrary to their charism. Further, autonomy does not mean independence from hierarchical authority.

## FROM THE CODE TO THE 1994 SYNOD

“Consecrated Life in the Church’s Mission,” nn. 86-110, is the title of the fourth part of the *Instrumentum laboris*. This part adds nothing more to the discussion of the relationship between the bishops and those in consecrated life. At this point the document considers the renewal in spirituality (nn. 86-87), vocations and the formation of vocations (nn. 89-92),<sup>76</sup> the engagement of women (n. 88), inculturation and the new evangelisation (nn. 93-95), and apostolic endeavours devoted to among others, the poor, the sick, youth, families (nn. 98-109).

In n. 97, the document considers the renewal of apostolic activities of institutes and societies. Among its criteria the *Instrumentum laboris* mentions fidelity to the meaning of the charism in a given environment, keeping alive fraternal life, the needs of the particular church, and a constant dialogue with its pastors. Again, the document emphasises the collaborative relationship between the bishop and those in consecrated life. Because the development of new apostolic activities will take place in the particular churches, they should involve the diocesan bishop.

The *Instrumentum laboris* and the *Lineamenta* are quite different documents. Their didactic methods, underlying ideologies, and consideration of practical pastoral issues vary considerably. The *Instrumentum laboris* begins with an appreciation of the organic communion of the Church, that is, the functional unity of diverse persons and institutions within the Church. This does not undermine or challenge the authority of diocesan bishops, but rather opens the way for the members of the consecrated life and bishops to appreciate the complementary role of the other in the mission of the Church.

Weaknesses, however, also occur in the *Instrumentum laboris*. For instance, the document presumes that charity will always be present in the relationship between bishops and religious. It may not. The document counsels more than commands, thereby

---

<sup>76</sup> *Instrumentum laboris*, n. 89, recalls again the esteem that the local church must give to vocations to the consecrated life.

## FROM THE CODE TO THE 1994 SYNOD

clouding the possibility that sometimes an authoritative intervention may be required. Yet, as a prelude to the Synod the document marked a great advance over the *Lineamenta*.<sup>77</sup>

### 3.4 The Synod

The Ninth Ordinary Synod of Bishops, a Synod about consecrated life,<sup>78</sup> was held between 2 October 1994 and 29 October 1994. With a large number of members of consecrated life present, the composition of the Synod was more representative of its topic than any previous Synod had been.<sup>79</sup> Those with the right to vote numbered 244. Of these 130 were diocesan bishops who were not members of an institute of consecrated life or a society of apostolic life, 94 bishops who were members of such, together with 18 superiors general and 2 presidents of conferences of religious.<sup>80</sup> Although women number 72.5% of those professing the consecrated life, only 59 or 17% of the synodal participants were women.<sup>81</sup> Thus members of the consecrated life, although in the majority of participants, became a minority in any vote. Second, men remained in the

---

<sup>77</sup> Sweeney remarks that the change in tone from the *Lineamenta* to the *Instrumentum laboris* marked a "real growth in understanding." He continues to say that a positive approach during the Synod won the day over some attempts to push a disciplinary approach. J. SWEENEY, "The Synod, Was It Worth It?" in *Religious Life Review*, 34 (1995), p. 3.

<sup>78</sup> In his opening homily, Pope John Paul II spoke of the continuity of the synods. The Christian family was the theme in 1980, the laity in 1987, and the ministry of priests in the Church in 1990. He spoke of the Synod as a *kaïros* moment "the providential opportunity to study in depth the themes and prospects already present in the conciliar texts." JOHN PAUL II, Homily, Opening of 1994 Synod of Bishops, in *Origins*, 24 (1994-1995), p. 307.

<sup>79</sup> Certainly there were more members of the consecrated life among the members of the Synod. Sweeney numbers them as 218 out of 348. The additions and totals of participants, however, vary among the commentators and the Secretary General of the Synod itself. Archbishop Schotte, and McDermott who uses these figures, stated that there were 245 voting members out of total of 349 participants. Secondin and Sweeney number the voting members as 244. Sweeney, however, states that there were only 348 participants. See "Archbishop Schotte's Report on General Secretariat's Work," in *L'Osservatore romano*, n. 41, 12 October 1994, p. 8. R. McDERMOTT, "The Ninth Ordinary Session of the Synod of Bishops: Four Moments and Six Canonical Issues," p. 269. J. SWEENEY, "The Synod, Was It Worth It?" in *Religious Life Review*, 34 (1995), p. 4. B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, p. 163.

<sup>80</sup> Starken remarks at the distress present among some members who could not vote on the work they had undertaken. Certainly, no women were able to vote at the Synod of Bishops. See E. STARKEN "Reflections on the Synod, I," in *Religious Life Review*, 34 (1995), p. 88.

<sup>81</sup> Fifty-one of these women acted as *auditores*, with twenty-four men, and eight acted as *adiutores*, with twelve men. Besides these *auditores* and *adiutores*, eight *auditores invitati* originated in other Christian Churches. See "Dossier - Synode sur la vie consacrée" in *La documentation catholique*, 91 (1994), pp. 939-940.

## FROM THE CODE TO THE 1994 SYNOD

majority at the Synod, while the reality of consecrated life demonstrates a preponderance of women. Yet, this Synod met *about* consecrated life, not as a Synod *of* consecrated life. Second, consecrated life itself belongs to the Church, not just to those who profess the consecrated life. Third, the existential reality of consecrated life necessarily brings it into a relationship with bishops who may or may not be religious. Finally, by its nature the Synod of Bishops bears an episcopal character.<sup>82</sup>

The third part of the *Ordo Synodi Episcoporum* governs the procedure followed in a synod.<sup>83</sup> True to this order, the Ninth Ordinary Synod began with a Mass celebrated by Pope John Paul II in St Peter's Basilica.<sup>84</sup> After Archbishop Schotte delivered a report on the work of the Synod Secretariat, Cardinal Basil Hume, the Relator, presented the *relatio ante disceptationem* in accord with art. 34, §1 of the *Ordo*. This article states that "the report ... is designed to explain, illustrate and penetrate the question to be discussed."<sup>85</sup> Thus, Cardinal Hume's report follows the main themes of the *Instrumentum laboris* and draws attention to those elements requiring further and deeper discussion.

Articles 35 and 36 of the *Ordo* consider the discussion of the subject proposed in the *relatio*. The *Ordo* allows the synodal fathers to speak either for themselves or in the name of their episcopal conferences (art. 35, §1). Although the time span allotted to each

---

<sup>82</sup> Canon 342 states that the synod of bishops is that group of bishops ... The *Ordo Synodi Episcoporum*, art. 5, describes the membership of the Synod: COUNCIL FOR PUBLIC AFFAIRS OF THE CHURCH, *Ordo Synodi Episcoporum celebrandae recognitus et auctus*, in *AAS*, 61 (1969), pp. 527-528.

<sup>83</sup> COUNCIL FOR PUBLIC AFFAIRS OF THE CHURCH, *Ordo Synodi Episcoporum celebrandae recognitus et auctus*, pp. 536-539. An English translation of this is found in *CLD*, Vol. 7, pp. 334-337.

<sup>84</sup> In his homily, the Pope, as we have seen, recalls the purpose of the Synod. Throughout the period of the Synod, the Pope considered various themes discussed at the Synod during his homilies and other allocutions and addresses. For example, on 2 October 1994 he considered the theme of "consecration." See *Nona Assemblea*, p. 3. At the general audience of 5 October 1994, he spoke about new charisms in consecrated life. See *L'Osservatore romano*, n. 41, 12 October 1994, p. 15. Vocations to consecrated life was his theme at the general audience on 19 October 1994. See *L'Osservatore romano*, n. 43, 26 October 1994, p. 15.

<sup>85</sup> The full text of art. 30, §1 states, "Relatio, qua quaestio in Synodo agenda exponitur, collustratur et enucleatur, ab illo Episcopo paratur, cui Summus Pontifex, cum coetus quilibet convocatur, hoc munus contulerit." COUNCIL FOR PUBLIC AFFAIRS OF THE CHURCH, *Ordo Synodi Episcoporum celebrandae recognitus et auctus*, pp. 536. English translation in *CLD*, Vol. 7, p. 334. Cardinal Hume uses this description himself in n. 2 of the *relatio*.

## FROM THE CODE TO THE 1994 SYNOD

speaker was only ten minutes, such a large number spoke that these interventions occupied two weeks involving eighteen General Congregations. Certain days were also allotted to hear the interventions of the *auditores*, *adiutores*, and the *auditores invitati*.

Article 36, §3, 1<sup>o</sup> of the *Ordo* speaks of the study commissions. Cardinal Hume presented a summary of the interventions at the Nineteenth General Congregation and posed a series of questions meriting particular attention and clarification. In order to reply to this *relatio post disceptationem*, study groups, the *circuli minores*, gathered in language groups for a week.<sup>86</sup> A Study Commission considered the results of this work in accord with art. 37 of the *Ordo* and presented to the assembly fifty-five propositions for their approval. Once approved, these were handed to the Pope to help in the formulation of the post-synodal apostolic exhortation. The synodal fathers also proposed a final message which expressed their hope for the third millennium and a continuation of the consecrated life. The Synod concluded with a Mass celebrated by Pope John Paul II in St Peter's Basilica on 29 October 1994.

### 3.4.1 The *Relatio ante disceptationem*

Cardinal Basil Hume, archbishop of Westminster, opened the synod assembly by delivering the *relatio ante disceptationem*.<sup>87</sup> The *relatio* comprises three parts. The first part, nn. 3-5, delineates the responsibilities of bishops towards the consecrated life.<sup>88</sup> The second part, nn. 6-15, constitutes a more theological approach. It begins from the

---

<sup>86</sup> The fourteen language groups comprised one Latin and one German group, two Italian groups, three French and Spanish groups and four English groups. They reported to the 20th and 21st General Congregations on 19 October 1994.

<sup>87</sup> O'Riordan remarks that there was some speculation that Cardinal Hume might make new ground with this report. However, he remained faithful to the *Ordo* and "his task was to summarise the pre-synodal proposals for the due discussion of its appointed theme, no less and no more than that." S. O'RIORDAN, "The Synod on the Consecrated Life," p. 80.

<sup>88</sup> A very subtle shift has occurred at this point. As Malvaux points out, the *Lineamenta* began with an outline of the obligations of members of consecrated life towards the bishops and the pope. In the *relatio* Cardinal Hume followed the *Instrumentum laboris*, *Lumen gentium*, and *Mutuae relationes* to lay the accent on the duty of bishops towards consecrated life as part of the pastoral duty of care that they possess for the entire people of God. B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* p. 139, footnote 52.

### FROM THE CODE TO THE 1994 SYNOD

premise that the term “consecrated life” denotes the multiform gift of consecrated life as a varied and rich phenomenon.<sup>89</sup> This section also deals with the concepts of charism and consecration.<sup>90</sup> The third part, nn. 16-26, focuses on the challenges to consecrated life. The first of these challenges concerns the bishops rather than those in consecrated life. If n.17 deals with challenges to the episcopal ministry, n.18 deals with autonomy and dependence.<sup>91</sup> Then the *relatio* considers spirituality (n. 19), fraternal life (n. 20), consecrated women (n. 21), mission (n. 22), inculturation (n. 23), life-style (n. 24), relationship with other vocations including bishops, diocesan priests and laity (n. 25), and, finally, vocations (n. 26). In his address Cardinal Hume largely draws from the *Instrumentum laboris*, but some new material does appear.

Numbers 3, 4, 17, and 18 most concern the relationship between bishops and those belonging to the consecrated life. Number 3 repeats the teaching regarding the role of the bishop in expressing the function of Christ the Head. Besides mentioning again the ministry of the bishop as perfecter and guide of the People of God, this number repeats the description of the bishops’ role in the discernment and regulation of charisms in the Church. Since consecrated life exists within the Church’s life and mission, the bishops do exercise power over the members of consecrated life, with due regard for the proper autonomy of the institutes of consecrated life.

---

<sup>89</sup> In art. 7, the *relatio* uses the *Instrumentum laboris* to present seven points producing this variety. They are differing historical origins, today’s demographic situation of institutes, state of life, differences between men and women, differing procedures in different families of consecrated life, specific characteristics related to the cultural, religious, social and organisational context in which consecrated persons live and work, and the varied pace of change in institutes since the Council. See *L’Osservatore romano*, n. 41, 12 October 1994, p. 10. While this section mainly concerns the intrinsic nature of consecrated life, this list of variable elements also emphasises the need to understand that the precise nature of the relationship between a bishop of a particular church and the institutes within his diocese will possess great variation with those of another diocese. It makes the presentation of general criteria from a centralised body difficult if not impossible to implement.

<sup>90</sup> A concise summary of this part of the *relatio* is found in B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, pp. 202-203.

<sup>91</sup> Since n. 18 is an extensive quotation from the *Instrumentum laboris*, n. 81, it does not warrant further comment here.

## FROM THE CODE TO THE 1994 SYNOD

Numbers 4 and 17 present a parallel in the use of certain verbs. The text of n. 4 states that, "It is the duty of the Episcopate in communion with the Roman Pontiff, and of every Bishop in his respective diocese, to recognise, appreciate, discern, protect, promote and harmonise" consecrated life.<sup>92</sup> In n. 17 the *relatio* mentions eight positive points: discerning works and ways that best respond to the challenges of the time: harmonising new apostolic initiatives; fostering initiatives at a diocesan and national level; encouraging the prophetic role of consecrated life; involving religious in consultation and decision making. The *relatio*, at this point also makes some negative points: 1. some women's opposition to the presidential role of men at Eucharist; 2. communities that have dispersed to apartments; 3. communities which no longer have a juridical or active superior; 4. stands taken in public or in publications opposed to those of the bishops and/or the pope.<sup>93</sup> With such an addition, the *relatio* leaves the way open for positive and negative comments from the floor of the assembly.

### 3.4.2 The Interventions of the Participants, the *Relatio post disceptationem*, and the *circuli minores*.

In the order of synod proceedings, the interventions of the participants follow the *relatio ante disceptationem*. At their conclusion the Relator prepares for the *circuli minores* by delivering the *relatio post disceptationem*,<sup>94</sup> which draws together themes from the interventions for closer scrutiny by the small groups.<sup>95</sup> Cardinal Hume's report,

---

<sup>92</sup> Cardinal Hume stated that bishops are to recognise and appreciate consecrated life for what it is and not just for what it does. They are to discern the variety and fidelity of the various charisms. They are to promote and foster consecrated life in its different forms. The bishops must harmonise the different charisms and roles by stressing communion and the common good. B. HUME, "Relatio ante disceptationem," in *L'Osservatore romano*, n. 41, 12 October 1994, p. 9.

<sup>93</sup> It remains to note that the positive elements all cite the *Instrumentum laboris*, but no citation appears after the negative references. This moves Secondin to note that the rigidity of the negative additions reflects a Roman addition more than a London comment! B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, p. 204.

<sup>94</sup> Cardinal Hume delivered the *relatio* in Latin. *L'Osservatore romano*, however, chose to print a summary of the text only. But *Vida religiosa*, 76 (1994), pp. 463-483, published a full text in Spanish. All references will be to the Spanish text.

<sup>95</sup> Sweeney describes the two points of criticism concerning Cardinal Hume's report. He says it was a bland summary of what had been said about the present state of religious life, pleasing neither "hard-liners" nor "moderates." Secondly, using the theology of consecration as the basis of the report "did not have universal appeal." J. SWEENEY, "The Synod, Was It Worth It?" p. 12.

### FROM THE CODE TO THE 1994 SYNOD

by and large, remains faithful to the principal themes brought forward in the discussions.<sup>96</sup> The following five themes pertain to the subject of this work. One can trace the discussions about just autonomy, the role of the bishop, proper works, written agreements, and collaborative dialogue from the interventions to the *circuli minores*.

The Synod participants made several references to autonomy in the general congregations of the Ninth Synod. Yet, the theoretical statement of *Instrumentum laboris*, n. 81, receives no comment.<sup>97</sup> Indeed, the interventions show more interest in the praxis of the bishop - consecrated life relationship than in the canonical origin of autonomy. The participants prefer to consider the consequences of a relationship where one part possesses a just autonomy and the other hierarchical authority. The existence of autonomy appears as an unchallenged matter of law applicable to all institutes, yet its ramifications require discussion.<sup>98</sup>

Ghirlanda expresses concisely the regulating principles in the praxis between consecrated persons and Church authorities:

---

<sup>96</sup> The French language Group C of the *circuli minores*, while agreeing that the report was faithful to the interventions of the participants, stated that greater precision and insistence was needed on the following themes, poverty, inculturation, situation of women, discernment of new communities, prayer for Christian unity, sense of Church, participation of brothers, holiness and the means to achieve it. The relator also gave a list of items that had disappeared between the interventions and the report, namely, the *kenosis* and the place of the Cross, the gift of the Holy spirit, the importance of prayer, the charism, the contribution of the East, secular institutes, societies of apostolic life, hermits, virgins, canons regular. See J. BERTHELEFF, relator French Group C, in *L'Osservatore romano*, n. 48, 30 November 1994, p. 12.

<sup>97</sup> One exception may be the intervention of Bishop Bonfils of Viviers, France, himself a religious and a canonist. He says, "The recognition of this autonomy goes beyond respect for the law. It is recognition of the divine gift that the Church has received from the Lord, in the consecrated life and the societies of apostolic life." J. BONFILS, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 7. This statement, however, does no more than speak about the discernment process undertaken by competent authority to identify and authenticate a charism. The origin of autonomy does not come into focus.

<sup>98</sup> Secondin notes that Bishop Luluga spoke of the "objective" difficulties associated with autonomy. We understand by this the tension that arises between respect for the autonomy of institutes and the pastoral charge within the diocese which demands unity and harmony. "Subjective" difficulties go to the personalities of the people involved in the relationship. See B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, p. 219. The fear of a religious independence from the hierarchy did concern a number of bishops. Archbishop Hoyos, for example, stated that exemption indicates for some a way to freedom from all relationship to authority. He views exemption necessarily implying a closer relationship to the Holy Father in his concern for all the Churches. See D. C. HOYOS, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 9.

## FROM THE CODE TO THE 1994 SYNOD

1) Consecrated persons, even more than the other faithful, will recognise and respect the authority of the Roman Pontiff and the Bishops in the Dioceses, as regards the Magisterium and pastoral governance.

2) Pastors will take pains to recognise, preserve and safeguard a proper autonomy of life in the institutes, especially in their government, by means of which the latter may use their own discipline and preserve their own spiritual and charismatic patrimony in its integrity.<sup>99</sup>

These principles start from a mutual recognition of the other's rightful place in the organic communion of the Church.<sup>100</sup> Moreover, Bishop Suwatan of Manado, Indonesia, considered co-operation and co-responsibility as further elements necessary to the relationship. From this vantage point, the bishop expects "the attitude of listening to one another, mutual understanding, common vision and co-operation - each partner with his respective potentialities and possibilities - towards attaining that common vision."<sup>101</sup>

Bishop Lopes Coelho of Viana do Castelo, Portugal, expressed the mood of the Synod towards synthesis when he said:

It is therefore impossible to admit either the exclusive and excluding authority of the hierarchy or the independent autonomy of members of consecrated life or even the passive indifference of the laity. Just as the Church is essentially one and diversified, so her members are different and converge in unity. But her essential unity is the unity of her one mission.<sup>102</sup>

<sup>99</sup> See G. GHIRLANDA, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 11

<sup>100</sup> In fact several other participants expressed these two principles in varying ways during the Synod. With regard to the first principle, Bishop Luluga quoted the *Instrumentum laboris*, n. 76, but changed what it had described as sincere respect for "the bishop is also responsible for the 'preaching, religious and moral education, catechetical instruction and liturgical formation' also of members of religious institutes." Sr. Mary Paul Offiah, of Nigeria, spoke of "the acceptance and respect for the authority of Bishops over certain aspects of ecclesial life in the particular churches." Concerning the second principle, Bishop Luluga told the Synod that particular legislation in his country affirms "that the bishop has to respect the internal autonomy and the various charisms of religious institutes." Bishop Aichern of Linz, Austria, also stressed that the wealth in the variety of institutes of consecrated life be not reduced in perspective nor stifled. Sr. Mary Paul Offiah stated that preservation of the patrimony of an institute acts as a guarantee of its identity. Autonomy affirms that patrimony. See M. LULUGA, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 5. M. AICHERN, in *L'Osservatore romano*, n. 45, 9 November 1994, p. 5. M.P. OFFIAH, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 13.

<sup>101</sup> See J. SUWATAN, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 12. *Instrumentum laboris*, n. 76, spoke the virtue of charity as the basis of organic communion. Bishop Suwatan reminds all that charity necessitates respect for the other. See also R. D. ASSIS, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 12.

<sup>102</sup> See A. LOPES COELHO, in *L'Osservatore romano*, n. 47, 23 November 1994, p. 10. One can easily identify in this quotation the extremes that can arise in the apostolate, namely interventionism on the part of the bishop or isolation on the part of those belonging to the consecrated life.

## FROM THE CODE TO THE 1994 SYNOD

The bishop's statement acknowledges that the two extremes, isolationism and interference, damage the unity of the Church.

Regarding the role of bishops, one can detect at least three modes in which the bishops envisage their role. The first mode takes a controlling stance wherein the bishop almost dominates the life of the institutes and members of consecrated life.<sup>103</sup> In the second mode the bishop, and even the local community, act in a motivating role challenging members and institutes to make their own meaningful and integrated contribution to the life of a particular church.<sup>104</sup> The third mode appreciates the necessity of consecrated life in the life of the Church and displays an accepting role of co-responsibility with less immediate direction by the bishop.<sup>105</sup> Each of these modes reflects a slightly different ecclesiology of communion which accents, more or less, the authority of the hierarchy.<sup>106</sup>

---

<sup>103</sup> The following quotations demonstrate the language of this first mode, a micro-managerial mode. It should be noted that the verbs used here are additions to the list of Cardinal Hume and are, in fact, verbs which mean control. "Due to his position as Pastor and Father and to the very identity of consecrated life, intense activity that accompanies in faith, encourages, corrects, helps and loves this consecration, supports it in hope, watches over its perseverance, zeal and the quality of its spirituality, is necessary and indispensable." R.F. PRIMATESTA, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 8. "The bishop must discern, regulate, shape and promote consecrated life by making it come together in his diocese." J. L. BARRAGAN, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 5.

<sup>104</sup> "Bishops and the local Church community have the responsibility to recognise the consecrated life as a charism or gift of the Spirit given the Church, not only at the time of the emergence of the charism but during development and times of later discernment by confirming, encouraging and challenging consecrated persons and the institutes themselves. Bishops must value not only the apostolic purpose proper to each institute, but the whole life of the institute." F.J. SPENCE, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 9. See also Sr. K. SIETMANN, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 13. On the encouragement to inculcate institutes, see M. RUSSO, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 10. This mode stands as a more macro-managerial mode.

<sup>105</sup> "The challenge both for religious and hierarchy is the ability to prayerfully discern together in the Spirit. On the one hand the discernment by religious of a prophetic vision, mission and ministry in Church and society. On the other hand, discerning courageous faith-filled leadership by hierarchy which empowers religious to authentically live their particular mission." K. DOWLING, *L'Osservatore romano*, n. 42, 19 October 1994, p. 5. This mode characterises a co-managerial, co-responsible mode.

<sup>106</sup> A more thorough study could be made of the various interventions and how they are influenced by cultural, social, theological and ecclesiastical elements. This is not attempted here because of restrictions of space. Equally too, the participants' attitudes to the concepts of submission and subjection shows a range of meaning from passive resignation to the bishops to the wish to be accepted as equals. Again, the same influencing elements appear to be at work. The length of this work, however, excludes any further analysis.

## FROM THE CODE TO THE 1994 SYNOD

In the *circuli minores*, Spanish Group A gave the role of the bishop in the apostolate a central place, requiring obedience to him on the part of those in consecrated life.<sup>107</sup> But this group prefaces that call by saying, "It is necessary for everyone to make an effort to know, appreciate and accept the vocation, gifts and functions of each person within the one ecclesial community." So one can argue that we see here a *communio* theology in practice, but which, at this point, emphasises the role of the bishop's authority in the *communio*.<sup>108</sup>

For some participants, submission of members of consecrated life meant subjection to the bishop.<sup>109</sup> For others, submission means accepting the necessary differences in roles within the Church and adopting consultative processes for the ordering of mission.<sup>110</sup> Attending to hierarchical authority itself, therefore, does not

---

<sup>107</sup> This same group, Spanish Group A, called for a recognition by religious of the episcopal ministry as a representation of Jesus Christ. See *L'Osservatore romano*, n. 48, 30 November 1994, p. 13. Efforts at total episcopal control were also in evidence, for instance, French Group B suggested that bishops have control over ordinations to the priesthood in new ecclesial movements. See *L'Osservatore romano*, n. 48, 30 November 1994, p. 13. See also B. SECONDIN, "La celebracion del Sinodo. Los *circuli minores*," in *Vida religiosa*, 78 (1995), p. 29. English Group D stated, on the other hand, that the primary focus in this relationship should be "not on power but on the inherent value and efficacy of a genuine consultative, participatory process." See *L'Osservatore romano*, n. 48, 30 November 1994, p. 13.

<sup>108</sup> Italian Group A states that the oneness of the Church's mission acts as the guiding theological principle emphasised in communion and collaboration. Community commitment exists as the practical principle to effectiveness and credibility. See *L'Osservatore romano*, n. 48, 30 November 1994, p. 15.

<sup>109</sup> Bishop Piat of Port Louis, Mauritius, was one among a number to remind the synod assembly that bishops have fallen to the temptation "to use religious in their diocesan pastoral programs without sufficiently taking into account their particular charism or organisation." This is one form of unjust subjection. See M. PIAT, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 9. See also P. EYT, "Les religieuses, dans nos dioceses," in *La documentation catholique*, 91 (1994), p. 953. Archbishop Hoyos and Bishop Barragán of Zacatecas, Mexico, deplored either the dissent that results in a "parallel magisterium" or a "pastoral parallelism." See D. C. HOYOS, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 9. J. L. BARRAGAN, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 5. Bishop Governo of Quelimane, Mozambique, himself a religious, stated "Relying on economic power and human cleverness, many individuals in pastoral work create their own little parishes and dioceses outside the spirit and framework of the local church and the diocesan bishop's programme and mind." B. F. GOVERNO, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 6. In all three cases there is an assumption that the bishop's plan acts as a given and those in consecrated life have only to agree to it, or as Bishop Zorrilla of Salto, Uruguay, said, to make it "part of one's spiritual life and one's fidelity to God's will!" D. G. ZORILLA, in *L'Osservatore romano*, n. 45, 9 November 1994, p. 5.

<sup>110</sup> Fr Dominik Duka, vice-president of the Union of European Conferences of Major Superiors, spoke of the reciprocity or mutuality which does not deny hierarchical order but facilitates trust and confidence on both sides of the relationship. See D. DUKA, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 20. See also, for further examples, the following interventions, J. L. BERNARDIN, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 11. P. J. CONNORS, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 6. P.

## FROM THE CODE TO THE 1994 SYNOD

constitute the problem, but rather a balancing between fidelity to the institute and the urgency to respond to pastoral needs in a specific context acknowledges an inherent and necessary tension.<sup>111</sup>

Part of this tension relates to the importance of works proper to an institute. A number of the participants emphasised that the mission and apostolate of those belonging to the consecrated life exist not simply as a matter of “doing.” The “being” of consecrated life informs the “doing.”<sup>112</sup> Works proper to an institute bear an intrinsic relationship to the particular charism of the institute by means of the spirituality inherent in the institute. The works originate in the spirituality of the institute, and the performance of works proper to the institute strengthens the spirituality.<sup>113</sup>

Thus, “in pastoral programming, one must give precedence to the most appropriate forms of apostolate for each institute, without reducing everything to parish

D'ROZARIO, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 15. Tello makes an interesting comment when he says that the full assumption of this proper responsibility means that the full richness of the relationship cannot be reduced to juridical norms alone. N. TELLO INGELMO, “Discusiones en el Aula Sinodal. Síntesis temática,” in *Vida religiosa*, 76 (1994), p. 501.

<sup>111</sup> For instance, Sweeney comments on the number of African bishops who expressed dismay at religious pulling out of their dioceses. This is a difficulty especially when most of the clergy are religious. J. SWEENEY, “The Synod: Was It Worth It?” p. 7. This problem of mobility is not confined to Africa. See M.-B. CALMET, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 19.

<sup>112</sup> P. RAFFIN, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 6. See also J. MUISNER, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 5. Bishop Ortiz Rolón, Vicar Apostolic of Chaco Paraguayo, Paraguay, offered an opposing view. In adopting an existential stance he called for a redefining of religious life beginning with the experience of religious working with an inculturated Gospel. See Z. ORTIZ ROLON, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 16. W. KENNY, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 7.

<sup>113</sup> Bishop Vera López of Ciudad Altamirano, Mexico, speaks of the complementarity of charisms for the building up of the Church. For him the charism “is the catalyst of spiritual life from which stems the way of being, seeing, and acting that constitutes a particular spirituality. As grace from the Spirit, the charism configures the essence and actions of individuals and groups, it confers on all a certain colour and flavour, inspiring that which is particular, not in an exclusive way but as a life style.” R. VERA LOPEZ, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 15. Bishop Dammertz of Augsburg, Germany, similarly states that religious are obliged to mark their personal life and apostolic work with a dynamic fidelity to their charism which still remains open to inspiration. V. DAMMERTZ, in *L'Osservatore romano*, p. 10. Sr Maria Angelina Enzweller, Superior General of the Sisters of the Immaculate Heart of Mary, Brazil, along with others, asked that organised pastoral work be undertaken with rightful autonomy. Autonomy helps to preserve the spirituality. M. A. ENZWELLER, in *L'Osservatore romano*, n. 47, 23 November 1994, p. 15. Bishop Luluga noted the *Instrumentum laboris*, n. 74, and said that “the co-operation of religious institutes with the local Ordinary should be in conformity with their own charism, their own aim, and the necessary autonomy of life and government.” M. LULUGA, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 5.

## FROM THE CODE TO THE 1994 SYNOD

ministry."<sup>114</sup> For those in consecrated life, their co-operation with the local ordinary "should be in conformity with their own charism, their own aim, and the necessary autonomy of life and government."<sup>115</sup> So the performance of works proper to the institute has a first priority, making those in consecrated life "actors in their own right, albeit not in an unfettered way. Any problems ... have to be addressed through dialogue," not by "simplistic appeals to loyalty."<sup>116</sup>

The *circuli minores* continued to consider the tension between bishops and consecrated life in the matter of the apostolate. The various reports list a number of problems that participants had aired during the interventions. The report of French Group A expresses concern that religious do not pay sufficient attention to the apostolic priorities of the local church.<sup>117</sup> Regarding proper works, Spanish Group C contends that there exists a lack of consistency between the charism of an institute and its application in apostolic practice, creating a problem for shared ministry.<sup>118</sup> The report of English Group D expresses the concern that the pastoral ministry of religious priests not blur their distinctive call and charism.<sup>119</sup> Spanish Group A expresses concern over transfers of religious engaged in diocesan works, as well as the abandonment of such works when religious consider they can best respond to the mission *Ad gentes* elsewhere.<sup>120</sup> English

---

<sup>114</sup> M. ZAGO, in *L'Osservatore romano*, n. 47, 23 November 1994, p. 14. Cardinal Bernardin also emphasised the variety of active works that needs to be maintained in the Church. See J. BERNARDIN, "Authenticity and Diversity," in D. GOTTEMOELLER, *et al.*, "Eight Synod Addresses," p. 41.

<sup>115</sup> M. LULUGA, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 5. Cardinal Gantin expressed the same sentiment when he said, "The pastoral duties entrusted to religious must therefore be consonant with their vocation." See B. GANTIN, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 12.

<sup>116</sup> J. SWELNEY, "The Synod: Was It Worth It?" p. 9. Bishop Assis summarises this attitude when he says that the relationship between bishops and those in consecrated life must be "based on a spirit of communion, dialogue, fellowship and co-responsibility." R. ASSIS, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 32.

<sup>117</sup> *L'Osservatore romano*, p. 14.

<sup>118</sup> The same group points to differences in doctrinal formation in diocesan seminaries and religious houses of formation. *L'Osservatore romano*, p. 14.

<sup>119</sup> *L'Osservatore romano*, p. 13. The German Group, on the one hand, called for more involvement of consecrated life in preaching and the formation of priests and laity. But then, on the other hand, it suggests that in Eastern bloc countries there should be no rush to parishes because, after the Communist years, the internal building up of institutes deserves priority. See *L'Osservatore romano*, p. 11.

<sup>120</sup> B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* pp. 156-157. The report of English Group A expresses a similar motif. They did not condemn any mission to the poor, but

## FROM THE CODE TO THE 1994 SYNOD

Group C warns that those in consecrated life must not make themselves an alternative structure in the Church. For the danger remains that such a structure is divisive of the unity of the Church.<sup>121</sup>

Some participants mentioned a number of mechanisms to preserve the identity of institutes, their autonomy, and freedom, while still opening the lines of dialogue between the various levels in the Church. For instance, some considered the written agreement between the diocesan bishop and institutes or societies in the matter of the entrusted diocesan work. Bishop Rios Mont of Guatemala adds elements not explicitly mentioned in c. 681, §2, although one can consider them under the general summation of "among other things." The bishop says,

It is therefore essential when drafting the respective agreements clearly to distinguish the charism of each institute, the form of the collaboration, and the period during which it [the institute] will assume primary responsibility.<sup>122</sup>

Bishop Assogba of Benin called attention to the need to have clearly defined agreements which take into account the capacity of a diocese to pay those from consecrated life undertaking such works.<sup>123</sup>

While the written agreement forms one type of collaborative mechanism, face-to-face meetings have become another mechanism. *Ecclesiae sanctae* II, n. 43, and *Mutuae relationes*, n. 63, both exhorted bishops and major superiors to enter mixed commissions as an "organism of mutual counsel, liaison, communication, study, and reflection."<sup>124</sup> The participants described this collaboration in generally favourable tones.<sup>125</sup>

saw it as an addition to the schools, clinics, and orphanages already staffed by them. See *L'Osservatore romano*, p. 11.

<sup>121</sup> B. SECONDIN, "La celebración del Sinodo. Los *circuli minores*," p. 29.

<sup>122</sup> M. E. RIOS MONT, in *L'Osservatore romano*, n. 45, 9 November 1994, p. 7.

<sup>123</sup> "Among the difficulties encountered, we mention the following: ... d) making contracts that are not always well defined and sometimes do not take into account the Diocese's real means." N. ASSOGBA, in *L'Osservatore romano*, n. 46, 16 November 1994, p. 6.

<sup>124</sup> MR n. 63.

<sup>125</sup> Bishop Karl Romer, the auxiliary bishop of São Sebastião do Rio de Janeiro, Brazil, offered negative comments about the regional conference of major superiors of Brazil. He stated that they do not have papal approval, do not come under the umbrella of the National Conference of Major Superiors of Brazil, and in

## FROM THE CODE TO THE 1994 SYNOD

The types of interaction between bishops and major superiors of consecrated life vary considerably.<sup>126</sup> Participants reported on mixed commissions that involved bishops and those in consecrated life at various levels. Bishop Bonfils of Viviers, France, said that *Mutuae relationes* spoke of the mixed commissions' "appropriateness to pastoral action on the international, national, continental, regional, and universal levels."<sup>127</sup> Participants from Oceania,<sup>128</sup> South America,<sup>129</sup> Africa,<sup>130</sup> and Europe confirmed Cardinal Gantin's hope that such meetings would put into practice the various possibilities mentioned in *Mutuae relationes*.<sup>131</sup> At the diocesan level, however, such structures of dialogue appear more haphazard and transient.

---

places act in an "uncontrollable" manner. K. J. ROMER, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 8

<sup>126</sup> In New Zealand, for instance, a country which possesses only six dioceses, the entire conference of bishops meets with all the major superiors of the country. See L. A. BOYLE, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 5. In neighbouring Australia, where there are many more bishops, only delegates of the conference of bishops attend the meetings of the Australian Conference of Leaders of Religious Institutes, and *vice versa*. See P. J. CONNORS, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 6. This arrangement is not strictly the mixed commission as *Ecclesiae sanctae* and *Mutuae relationes* envisaged them.

<sup>127</sup> J. BONFILS, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 6

<sup>128</sup> Bishop Deschamps of Daru-Klunga, Papua New Guinea, said that the mixed meetings helped religious to be creative and courageous, looking to the future, seeking to build the kingdom of God in their time and culture. G.-J. DESCHAMPS, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 10.

<sup>129</sup> Bishop López Hurtado, the Pontifical Delegate of CLAR, and Vicar Apostolic of Ariari, Colombia, said that the problems of South America required dialogue at all levels. He described four levels of dialogue, between CELAM and CLAR, between national Conferences of Bishops and national Conferences of Religious, between Apostolic Nuncios and Directive Councils of the Conferences of Religious, and between bishops and religious in their dioceses. H. J. LOPEZ HURTADO, in *L'Osservatore romano*, n. 46, 16 November 1994, p. 11. Bishop Arango Velásquez, of Buga, Columbia, provided a report of agenda items from the mixed commissions in his country. These ranged from programs of formation for religious, to youth projects, apostolic work, and vocation work. See R. ARANGO VELÁSQUEZ, in *L'Osservatore romano*, n. 44, 2 November 1994, pp. 15-16.

<sup>130</sup> Sr. Mary Paul Offiah from Nigeria reported that there was a joint commission of bishops and major superiors at the national level as well as a mixed commission of local clergy and members of consecrated life at the diocesan level. M. P. OFFIAH, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 13. Bishop Ganaka of Jos, Nigeria, and President of SECAM, said that SECAM has worked closely with two international conferences of major superiors, USG and UISG. G. G. GANAKA, in *L'Osservatore romano*, n. 46, 16 November 1994, p. 7.

<sup>131</sup> This is not to deny that there were some calls from participants for a re-writing of *Mutuae relationes* to make it more effective. See R. ARANGO VELÁSQUEZ, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 16.

## FROM THE CODE TO THE 1994 SYNOD

The *circuli minores* gave the application of *Mutuae relationes* an important place in fostering good relationships.<sup>132</sup> French Group A reported that where the structures and mechanisms of *Mutuae relationes* exist, moments of tension between bishops and religious are either able to be dealt with, or even avoided.<sup>133</sup> We see here, however, the unevenness of the relationship throughout the Church. In the *circuli minores*, such co-responsibility necessitates dialogue and collaboration between bishops and consecrated life.<sup>134</sup> Spanish Groups A and C, together with English Group C, present the mixed commission as a structure for this dialogue.<sup>135</sup>

The office of Episcopal Vicar for Consecrated Life received some mention from participants. Yet, as portrayed by Bishop de Jesús Moya, of San Francisco de Macoris, Dominican Republic, this office acts as an access to the bishop for religious so that immediate solutions to problems can be given.<sup>136</sup> During the *circuli minores*, the German Group considers the office of episcopal vicar for consecrated life in the local churches should be extended everywhere.<sup>137</sup> English Group C encourages the participation of religious clergy in the life of the diocese including the presbyteral council.<sup>138</sup>

Although the overall tone of the interventions was frank and positive,<sup>139</sup> the various approaches to the theme demonstrate the variability resulting from the peculiar

<sup>132</sup> The French Group B stated that *Mutuae relationes* required application rather than updating, which some interventions had stated and which re-appeared in the contributions of English Group D and Spanish Group C. See *L'Osservatore romano*, pp 12-13, 14.

<sup>133</sup> See B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* pp 155-156.

<sup>134</sup> See English Group C, in *L'Osservatore romano*, p 12.

<sup>135</sup> B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* p. 158, footnote 119. See *L'Osservatore romano*, p 14.

<sup>136</sup> See J. M. DE JESUS MOYA, in *L'Osservatore romano*, n. 44, 2 November 1994, p 11.

<sup>137</sup> See German Group, *L'Osservatore romano*, n. 48, 30 November 1994, p. 11.

<sup>138</sup> Education provides a further means to strengthen dialogue and collaboration. Thus English Group C recommends that seminarians study religious life so that clergy will understand it better. See *L'Osservatore romano*, n. 48, 30 November 1994, p. 12. French Group B calls for the active participation of consecrated persons in consultative bodies. This would imply the Pastoral Council and the Presbyteral Council of a diocese. *L'Osservatore romano*, n. 48, 30 November 1994, p. 13.

<sup>139</sup> N. TELLO INGELMO, "Discusiones en el Aula Sinodal. Síntesis temática" in *Vida religiosa*, 76 (1994), p. 500.

## FROM THE CODE TO THE 1994 SYNOD

circumstances of each particular church.<sup>140</sup> Great difficulty arises in attempting to apply concrete solutions from one continent, nation, or even diocese in another context. There appears to be strong evidence that contextual analysis of the relationship between bishops and those in consecrated life requires deep consideration.

### 3.4.3 Final Documents

Before the Synod passed to its closing Mass, the synodal fathers, not all the participants, approved two further documents, one public and one private. They approved the public document, the final message, on the morning of 27 October 1994.<sup>141</sup> The Secretariat of the Synod produced the private document, the propositions.

#### 3.4.3.1 Final Message

A commission produced the first draft of the Synod's Final Message, a draft which the synodal fathers rejected. "The text they produced was universally criticised as too long and patronising, as not taking account of the Synod discussions and even purporting to resolve issues the propositions left open."<sup>142</sup> Despite calls that the Synod reject it, the original was simply shortened in length.<sup>143</sup> Despite the material receiving a new order, the Synod participants showed no great enthusiasm for the much amended text.<sup>144</sup>

When comparing the two drafts, the reader sees that the first draft adopts an insularity. In n. 1, the synodal fathers become the proclaimers of the document. In the second version, the other participants join the synodal fathers as the document's heralds.

---

<sup>140</sup> G. Marchesi remarks that the multiplicity of the interventions and the disparity of approaches to the various themes makes comprehension and synthesis of what the participants said difficult. Consequently, he says, the *relatio post disceptationem*, delivered by Cardinal Hume, reflected less organisation and unity than the *relatio ante disceptationem*. G. MARCHESI, "Il Sinodo dei vescovi sulla vita consacrata," in *La civiltà cattolica*, 145 (1994), pp. 595-596.

<sup>141</sup> The final message appeared in *L'Osservatore romano*, n. 44, 2 November 1994, pp. 6-7.

<sup>142</sup> J. SWEENEY, "The Synod, Was It Worth It," p. 15.

<sup>143</sup> Secondin says that the final version was twenty paragraphs shorter than the original. B. SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, p. 262.

<sup>144</sup> "The problem was both procedural and inherent in the nature of the drafting commission. It was not a well balanced group, and they worked in isolation without any reference to the rest of the Synod." J. SWEENEY, "The Synod, Was It Worth It," p. 15.

## FROM THE CODE TO THE 1994 SYNOD

In another sign of this insularity, no reference to other churches occurs in the first text, except a reference to the Orthodox churches in n. 68. The second version mentions the consecrated life of other churches at the beginning of the document. It appears as though a major shift in the ecclesiology took place from the first document to the second. The first document, with its lack of ecumenical reference and an emphasis on the hierarchy, plays down the *communio*, both perfect and incomplete, of the Church. The second version acts in the reverse as it plays down the power of hierarchical authority and even adds at least one *communio* reference.<sup>145</sup>

The change of order from one document to the other also indicates the ecclesiological mind-shift brought about by the rejection of the first document. After its Introduction, the first document begins its message with a discourse on the theology of consecrated life. The second document absorbs the section concerning women in part VIII of the original and offers a more phenomenological approach dealing with the fact that consecrated life comprises multiple forms. In other words, the first document follows the deductive style of the *Lineamenta*, whereas the second document follows the inductive model of the *Instrumentum laboris*. The modifications have a certain impact on the references to the relationship between bishops and consecrated life.

While the second document preserves the "sentire cum Ecclesia" sentence of the first document's n. 15, the following sentence, which speaks of "the grave wound caused by the troublesome deviations, divisions and the dissipation of energies," did not survive the redaction.<sup>146</sup> Apart from this citation, all other references to hierarchical authority in the first document disappeared.

---

<sup>145</sup> In the second version, part III, the following text does not appear in the original. "In this Church which is communion, the gifts and charisms of the Spirit flourish for all." See *L'Osservatore romano*, n. 44, 2 November 1994, p. 6.

<sup>146</sup> The second draft stands as a document more hopeful about the future of consecrated life. It begins, for instance, with the title "Hymn of Gratitude and Joy," whereas the first document begins with the word, "Introduction." See L. GIOVANNINI, "Il Messaggio del Sinodo, una pagina aperta il Sinodo guarda avanti," in *Vita consacrata*, 31 (1995), p. 83

## FROM THE CODE TO THE 1994 SYNOD

In the first draft, for instance, n. 17, indicates the authority of the pope over all institutes. But this does not extinguish the bishops' authority in governing the particular churches, in his care for consecrated life itself, and for the pastoral works in that church (n. 18). Those in consecrated life, however, are to accept completely in a spirit of faith and sincere communion the bishop's ministry and to consider the needs and norms of the relevant particular churches before beginning their own apostolic works (n. 21). While all these references disappear in the second draft, this does state that "the charism should not be a source of tension between the hierarchy and consecrated persons."<sup>147</sup> The second draft, however, does preserve the general exhortation to recognise and value the significance of consecrated life in the particular church (n. 19).

The final message stands out as a document which expresses the *communio* theology. By removing an emphasis on hierarchical authority, the final message leaves the impression that collaboration, coresponsibility, and consideration between the diocesan bishop and consecrated life best serve the apostolate in the particular church.<sup>148</sup> Likewise, the final document does emphasise fidelity to the charism of the institute and its harmonious integration into the apostolic life of the diocese.

### 3.4.3.2 The Propositions<sup>149</sup>

Sweeney indicates that the synodal participants received the first draft of the propositions well. The fifty-five recommendations "were well put together by the secretariat in the first instance, they actually grew in strength through the amendment procedure, and ... they were eventually judged by the bishops as faithful to the Synod itself."<sup>150</sup> Three groups comprise the propositions. Following the introductory two propositions,<sup>151</sup> nn. 3-27 describe consecrated life in itself, nn. 28-34 describe

<sup>147</sup> See *L'Osservatore romano*, n. 44, 2 November 1994, p. 7

<sup>148</sup> The mode of management that the document excludes, therefore, is the mode of simple downward use of authority. See E. VIGANO, "Il Sinodo sulla vita consacrata," in *Vita consacrata*, 31 (1995), p. 209

<sup>149</sup> The propositions are confidential and not published. Sweeney, however, indicates that some members of the press obtained copies. We also have obtained the first and second copies of them through others.

<sup>150</sup> J. SWEENEY, "The Synod, Was It Worth It," p. 14

<sup>151</sup> Proposition 1 lists all the documents and interventions that the Synod forwards to the Pope to assist him in the production of the apostolic exhortation. Sweeney comments on the perceived inconsistency that

## FROM THE CODE TO THE 1994 SYNOD

communion, and nn. 35-55 describe mission. While all the propositions are important, only seven pertain to the matter considered in this work.

Proposition 15 concerns the spiritual life. While, parts A and B speak of the spiritual life in general, part C speaks, in the context of formation, about a spirituality which is necessarily particular to each institute or society. It says,

Formation in a spirituality consonant with the charism of the institute should be the centre and root of the entire process of formation, so that members are directed towards the profound offering of Jesus and communion with him.<sup>152</sup>

The word *radix* did not appear in the first text. Yet, its addition serves to indicate that the consequences of formation in this particular spirituality affect the entire life of the members of an institute.<sup>153</sup> Their proper works, also, should exhibit this same spirituality.

Proposition 26 concerns rules, constitutions, and statutes. The Synod here exhorts all consecrated persons to live the life of the evangelical counsels according to the spirit of the founder expressed in the rules, constitutions, and statutes. The authority of the Church approves constitutions as the suitable instrument to arrive at that holiness of life to which they are called.<sup>154</sup> The final draft adds an additional paragraph addressed to consecrated persons. It says:

Consecrated persons find in them inspiration and means that, whether individually or in community, they move towards spiritual maturity and apostolic

some documents are available for public comment, but others, like the propositions, are not J SWENEY, "The Synod, Was It Worth It," p. 15

<sup>152</sup> "Formatio in spiritualitate consona charismati instituti centrum et radix sit totius processus formationis, ita ut sodales dirigantur versus profundiorum oblationem Iesu communionemque cum illo." Propositio 15, c. in COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *Elenchus finalis propositionem*, [= *Elenchus finalis*], E civitate Vaticana, 1994, p. 14

<sup>153</sup> Pope John Paul II referred to spirituality, in accordance with the typical charism of each institute, as the first basic value for religious to foster. He went on to quote *Perfectae caritatis*, art. 2, that spiritual renewal must always be assigned primary importance even in the active ministry. The Pope, therefore, ties the particular spirituality of an institute to its active ministry. JOHN PAUL II, Allocution to International Congress of Union of Superiors General, 26 November 1993, in *L'Osservatore romano*, n. 49, 8 December 1993, p. 7

<sup>154</sup> The first draft identified the Apostolic See as the one to approve constitutions. The change to authority of the Church brings the proposition into line with c. 576

## FROM THE CODE TO THE 1994 SYNOD

service. For they preserve the proper constitutions fully in communion with the Church and hold forth witness of the evangelical life to the world.<sup>155</sup>

This proposition continues to build upon the previous foundation. Not only does the particular spirituality of the institute animate its proper works, but one can find verification for both this spirituality and the proper works of an institute in the approved rules, constitutions, and statutes of the institute. The constitutions provide a window by which one can authenticate the life of the institute in communion with the Church.

Proposition 27 speaks of creative fidelity in renewing consecrated life. As the last proposition of this section, it acts somewhat like a conclusion. It expresses the necessary tension that must exist between fidelity to the founder's charism and the demands made on an institute as it exists today.<sup>156</sup>

The proposition begins by recalling that the Holy Spirit brings ardour and strength to those living the consecrated life leading to creative fecundity. Quoting the words of Pope John Paul II, the proposition continues:

The founders were able to incarnate the Gospel message in their time with courage and holiness. Faithful to the inspiration of the Spirit, their spiritual children must continue this witness in time, imitating its creativity with a mature fidelity to the original charism, constantly alert to the needs of the present moment.<sup>157</sup>

---

<sup>155</sup> "Personae consecratae in ipsis inspirationem et media invenient ut, sive singillatim sive in communitate, maturitatem spiritualem et servitium apostolicum promoveant. Proprias enim Constitutiones adimplentes in communiione cum Ecclesia perseverant, et testimonium vitae evangelicae mundo praebent." *Elenchus finalis*, p. 22.

<sup>156</sup> Previously, proposition 24 speaks about institutes now passing out of existence because of falling resources or unification with other congregations. The important aspect to note here relates to the absence of any call to halt the process of decline. The proposition accepts that there exists a life and death cycle for institutes but it does ask bishops and conferences of major superiors to provide leadership as they accompany these congregations in the period of transition.

<sup>157</sup> "Fundatores propriis temporibus evangelii nuntium audacia et sanctitate assecuti sunt incarnare. Oportet ergo filios spirituales, impulsibus Spiritus obsequentes, testimonium fundatorum prosequi, eorum creativitatem fideliter imitando, exigentias praesentium temporum attentas auscultantes." *Elenchus finalis*, p. 23. English translation taken from POPE JOHN PAUL II, Allocution to International Congress of Union of Superiors General, 26 November 1993, in *L'Osservatore romano*, n. 49, 8 December 1993, p. 7.

## FROM THE CODE TO THE 1994 SYNOD

While insisting that creativity and fidelity are equally indispensable, the proposition also situates this tension in the life and mystery of the Church. The proposition then points out that the world exists as a dynamic reality in continual evolution. Such evolution provokes consecrated life to respond creatively while still remaining faithful to the structure of the charism.<sup>158</sup> The proposition concludes by emphasising the qualities needed to achieve this end. It says, "In this whole area, dialogue, patience, charity, reciprocal trust on the part of bishops and also religious themselves are entirely necessary."<sup>159</sup> Thus the proposition situates the whole life, development, and change of institutes within the life of the Church and in relationship with the hierarchy.

Proposition 28, the first proposition in the second section, *De communione*, speaks of the spirit of communion. The Synod recalls the communion of the Trinity ordered to mission. "Communion, therefore, requires that the plurality of gifts, graces and charisms of the members of the Church be ordered to mutual collaboration, to the perfection of communion and to the building up of the Church."<sup>160</sup> The Synod asks the members of consecrated life to see their spirituality as contributing to the spirituality of communion. In other words, the Synod again stresses that individualism and isolationism on the part of institutes and their members stand contrary to the nature and mission of the Church.

Proposition 29<sup>161</sup> considers directly the mutual relations between bishops and religious superiors and members of consecrated life.<sup>162</sup> This proposition can be seen to give an existential context to proposition 28. In order to achieve sincere relations, the Synod makes four recommendations:

---

<sup>158</sup> See B SECONDIN, *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, p. 283

<sup>159</sup> "In universo hoc campo, dialogus, patientia, caritas, fiducia reciproca, ex parte tam episcoporum quam ipsorum religiosorum, omnino necessaria sunt" *Elenchus finalis*, p. 24

<sup>160</sup> "Communio, igitur, exigit ut pluralitas donorum, gratiarum et charismatum membrorum Ecclesiae ordinata sit ad mutuam collaborationem, ad communionem perficiendam et ad Ecclesiam aedificandam." *Elenchus finalis*, p. 24

<sup>161</sup> In the first draft proposition 29 had the title *Mutuae relationes*. In the second draft the title reads *De mutuis relationibus*. No information is available as to why the change took place, but the new title removes any confusion that the proposition is speaking about the 1978 document.

<sup>162</sup> In the first draft proposition 29 did not mention superiors. It addressed members of consecrated life only.

## FROM THE CODE TO THE 1994 SYNOD

1. Above all to study the ecclesiology of communion of the Second Vatican Council and to throw open its practical exigencies. Especially that bishops harmonise in paternal spirit with religious superiors in all matters concerning the apostolate of religious.<sup>163</sup>

One sees here a preparation for the achievement of communion spoken of in proposition 28.

2. That all members of consecrated life greatly esteem the particular church, placing their foundational charisms in the service of the particular church, and advancing to a communion of mission in it. In the same way, bishops esteem and accept the charisms of consecrated life, providing for them a place in the plans and programs of the life of the diocese.<sup>164</sup>

In one sense, this mutual appreciation and preparedness to work together reflects the call to mutual collaboration and to work for the building up of the Church stated in proposition 28.

3. That the relations between institutes of consecrated life and particular churches are conducted better if the norms of *Mutuae relationes* are observed. Therefore this document should be revised in the light of the experience gained from the document's implementation and that it might correspond to the changes in the Code of Canon Law and the Code of Canons of the Oriental Churches, and subsequent documents.<sup>165</sup>

---

<sup>163</sup> This last part of the paragraph did not appear in the first draft. Its inclusion brings a practical conclusion to the aforementioned study of ecclesiology. One can interpret the recommendation to say that bishops act as the initiators of the harmony. The use of the word, *paterno*, however, can provide a point of dissension if it is interpreted as treating religious like children. Further, we agree with Malvaux that a better place for this addition is after the second recommendation. See B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* p. 163.

<sup>164</sup> The second sentence did not appear in the first draft of the proposition, which left it unbalanced, addressed only to those in consecrated life. Vigano adds clergy and laity to the mention of the bishops. This seems justified if a pastoral plan involves all in a diocese. He further argues that such integration of consecrated life into the life of the diocese brings the visage of the universal church into the particular in accord with *Mutuae relationes*, n. 22. See E. VIGANO, "Il Sinodo sulla vita consacrata," p. 210.

<sup>165</sup> In the original draft no mention of the Oriental Churches appeared. Second, proposition 34 also calls for a new edition of *Mutuae relationes*. This time the subjects of the relationship extend from bishops and those in consecrated life to diocesan clergy and the laity. It is hard to see why this proposition was not combined with proposition 29. Proposition 31 deals with collaboration between various institutes and proposition 32 deals with the communion between consecrated life and the laity. Proposition 34 might be seen as a consequence of those two propositions.

## FROM THE CODE TO THE 1994 SYNOD

4. That to foster communion and cooperation, especially in the pastoral sphere, as a sign of the unity of the Church and its salvific mission, the Synod wishes that so-called mixed commissions of bishops and major superiors be established where they do not yet exist.<sup>166</sup> Further, delegates of the superiors should be present at the Conference of Bishops and *vice versa*.<sup>167</sup>

Proposition 30 concerns the *obsequium* to the magisterium of the Church. Besides the docility of mind and heart to the magisterium in matters relating to catechetics, theology, books and reviews, and the like, the third paragraph states, "It is observed that in matters which pertain to pastoral action, it is truly necessary to feel with the Church."<sup>168</sup> Thus, the proposition views *sentire cum Ecclesia* both intellectually and pastorally.

Finally, proposition 49 deals with formation in general. It urges that in the formation of those in consecrated life there exist a course on the Church as communion: about the particular church, about the ministry of bishops and priests, about the laity. Likewise seminaries and faculties of theology should introduce a course about consecrated life.

The propositions contain many of the matters mentioned in the interventions of the participants as well as the *circuli minores*. They make no mention, however, of a number of other matters. No direct mention about autonomy occurs, but proposition 29 (2) certainly implies such a qualifier to the relationship. One does not find any mention

<sup>166</sup> At this point the Latin text of the second draft adds two surprising words, *efficiens fiat*. It is almost an imperative to the bishops and major superiors to get such commissions working!

<sup>167</sup> The second draft also adds another sentence, "In hac superiorum commissione religiosi et religiosae repraesententur." Malvaux contends that this implies that others besides superiors should be involved in the relationships between bishops and institutes. See B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* p. 164. It should also be noted that the presence of consecrated life delegates at the Conference of Bishops does not grant them any voting rights. Rather one should see their presence at the Conference as an aid to consultation. In the other situation, namely bishops at meetings of major superiors, the presence of the bishops acts as an aid to consultation as well.

<sup>168</sup> "Animadvertendum est quod etiam in rebus quae actionem pastoralem pertinent, necesse est vere sentire cum Ecclesia." *Elenchus finalis*, p. 26. The first draft was much stronger than this because it stated that "sentire cum Ecclesia" referred not only to the magisterium in the matters of faith and morals, but also to those things which pertain to pastoral action. To identify pastoral action and *obsequium* to the magisterium in faith and morals seems totally unjustified.

## FROM THE CODE TO THE 1994 SYNOD

of entrusted works. It should have appeared in proposition 27, if anywhere, for surely the movement to new works more suited to the times will begin often as entrusted works. Yet, the Synod offered the propositions as only one part of the material to aid the Pope in the production of the post-synodal apostolic exhortation.

### 3.4.4 The Apostolic Exhortation, *Vita consecrata*.<sup>169</sup>

When the Ninth Ordinary Synod of Bishops closed at the end of October 1994, a period of expectation began. At one level some wondered when the Apostolic exhortation would appear. Pope John Paul II took until 25 March 1996, almost seventeen months, to produce *Vita consecrata*.

For others the anticipated content of the apostolic exhortation was the source of some expectancy. Some wondered whether the Pope would limit himself to the Synod's documents, or take a radically new stance.<sup>170</sup> For others, after the synodal discussions, the main focus was not the Synod's significance for consecrated life, but the ecclesiological context in which consecrated life exists.<sup>171</sup> Others again, hoped for new approaches and insights regarding the interior life of institutes.<sup>172</sup> The adequacy of the

---

<sup>169</sup> An English translation of *Vita consecrata* is found in JOHN PAUL II, *Vita consecrata*, Vatican City, Vatican Press, Libreria Editrice Vaticana, 1996, 208 p

<sup>170</sup> Callam views *Vita consecrata* as "a certain compromise with the principle of episcopal collegiality" because the exhortation demonstrates the "Pope's subservience to the synod's conclusions." He sees in the generalisations of the document a recognition of the apostolic authority of the bishops who will apply them in their own dioceses. See D. CALLAM, "The Consecrated Life," in *The Canadian Catholic Review*, September 1996, p. 2. Gottemoeller says of the exhortation, "As someone who participated in the synod I can testify that the document is faithful to the content and spirit of the event and goes a long way toward organising the vast amount of material and presenting it in a coherent and readable fashion." D. GOTTEMOELLER, "*Vita consecrata*: The Exhortation on Consecrated Life," in *Religious Life Review*, 36 (1997), p. 215.

<sup>171</sup> O'Riordan demonstrates two of the extreme positions. One called for a series of authoritative decisions to perceived current problems. The other wanted recognition of the diversity of consecrated life and displayed a reluctance to accept any authoritative relationship between bishops and consecrated life. S. O'RIORDAN, "The Synod on the Consecrated Life," pp. 83-85. Apart from authority questions, others wanted answers to questions and problems. For example, Fr Herman Schalück OFM, writing one week earlier than the publication of the exhortation, still awaited an answer to the problem of governance in the mixed congregations. See H. SCHALÜCK, "Le Synode des Évêques sur la vie consacrée. Pour une prise de conscience renouvelée de notre charisme fondateur," in *Vie consacrée*, 68 (1996), pp. 72-87.

<sup>172</sup> For example, see N. HAUSMANN, "La vie consacrée après le synode des Évêques. Des apories, une question," in *Vie consacrée*, 68 (1996), pp. 102-116.

## FROM THE CODE TO THE 1994 SYNOD

document in itself and in reference to consecrated life, therefore, depends largely on what one expected it to do.<sup>173</sup>

Some questions regarding the relationship between bishops and consecrated life arose from the statements aired in the Synod. How would the exhortation situate consecrated life in the life of the Church? Would the exhortation adopt the recommendations of propositions 29 and 34 authorising a new edition of *Mutuae relationes* or even another more comprehensive document on all relationships in the Church?<sup>174</sup> Again, would the acceptance of the diversity of consecrated life in its forms and existential experience preclude any definitive and universal statement about the relationship, leaving it to local bodies to define the relationship? Further, how would the exhortation show an appreciation of autonomy and a co-responsible language of mission? When speaking of the relationship in the apostolate, would the exhortation adopt the authoritarian language of the *Lineamenta* or the more collaborative language of the *Instrumentum laboris*?

*Vita consecrata* contains an introduction, three chapters, and a conclusion.<sup>175</sup> The first chapter, *Confessio Trinitatis*, treats the theme of consecration. The second chapter, *Signum fraternitatis*, considers communion. The final chapter, *Servitium caritatis*, deals with mission. The Pope himself sees the exhortation as a moment of reflection rather than an authoritative answer to the questions raised in the Synod (n. 4). He begins the exhortation with notes of gratitude and appreciation for consecrated life, sentiments which continue throughout the document. Therefore, from the first pages of the document one appreciates that the document stands as a summary of the past and present,

---

<sup>173</sup> Sweeney states that the exhortation "is a stage on a long and continuing journey." He concedes that the exhortation reflects the spirit of the Synod and provides consecrated persons with a helpful exercise in ecclesial reflection. J. SWEENEY, "Vita consecrata: Commentary on the Document, No 1," in *Religious Life Review*, 35 (1996), p. 228.

<sup>174</sup> *Vita consecrata* remains so silent on this issue that it does not mention proposition 34 in the footnotes of the exhortation. The other propositions not mentioned in the exhortation are 23, 32, 42, 44, and 52.

<sup>175</sup> The length of the exhortation (112 paragraphs and 263 footnotes) parallels that of the *Instrumentum laboris* (111 paragraphs, 269 footnotes).

**FROM THE CODE TO THE 1994 SYNOD**

rather than a definitive change of direction for the future.<sup>176</sup> We have chosen the following themes from *Vita consecrata* because they reflect the purpose of this study. Communion, fidelity to the charism, cooperation and collaboration, and the role of the bishop generally follow the themes developed during the Synod itself.

The exhortation underlines, like all the documents since Vatican Council II, the place of ecclesial communion.<sup>177</sup> The teaching of *Lumen gentium*, art. 32, regarding baptism imparting a common dignity, a common call to holiness and cooperation in the building up of the Body of Christ, each in accordance with the proper vocation and gift which he or she has received from the Spirit, appears in n. 31. But nn. 4 and 31 emphasise that “communion in the Church is not uniformity.” Moreover, the very diversity brought by the Spirit will be “all the more helpful to the Church and her mission when their specific identity is respected.” For the Spirit “establishes the Church as an organic communion in the diversity of vocations, charisms and ministries.”<sup>178</sup>

Consecrated life belongs to the mystery of the Church. The profession of the evangelical counsels “indisputably belongs to the life and holiness of the Church.” Moreover, the exhortation, in n. 29, declares that consecrated life can never fail to be one of the Church’s essential and characteristic elements, for it expresses the Church’s very nature.<sup>179</sup>

---

<sup>176</sup> McDermott states, “Those who have studied the preliminary documents and followed the interventions and discussions will find no great surprises in this postsynodal document.” R. McDERMOTT, “The Ninth Ordinary Session of the Synod of Bishops: Four Moments and Six Canonical Issues,” in *Commentarium pro religiosi et missionariis*, 77 (1996), p. 276.

<sup>177</sup> Gottemoeller argues that, as the exhortation stands as the third in a series dealing with the specific identity of the various states of life in the Church, it rests on the same ecclesiological presuppositions as exhortations on the laity and priestly formation, namely the ecclesiology of communion. See D. GOTTEMOELLER, “*Vita consecrata*: The Exhortation on Consecrated Life,” p. 216.

<sup>178</sup> In n. 52, the exhortation, by way of commentary, describes the Church as a single plurality and a plural unity. Gottemoeller summarises this aspect in this way, “A communion ecclesiology accents ordered relationships and differentiation of roles within the fundamental equality which stems from common baptism.” She still sees this ecclesiology as coming from a hierarchical appreciation of communion which needs to be balanced with the experience of the People of God from below. D. GOTTEMOELLER, “*Vita consecrata*: The Exhortation on Consecrated Life,” pp. 217-218.

<sup>179</sup> In n. 3, the exhortation makes a distinction between historical forms of consecrated life, the existential expression, and the substance of the choice to gift oneself radically for love of the Lord Jesus and of every

**FROM THE CODE TO THE 1994 SYNOD**

Within the mystery of the Church, consecrated life witnesses to ecclesial communion by promoting fraternal love in the form of common life, or fraternal community (n. 41). More than an eloquent sign of ecclesial communion (n. 42), fraternal communion acts as an image of apostolic communion which “inspires in everyone a sense of shared responsibility” (n. 45). Consequently, “consecrated persons are asked to be true experts of communion and to practise the spirituality of communion.” (n. 46). By opening or continuing a dialogue in charity within the ecclesial community and beyond, consecrated persons develop this spirituality of communion (n. 51).<sup>180</sup> Such communion leads to mission and itself becomes mission (n. 46).

In n. 109, the exhortation states that the fidelity of consecrated persons to the charism of their call and mission acts as a sign to other Christians caught up in the cares and concerns of this world. Fidelity to the founding charism and subsequent spiritual heritage of each institute, says n. 36, help by more fervently putting into practice the fundamental elements of consecrated life. Such fidelity aids a Trinitarian orientation to personal spirituality (n. 36), and the nature of the particular charism of each institute helps to preserve this fidelity (n. 45). Therefore, consecrated persons open themselves to the mission of the Church by remaining faithful to their founding charism (n. 49). That is to say, they work from within the limits of the character of their institute (n. 52). Even involvement in processes of inculturation (n. 80) and of the new evangelisation (n. 81) demand a beginning in fidelity to the character of the founding charism. It becomes the task of chapters and not of individuals to make definitive developments in the apostolate flowing from the charism (n. 42).

---

member of the human family, the essence of consecrated life. *Vita consecrata* considers only that the essence of consecrated life endures, while the existential expression can have only a limited appearance.

<sup>180</sup> In n. 55, the exhortation speaks again of the link between spirituality and mission. It states that communion and cooperation will (1) ensure the continuity in the Church of services typical of the Institute, (2) facilitate more cooperation, and (3) facilitate consecrated persons as expert guides for the laity in the spirituality of the Institute.

### FROM THE CODE TO THE 1994 SYNOD

In response to the needs of the Church and the world consecrated persons “undertake special tasks ... by means of the charisms proper to the various institutes” (n. 19). The particular character of each institute marks out its specific spiritual emphasis and choice of apostolate. In approving a form of consecrated life, the Church accepts that the spirituality and works proper to the institute are among “all the objective requisites for achieving personal and communal perfection according to the gospel” (n. 93). “This specific aspect is meant to take shape and develop according to the most authentic tradition of the institute, as present in its Rule, Constitutions and Statutes” (n. 36). Therefore, in reassessing their apostolate institutes need to be attentive to the significance of their institute’s charism, to be attentive to the needs of both the universal and particular church, to show concern for what the world neglects (n. 63).

The exhortation says, therefore, that consecrated persons display “a constant and lively sense of the Church, which they manifest by their full participation in all aspects of the Church’s life, and in their ready obedience to the Bishops and especially to the Roman Pontiff.” (n. 46). Hence, on the basis of ecclesial and fraternal communion the text points to the fundamental importance of cooperation between consecrated persons and bishops for the organic development of diocesan pastoral life (n. 48). The authoritarian tone of the *Lineamenta* is foreign to *Vita consecrata*. Dialogue in charity and communion (n. 74) become the basis for the relationship between consecrated life and authority in the Church.

The spirit of collaboration grounds the approach to the relationship in the exhortation. When speaking of the magisterium, *Vita consecrata* speaks of an “allegiance of mind and heart ... lived honestly and clearly testified to before the People of God by all consecrated persons” (n. 46). Yet, the exhortation does not follow the authoritarian line of the *Lineamenta*. Rather it encourages a sense of participation with the hierarchy which will give power and forcefulness to the apostolic activity of consecrated persons. This participation takes place at a universal level and at the level of the particular church.

**FROM THE CODE TO THE 1994 SYNOD**

Number 47 speaks of the supra-diocesan character of institutes and societies. All institutes and societies possess the potential to pass beyond the boundaries of one diocese, even though they remain of diocesan right. Number 47 stresses the special relation between societies and the Petrine ministry. Although it does not describe this special relationship, the phrase parallels the content of c. 590, §1. The exhortation speaks of two benefits flowing from the supra-diocesan character. First, consecrated persons can effectively promote an “exchange of gifts” between the particular churches. Second, they consequently contribute to an inculturation of the Gospel.

Still at a supra-diocesan level, n. 50 advocates the suggestions of proposition 29 (4). The experience of the Synod, where bishops and consecrated persons experienced dialogue conducted in a climate of mutual trust and openness, becomes an example for further interaction. Proposition 54 expresses the wish that this experience be extended to the whole Church. Hence, n. 50 speaks about superiors informing bishops concerning any apostolic undertakings they are planning in dioceses, “in order to agree on the necessary practical arrangements.” The suggestion in proposition 29 (4) concerning mixed commissions appears here in the form of advice, not of command.<sup>181</sup> The exhortation sees the structure existing at a national level.<sup>182</sup> The exhortation suggests that delegates of Major Superiors attend the Conference of Bishops, and *vice versa*. The exhortation also places here the suggestion from proposition 49 (b) that, in places of formation of consecrated persons, they receive instruction in the theology the particular Church and the spirituality of diocesan clergy. Likewise diocesan seminarians receive instruction in the theology and spirituality of consecrated life.<sup>183</sup>

---

<sup>181</sup> McDermott agrees that the exhortation simply recommends these structures. See R. MCDERMOTT, “*Vita consecrata*: A Vocation for the Third Millennium,” in *Review for Religious*, 55 (1996), p. 460.

<sup>182</sup> A national level may or may not correspond to the territory normally covered by a Conference of Bishops. Hence, in some cases, the suggestion may involve a completely new structure.

<sup>183</sup> One wonders why this material concerning formation appears here and not further along in *Vita consecrata* where it treats of formation. It may be that its placement here signals that the constant dialogue between bishops and consecrated life requires mutual understanding gained from knowledge.

## FROM THE CODE TO THE 1994 SYNOD

The exhortation considers consecrated life and the particular church in nn. 48 and 49. Number 48 repeats the norms of *Mutuae relationes*, n. 11 and c. 576. The exhortation unites the spirituality of the institute with its apostolate and places both in a specific tradition marked by objective elements.<sup>184</sup> The exhortation goes no further than the *Code of Canon Law*, c. 578, when it states that, from its purpose, autonomy allows institutes to grow and develop according to the spirit of their founders and their own sound traditions.

The exhortation remains silent on the statement of the *Instrumentum laboris*, n. 81, that autonomy is a native right. Instead, it simply repeats c. 586. Moreover, the exhortation makes no association between autonomy and the principle of subsidiarity. In fact, the principle of subsidiarity gains no mention at all. It seems, therefore, that the Pope does not wish to give an answer to these technical questions.

One development does occur, however, when the exhortation not only asks bishops to welcome and esteem the charisms of consecrated life, but also asks them to give the charisms of consecrated life a place in the pastoral plans of the diocese. This encouragement provides the background to a statement in n. 49 which says:

... Institutes may not invoke rightful autonomy, or even exemption which a number of them enjoy, in order to justify choices which actually conflict with the demands of organic communion called for by a healthy ecclesial life. Instead, the pastoral initiatives of consecrated persons should be carried out in cordial and open dialogue between Bishops and Superiors of the different Institutes. Special attention by Bishops to the vocation and mission of Institutes, and respect by the latter for the ministry of Bishops, with ready acceptance of their concrete pastoral directives for the life of the diocese: these are two intimately linked expressions of that one ecclesial charity by which all work to build up the organic communion - charismatic and at the same time hierarchically structured - of the whole People of God.<sup>185</sup>

---

<sup>184</sup> One can identify these objective elements as those matters contained in the rules, constitutions, and statutes.

<sup>185</sup> "Reminiscendum est Instituta Ecclesiae universalis famulatum conciliando cum Ecclesiae particularis munere congruam autonomiam ipsamque exemptionem, quibus complura ex iis fruuntur, sibi vindicare non posse ut quaedam electiones iustificentur quae revera dissident ab ordinatae communionis necessitatibus quas recta vita ecclesialis requirit. Oportet contra ut pastoralia personarum religiosarum incepta benevolo et aperto instituto dialogo inter Episcopos et variorum Institutorum Praepositos decernantur et compleantur.

## FROM THE CODE TO THE 1994 SYNOD

Several important elements occur here. First, the statement rests on an appreciation of different roles within the one organic communion. From such an assumption there appears no necessity to employ language such as "subject" or "submission," and it may be that the exhortation signals a move away from such language in favour of a relational model other than a pyramidal structure. Second, the exhortation does not give a priority to the diocesan apostolate either theologically or pastorally.<sup>186</sup> Third, one should not read into this statement anything more than advice to institutes that they always exist in a particular church and that they cannot isolate themselves from the particular church.<sup>187</sup> Hence, a balance always exists between the necessities of the institute and the needs of a diocese.<sup>188</sup> The dialogue between bishops and consecrated persons will often concern the tuning of that balance.

Furthermore, the exhortation envisages other tasks for the bishop and the diocese in regard to consecrated life. The bishop, according to n. 49, is the father and pastor of the particular church in its entirety. Besides discerning and respecting individual charisms, he promotes and coordinates them. So the promotion of vocations becomes one common endeavour which takes place in a diocese (n. 64). Furthermore, when they examine new forms of evangelical life the bishops exercise a ministry of discernment (n.

---

Perattenta Episcoporum consideratio in Institutorum vocationem et munus atque ipsa vicissim Institutorum observantia in Episcoporum ministerium, una cum prompta acceptione pastoralium pro vita dioecesana eorum inceptorum, duas formas prae se ferunt illius ecclesialis unius caritatis quae cunctos ad bene constitutae communioni inserviendum compellit - charismaticae atque simul secundum cuiusque officia compositae - universi Dei populi." JOHN PAUL II, Apostolic Exhortation, *Vita consecrata*, 25 March 1996, Vatican City, Vatican Press, Libreria Editrice Vaticana, 1996, n. 49, p. 58.

<sup>186</sup> In the same paragraph the exhortation asks consecrated persons to cooperate generously with the particular churches "as much as they can with respect for their own charism." The first priority of consecrated life is the preservation and growth of that charism. The exhortation gives primary place to the character and existence of the institute over the needs of the diocese where consecrated persons are themselves concerned. This priority expresses again the call to fidelity to the charism.

<sup>187</sup> The only mention of exemption in the exhortation occurs at this point. The scant reference to this fact seems to imply further that exemption, while it still exists, really has lost any of the force that it had in former times. See J. HUELS, "The Demise of Religious Exemption," in *The Jurist*, 54 (1994), pp. 40-55.

<sup>188</sup> The exhortation, at n. 73, says that the balance required rests between "choices which are consistent with the original charism and which correspond to the demands of the concrete historical situation."

## FROM THE CODE TO THE 1994 SYNOD

62). So the bishop appears as a figure concerned with the beginning, life, continuity, and change within the existence of the institutes and societies in his diocese.

We can say in conclusion, then, that the Apostolic Exhortation, *Vita consecrata* remains within the tradition begun at the Second Vatican Council. It does not add anything innovative to what appears in earlier documents in regard to relationships between bishops and members of the consecrated life. It certainly places its emphasis concerning the relationship between bishops and consecrated life on the importance of collaboration and dialogue. But these characteristics themselves rest on the virtue of charity and mutual appreciation of diversity within the communion of the Church. Importantly, the exhortation does not make any affirmation concerning the origin of the right of autonomy. It leaves this legal question unanswered. In the same way, questions relating to mixed congregations of brothers and priests and to cloistered nuns receive no answer in the exhortation. This seems to emphasise the assertion that *Vita consecrata*, while true to the main themes of the Synod and faithful to the propositions, does no more than preserve the *status quo* and offer encouragement to those living the consecrated life. Indeed, "a strength of the exhortation is its respect for the individuality and autonomy of institutes, based on the charisms first communicated to their founders."<sup>189</sup> The general principles found in earlier documents, such as *Mutuae relationes*, remain intact in the exhortation. Thus *Vita consecrata* leaves the relationship between bishops and consecrated life almost entirely in the hands of the particular churches. The efficiency of the relationship depends on the degree of collaboration and cooperation present in the particular church. *Vita consecrata* contributes to the on-going understanding of the relationship by placing it within the parameters of a pastoral dimension, rather than a strictly, or exclusively, legal dimension.

### 3.5 Conclusion

In the period from the promulgation of the *Code of Canon Law* to the closing of the Ninth Ordinary Synod of Bishops, changes do occur in respect to the relationship

---

<sup>189</sup> D. GOTTEMOELLER, "*Vita consecrata*: The Exhortation on Consecrated Life," p. 226.

### FROM THE CODE TO THE 1994 SYNOD

between bishops and consecrated life. A greater appreciation of the implications of a *communio* theology grounds these changes in an ecclesiology that tolerates diversity within the unity of the Church. As long as there exists a growing awareness of the richness of the diversity and of the capacity of the Church to accept that equality does not mean uniformity, there remain possibilities to see that relationship in broader terms.

*Potissimum institutioni* and *Congregavit nos in unum* shift the necessarily juridic emphasis of the *Code of Canon Law* regarding the relationship to one based on the pastoral dimension of the one mission of the Church. Consecrated life appears existentially in the life of the particular church. Thus the diocesan bishop has not just a juridic role to play in its life but also a pastoral concern to offer, as he does for all those entrusted to his care. The consecrated life must participate in the life of the particular church because of its nature and mission. Hence, fraternal life stands not just as an internal organisational principle of consecrated life, but as a valued gift in the life of the particular church.

The Synod's deliberations reflect the actuality of consecrated life in itself and in relation to its existential appearance. The fate of the *Lineamenta* demonstrates a firm lesson, namely, that the diversity of consecrated life as lived throughout the Church places any normative approach to the question in danger of irrelevancy. The interventions during the Synod confirm that some universal principles do exist. Autonomy, episcopal authority, the priority of fidelity to the character of the institute, and the unity of the Church stand as but some of these. Their application, however, in the existential situation necessitates collaborative mechanisms that further understanding and acceptance from both bishops and those in consecrated life. The particularity of the particular church, the diversity of institutes of consecrated life and societies of apostolic life, the personalities of bishops and others, as well as the necessity to further the one mission of the Church create a situation where the particular church requires dialogue based on charity more than it needs further legislation.

## FROM THE CODE TO THE 1994 SYNOD

The synodal discussions, papers, and *Vita consecrata* constitute a passing moment of reflection about consecrated life. One does not find answers to technical questions such as the origin of autonomy and its relationship to episcopal authority in this Synod. Rather, the Synod gives an implicit sign that the relationship between bishops and consecrated life finds its meaning and description at the local level. The silence on a new version of *Mutuae relationes* seems to confirm this.<sup>190</sup> The realisation of the co-responsibility that all have for the mission of the Church translates at the level of the particular church into mutuality and reciprocity. In a sense, recourse to law and legislation appears to become a last resort. Certainly, the focus on the relationship has become broader than a purely juridic notion. Yet, the history of the relationship demands that law still be part of the relationship.

---

<sup>190</sup> Gottemoeller reports that officials of the Secretariat of the Synod told officers of the LCWR and CMSM in April 1995 that work was underway on an update of *Mutuae relationes*. Nothing has yet appeared to confirm this statement. Further, the Congregations of the Bishops and Consecrated Life and Societies of Apostolic Life, who published the first document, appear to have made no such move. See D. GOTTEMOELLER, "*Vita consecrata*. The Exhortation on Consecrated Life," p. 216.

## CHAPTER FOUR: DYNAMIC TENSIONS

### 4.1 Introduction

*Vita consecrata* follows the style of other post-synodal documents. It puts forward the teaching on consecrated life as the synodal participants studied it at the synodal sessions. By and large, the apostolic exhortation knits together the propositions and other material discussed at the Synod, leaving aside disputed questions either by ignoring them or sending them to special commissions. Consequently, it is important to remember that in *Vita consecrata*, Pope John Paul II issued an exhortation and not a legislative text.<sup>1</sup>

The synodal experience itself demonstrated that bishops and those of consecrated life could enter into fruitful dialogue with each other.<sup>2</sup> Indeed, *Vita consecrata*, n. 50, echoed the sentiment expressed in proposition 54 that the dialogue conducted there in mutual trust and openness should be extended to the whole Church. Yet, one must remember that the participants of the Synod acted as representatives for bishops and the various forms of consecrated life. In a sense, one can not consider them as typical. Just as major superiors dominated those representing the consecrated life, so bishops, many of whom are themselves religious, often represented various conferences of bishops. So their "spiritual experience of communion and cooperation"<sup>3</sup> may not actually reflect the state of relations between individual bishops and members of consecrated life in the particular churches. In fact, many of the interventions during the Synod demonstrated that harmony does not exist in a number of places. In this chapter we will briefly look at the articles that have appeared in the journals since the publication of the apostolic exhortation. It seems that the bishop - religious relationship has disappeared from view because it has become very much an experience unique to each particular church. That

---

<sup>1</sup> See F. MORRISEY, *Papal and Curial Pronouncements: Their Canonical Significance in the Light of the Code of Canon Law*, p. 13

<sup>2</sup> See N. HAUSMAN, "Après le synode sur la vie consacrée et sa mission dans l'Église et dans le monde," in *La vie consacrée*, 67 (1995), p. 8

<sup>3</sup> VC n. 50

is, it occurs at the local level. Hence, the current literature is not concerned to explore the relationship.

We wish to offer, then, some reflections on the place of the universal law in this relationship. It can be said that the universal law simply establishes principles to be further incorporated in particular legislation. The mechanisms advocated by the Synod, namely the mixed commissions, delegate presences, and various diocesan organisms, provide the framework to detail that legislation.

Finally, we will consider three areas germane to this study. First, we will examine the interaction between just autonomy and episcopal authority. Second, we will examine the situation of works proper to an institute when the institute finds it difficult to perform its traditional work. Finally, we will investigate the Synod's contribution to written agreements.

## 4.2 The Situation Since the Synod

### 4.2.1 The Journal Literature

Since the Ninth Ordinary Synod of Bishops ended, authors have produced a number of articles concerning the event. Some articles appeared between the end of the Synod but before the release of *Vita consecrata*. Most of these articles do no more than repeat themes from the Synod without any further development.<sup>4</sup>

---

<sup>4</sup> *Vita consecrata* appeared on 25 March 1996. Thus any articles appearing the journals during 1995 certainly contain post-synodal reflections without reference to the contents of *Vita consecrata*. For instance, Pardillo's article, in part, considers the relationship between bishops and consecrated life. He states that the relationship ought to be one of communion, respect, and collaboration. He delineates responsibilities within the relationship for both bishops and those members of consecrated life. Yet, the author states nothing more than is contained in propositions 29 and 30. A. PARDILLO, "Dove va la vita consecrata? La vita consecrata dopo il Sinodo," in *Vita consecrata*, 31 (1995), p. 580. Similarly, an article by J. Bonfils regarding this relationship assembles references from the *Instrumentum laboris*, *Mutuae relationes*, and the instruments of the Synod itself. His purpose consists in delineating the role of bishops and religious in the relationship. But again the article only assembles material scattered through the documents generated by the synodal process. See J. BONFILS, "Mutuae relationes au Synode sur la vie consacrée," in *Informations*, 21 (1995), pp. 174-197. M. Augé produced an article concerned with the mutual relations between bishops and religious. His emphasis, however, concerns a more narrow aspect of the relationship, namely the relationship of religious to the magisterium of the bishops. Like Pardillo, Augé takes proposition 30 as his starting point. See M.

With the publication of *Vita consecrata* on 25 March 1996, several journals devoted an entire number to articles concerning the exhortation. These journals considered a number of features of *Vita consecrata*.<sup>5</sup> Yet, the particular relationship between the diocesan bishop and the members of consecrated life does not appear to have received much discussion from the authors.

Other authors presented articles in various other journals.<sup>6</sup> R. McDermott's article, published after the exhortation, however, reflects the period between the Synod and the appearance of the exhortation.<sup>7</sup> This article proves interesting because the author takes six themes and observes their development through the synodal process from the *Lineamenta* to the propositions. One of the themes that she considers is the mutual relations between bishops and religious as affected by just autonomy. As such, it represents one of the few articles to present this theme.

AUGE, "El Sinodo sobre la Vida Consagrada. Reflexiones en voz alta," in *Vida religiosa*, 78 (1995), pp. 46-52

<sup>5</sup> Among these journals are *Confer*, 35 (1996), No. 136, which contains, for instance, articles about the biblical characteristics of consecrated life, the trinitarian theology, spirituality, the place of women, creative fidelity. The Congregation itself devoted *Informationes*, 22 (1996), No. 1 to the exhortation. In this number, J. Kolvenbach writes a theological article concerning vows and consecration. See J. KOLVENBACH, "Nella Chiesa e per la Chiesa," in *Informationes*, 22 (1996), pp. 43-54. J. Castellano Cervetera writes on the continuity between *Lumen gentium*, *Perfectae caritatis*, and *Vita consecrata*. While he sees that these three documents maintain a consistency regarding the ecclesiology of community, he sees a certain development as well. He maintains that *Vita consecrata* accepts without qualification the participation of religious in ecumenical and interreligious dialogue. He also sees acceptance of their competence in the new evangelisation as a new element. See J. CASTELLANO CERVETERA, "*Lumen gentium* - *Perfectae caritatis* - *Vita consecrata*: unità dinamica e novità di tre testi magisterali sulla vita consacrata," in *Informationes*, 22 (1996), pp. 164-184. In another article, S. Gonzalez Silva, taking as his basis VC n. 72, makes a strong case for fidelity to the character of the institute as an important element in an understanding of mission. See S. GONZALEZ SILVA, "Consacrati per la missione," in *Informationes*, 22 (1996), pp. 55-69. Another journal to devote an entire number to the exhortation is *Vita consecrata*, 32 (1996), nn. 3-4.

<sup>6</sup> Many of these articles are commentaries on the exhortation, but do not treat the question of just autonomy. See J. SWENEY, "Vita consecrata. Commentary on the Document, No. 1," in *Religious Life Review*, 35 (1996), pp. 218-228 and E. STARKEN, "Vita consecrata: Commentary on the Document, No. 2," in *Religious Life Review*, 35 (1996), pp. 242-246. Giallanza writes on the call within *Vita consecrata* for continuing education. See J. GIALLANZA, "Continuing Formation: Perspectives from *Vita consecrata*," in *Review for Religious*, 56 (1997), pp. 468-477. McGrath uses the formulation of the Rule of St. Clare to demonstrate the uniqueness of the "spirit of the founder." See A. MCGRATH, "Between Charism and Institution: The Approval of the Rule of Saint Clare in 1253," in *Studia canonica*, 31 (1997), pp. 423-448.

<sup>7</sup> R. MCDERMOTT, "The Ninth Ordinary Session of the Synod of Bishops: Four Moments and Six Canonical Issues," in *Commentarium pro religiosiis et missionariis*, 77 (1996), pp. 261-294.

G. Ghirlanda has published a number of articles since the Synod concluded. Commenting on the synodal process, he refers to just autonomy. While commenting on the contributions from the participants at the Synod, in two of these articles, he refers to just autonomy as a "native right of all institutes," implying that the participants made this assertion.<sup>8</sup> We have already seen that the synodal fathers did not comment on this particular reference from the *Instrumentum laboris*. Furthermore, the expression does not appear in *Vita consecrata*.<sup>9</sup>

In one of two articles which have appeared since the publication of *Vita consecrata*, Ghirlanda still makes reference to just autonomy as a native right, even though the exhortation itself makes no such reference.<sup>10</sup> He presents the "native right" argument almost as a given without developing his argument any further. Yet, he cannot go so far as to use the exhortation to justify his belief that autonomy is a native right.

---

<sup>8</sup> G. GHIRLANDA, "Dimensione ecclesiologicala della vita consecrata nel Sinodo dei Vescovi del 1994," in *Periodica*, 84 (1995), p. 667. See also G. GHIRLANDA, "La vita consecrata nella Chiesa," in *Informationes*, 21 (1995), p. 112. In a third article, this time in French and also written before *Vita consecrata*, Ghirlanda refers to just autonomy as "un droit inné" which belongs to the ecclesiastical nature of institutes. We find the use here of the adjective "ecclesiologique" interesting. We would agree just autonomy is a right belonging to the ecclesiastical nature of institutes, but only in so far as institutes are public juridic persons in the Church. See G. GHIRLANDA, "La vie consacrée dans l'Eglise," in *Vie consacrée*, 68 (1996), p. 101.

<sup>9</sup> Ghirlanda, however, does express well the on-going tension and the need for equilibrium between the competing rights that episcopal authority and just autonomy provide. He says, "Infatti si deve trovare un equilibrio tra l'autonomia degli istituti che, loro diritto nativo e non concessione dell'autorità gerarchica, dev'essere conservata e tutelata dagli stessi Ordinari dei luoghi (c. 586), in quanto necessaria per la preservazione del loro carisma e della loro identità, e il rispetto dell'autorità dei vescovi, riguardo alla fede e al governo pastorale. In questo modo autonomia non significherà indipendenza e opposizione alla gerarchia e tutto sarà regolato secondo lo spirito di comunione attraverso gli istituti di vita consecrata, la Chiesa universale, con la ricchezza di tutti i suoi doni e carismi, si potrà fare armoniosamente presente nella Chiesa particolare." G. GHIRLANDA, "La vita consecrata nella Chiesa," in *Informationes*, 21 (1995), p. 112.

<sup>10</sup> In the first article, Ghirlanda simply uses the expression as a qualifying phrase when commenting on VC 49 where the Holy Father directs institutes not to justify their lack of involvement in the organic communion of the particular church by appeals to autonomy and exemption. See G. GHIRLANDA, "L'esortazione apostolica *Vita consecrata*: aspetti teologici ed ecclesiologicali," in *Periodica*, 85 (1996), p. 589. In the second article Ghirlanda develops themes concerning new forms of consecrated life, societies of apostolic life, the "mixed" institutes, relations with the laity, participation in ecclesial movements, and communion between diverse institutes. He does not mention just autonomy in this article. See G. GHIRLANDA, "L'esortazione apostolica *Vita consecrata*: aspetti canonici," in *Periodica*, 85 (1996), pp. 597-623.

It seems clear, therefore, that while authors have written articles about the Synod and its final act, the exhortation, interest in the relationship between the local bishop and consecrated life has fallen. Indeed, one can say that writings on religious life have tended to be more introspective since the Synod ended.<sup>11</sup> There appears little concern with the bishop - consecrated life relationship as an expression of the ecclesial dimension of consecrated life.

The Synod itself may be the cause of this phenomenon. The participants at the Synod expressed the reality of the relationship from their own existential perspective. Our analysis has shown that the phenomenological appearance of consecrated life in relationship with the diocesan bishops is greatly influenced by external factors. Among these we saw that great differences exist within the churches of the North and South, East and West.<sup>12</sup> A plethora of influences, cultural factors, historical development, political stability, the "religious" environment, be it secular or predominantly that of another religion, as in the case of Islam, the size of the particular church, as well as the personalities of the individuals involved greatly influences how the particular churches approach the mission of the Church in their own domain. The particularity of the particular church may very well be now so specific that authors are reluctant to comment on the relationship between bishops and consecrated life beyond the enunciation of the principles. The ecclesiology of the particular church as well as the employment, at least

---

<sup>11</sup> As an example we can cite the following article. The Master General of the Order of Friars Minor, H. Schalück wrote an article concerning problem of "mixed" orders, which have both clerics and non-clerics among their members. This problem, somewhat unique to the Franciscans, has produced a number of articles on the topic. See H. SCHALÜCK, "Le Synode des Evêques sur la vie consacrée. Pour une prise de conscience renouvelée de notre charisme fondateur," in *Vie consacrée*, 68 (1996), pp. 72-87

<sup>12</sup> Malvaux provides a discussion of this matter. He assembles the material from the Synod showing that regionality has differing effects on the bishop-religious relationship. Inculturation in Africa and Asia, declining numbers of religious as well as the economic ethos in Western Europe, North America, Australasia, freedom from repression in Eastern Europe all play a part in the story of the relationship. See B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* pp. 192-196. Sebastián also makes the point that because of the necessary demands of inculturation, regionality causes major adaptations of the permanent and universal patrimony of consecrated life, especially in the new churches of Africa and Asia. See F. SEBASTIÁN, "La vida consagrada en el siglo XXI. Las principales orientaciones del Sinodo de los Obispos sobre la vida consagrada," in *Vida religiosa*, 79 (1995), p. 140.

in practice, of the principle of subsidiarity, seemingly leave the details of each particular relationship to those demanded by the exigencies of each particular church.

#### 4.2.2 Consecrated Life and the Particular Church.

*Vita consecrata*, n. 48, deals with the consecrated life and the particular church. The exhortation affirms again the conciliar teaching that the particular churches exist as portions of the People of God<sup>13</sup> in which “the one, holy, catholic, and apostolic Church of Christ is truly present and operative.”<sup>14</sup> The exhortation then points to the fundamental importance of cooperation between consecrated persons and bishops for the organic development of diocesan pastoral life.<sup>15</sup>

Yet, many of the structures recommended with esteem by the participants cannot operate within a diocese. For instance, the “mixed commissions” and the welcoming of delegates from major superiors and the conference of bishops to each other’s meetings received commendation both at the Synod and in the exhortation.<sup>16</sup> These structures, however, are supra-diocesan and simply cannot exist within the diocesan structure.

At the diocesan level, however, the attitudinal aspects behind these supra-diocesan structures remain valid. Charity, which motives cooperation, as well as constant dialogue, regular communication, mutuality, and an awareness of the unity of

---

<sup>13</sup> Wiljens points out that the Code follows CD 11 in its formulation of the description of a particular church to emphasise that the diocese is first and foremost a community of the faithful (c. 369), and only secondarily is it a territorial unity (c. 372). She further notes that the authority of the bishop is mainly presented in the context of pastoral ministry, rather than in the exercise of *potestas*. See M. WILJENS, “For You I Am a Bishop. With You I Am a Christian: The Bishop as Legislator,” p. 72.

<sup>14</sup> CD, art. 11.

<sup>15</sup> McDermott states the theological basis for this cooperation when she says, “As members of the Church, those called to live a life consecrated by the profession of the counsels are in communion with the hierarchy and the laity as well as with one another.” This conciliar teaching has retained its force through various documents since that time. R. MCDERMOTT, “Consecrated Life and the *Novus habitus mentis*,” in *The Jurist*, 56 (1996), p. 270. Malvaux, on the other hand, sees two conceptions of the ecclesiology of communion. He states that *Vita consecrata* attempts to reconcile the two emphases by stressing not only obedience to the pastors of the Church, but also stating the necessity of dialogue between the hierarchy and the consecrated life. See B. MALVAUX, “La vie consacrée, signe de communion dans l’Église. L’apport de *Vita consecrata* (VC 41-58),” in *Vie consacrée*, 69 (1997), p. 170.

<sup>16</sup> See VC, n. 50.

the mission of the Church stand out as elements that have to exist at all levels of the relationship. Interventionism and isolationism cannot exist if these elements constitute the understanding between bishops and those of consecrated life. Thus the consultative structures of the diocese, if they absorb these new attitudes, should become structures of participation and co-responsibility, rather than means of justifying an already decided episcopal plan.

The diocesan bishop has few structural mechanisms at his disposal as recommended in the *Code of Canon Law*. Even if he is accompanied by auxiliary bishops, he remains the one primarily responsible for the pastoral mission of the diocese. He may employ the structural mechanisms of the pastoral council, which CIC/83 does not make mandatory, and the presbyteral council, the requirements for whose membership are qualified and therefore automatically exclude many religious priests. Often, also, the agenda of the presbyteral council carries little interest for those priests in consecrated life.<sup>17</sup>

As a further structural endeavour, the bishop may decide to appoint an episcopal vicar for consecrated life. Difficulties arise here as well. Canon 478, §1 states that an episcopal vicar is to be a priest.<sup>18</sup> The bishop can choose either a diocesan priest<sup>19</sup> or a priest from one of the forms of consecrated life.<sup>20</sup> But the canon also requires that the

---

<sup>17</sup> Such matters as the remuneration system for the diocesan clergy are a case in point

<sup>18</sup> Canon 478, §1 states, "Vicarius generalis et episcopalis sint sacerdotes ..." Of course, this includes an auxiliary bishop also

<sup>19</sup> Holland points out that appointing diocesan clergy to this position historically has presented difficulties because they have had to combine the office with parish ministry as well. "Secondly, there is the question of the secular priest's familiarity with, and understanding of, the religious life." She goes further suggesting that in this era of growing collaboration in the Church, a woman religious might work well in such an office despite the problem of governance. See S. HOLLAND, "The Episcopal Vicar for Religious," in *The Way Supplement*, 50 (1984), pp. 108-112. Regarding the eligibility of a woman religious, see Verbrugghe's negative reply and reason. See A. VERBRUGGHE, "The Figure of the Episcopal Vicar for Religious in the New Code of Canon Law," in *Commentarium pro religiosis et missionariis*, 65 (1984), pp. 329-331.

<sup>20</sup> Verbrugghe points out that the Episcopal Vicar for Religious will be bound by the same requirements to respect the just autonomy of institutes. This could prove interesting for a religious because in this office he acts on the bishop's mandate and not on that of a religious superior. A. VERBRUGGHE, "The Figure of the Episcopal Vicar for Religious in the New Code of Canon Law," in *Commentarium pro religiosis et missionariis*, 66 (1985) p. 45

priest possess "experience in handling matters." One pre-requisite would seem to be a knowledge of both the diocesan pastoral plan as well as a knowledge of consecrated life.

Another structure that could be advantageous to both bishop and members of consecrated life would be a council for consecrated life.<sup>21</sup> Such a council could be part of the function of the office of the appropriate episcopal vicar. It would provide a forum wherein members of consecrated life could contribute to the diocese's knowledge of consecrated life by organised information programs. It could also aid members of consecrated life by giving them a forum to share problems and strategies relative to their own particular internal matters, such as vocations, loss of members, provision for aging members. Instead of separate plans for each institute and society within a diocese, it may be more advantageous to attack such situations from a united front. When one considers that the pastoral council and the presbyteral council look outward to the mission in the diocese, the internal situation of the various institutes and societies within the diocese may demand a more inward looking structure.<sup>22</sup>

Both *Mutuae relationes* and *Vita consecrata* exhort the use of structures not mentioned within the CIC/83. This becomes a clear indication that one cannot consider the relationship between bishops and members of consecrated life in exclusively juridic terms. Any language which uses terms such as "dialogue," "collaboration," "mutual understanding," and "co-responsibility in charity" takes the relationship beyond the limits of law and grounds it in the pastoral experience and exigencies of the actual mission. Perhaps the greatest fruit of the Synod has been the realisation that effective and successful relations between the two depend not so much on the enforcing of law, but on the preparedness to recognise and respect the rightful place of both in the communion of

---

<sup>21</sup> Secondin sees the collaboration between institutes as one of the unfinished or even disputed questions left after the Synod. He ranks this with the revision of *Mutuae relationes*, the cloister of nuns, the place and role of women, the mixed institutes of brothers and priests, the new forms of consecrated life. B. SECONDIN, "Exhortation *Vita consecrata* dans le contexte ecclésiologique actuel," in *Vie consacrée*, 69 (1997), p. 87.

<sup>22</sup> McDermott mentions another structure whereby the diocesan bishop meets with the major superiors of the institutes present in his diocese. This same structure appears to be used by the bishops of New Zealand as reported in the Synod by Bishop Boyle of Dunedin. See R. MCDERMOTT, "Consecrated Life and the *Novus habitus mentis*," p. 271. L. A. BOYLE, in *L'Osservatore romano*, n. 42, 19 October 1994, p. 5.

the Church.<sup>23</sup> Sweeney states that the minority who sought to re-assert discipline and control over religious life did not succeed.<sup>24</sup> When he wrote about the Synod in 1995, Sweeney said,

Was the Synod, then, worth all the effort? It was an extraordinary concentration of human resources. So many highly qualified and busy people were brought together for a month, made to listen to each other's speeches day after day, put into groups to work out proposals, and finally allowed to vote of a list of secret recommendations. The peculiarity of the Synod is the indefiniteness of its ending, the lack of public conclusions .... This Synod made no breakthrough, but it did gather together the experience of consecrated and religious life since Vatican II in a helpful way. It did not attempt to put the clock back. It was probably a good learning experience for the bishops. It affirmed religious in their present difficulties, and the spin-off of the preparatory discussions and sharing was helpful to them. And in the end it could point to some modest practical achievements.<sup>25</sup>

One needs to assess the Synod, then, as a human experience as well as anything else. Moreover, the on-going relations between bishops and members of consecrated life will find their effectiveness in a broader pastoral sphere. Structures will develop to facilitate the primacy of dialogue and collaboration. In addition, such structures will vary in appearance and function given the changing circumstances and personalities involved.

This raises, however, the question of the place of the common law. This becomes important because contributions at the Synod demonstrated that structures have grown up, such as the "mixed commissions" recommended by *Mutuae relationes*, which are not included in CIC/83. Further, the Holy Father has recommended their further extension in places where they do not yet exist.<sup>26</sup> Since they are recognised and encouraged by the

---

<sup>23</sup>J BONFILS, "Mutuae relationes au Synod sur la vie consacrée," in *Informationes*, 21 (1995), p. 181. McDonough points out, in the end it becomes people who must be responsible for the implementation of structures and law. The unexpected will always be a product of such a situation. "This is to admit that law, including ecclesiastical law, functions at the juncture of logic and life, where - realistically - logic sometimes fails and life sometimes falters." E. McDONOUGH, "Levels of Legislation in an Institute," in *Review for Religious*, 56 (1997), p. 432.

<sup>24</sup>J SWEENEY, "Vita consecrata Commentary on the Document, No 1," in *Religious Life Review*, 35 (1996), p. 219

<sup>25</sup>J. SWEENEY, "The Synod, Was It Worth It?," pp. 15-16.

<sup>26</sup>VC, n. 50

supreme legislator, one can not hold that such structures are *contra legem*. They exist, however, *praeter legem*.

It must be asserted, first, that the CIC/83 does not contain an exhaustive list of the organisations, assemblies, associations, or other forms of gatherings of persons. Indeed, c. 215 applies equally to all Christ's faithful.<sup>27</sup> Bishops and members of the consecrated life are as free as any other members of Christ's faithful to gather together for the promotion of the Christian vocation in the world. The common law also provides cc. 94 and 95 in order that the relationship between the parties to a common purpose can be defined for the benefit of both. It becomes one way that the tier of common law can use the principle of subsidiarity to effect by leaving such matters to the tier of particular law where such statutes or rules will be more relevant.<sup>28</sup>

In another way, the common law becomes the source of principles that require further specification in particular law. In our case, c. 586 recognises that a just autonomy belongs to institutes of consecrated life. In particular dioceses, however, how this principle of just autonomy actually becomes applied will depend on the attention that the local legislation gives to the principle. The same could also be said for many of the provisions of Book II, Chapter V, concerning the apostolate of institutes. Here, the principle of dual competencies together with the principle of autonomy and the principle of episcopal authority will need to strike a proper balance in particular legislation. The common law makes the principles normative, but the particular law gives them their descriptive reality.

---

<sup>27</sup> This canon should be read in conjunction with c. 299 concerning private associations of the faithful. In this context the establishment of various meeting points between bishops and the members of consecrated life may assume the status of private associations of the faithful.

<sup>28</sup> One should not lose sight of the fact that the CIC/83 leaves much to the legislative power of the diocesan bishop and to general chapters of consecrated life. Conferences of bishops also possess a legislative program arising from the CIC/83 that is most extensive. One sees the notion that the *Code of Canon Law* envisages other forms and tiers of law also in c. 2, which applies to liturgical law the force of canon law, and in c. 1290, which "canonises" the contractual provisions of the civil law.

By way of conclusion we can say that the present literature on consecrated life has left the subject of the relationship between diocesan bishops and the members of consecrated life almost untouched. There exist various reasons for this, ranging from the particular interests of authors to the nature of the relationship itself. The relationship awaits the further working out of its descriptive reality around the normative principles provided by the common law. Thus, the relationship based on just autonomy and episcopal authority comprises a broadly pastoral character and not just a legal description. Such a realisation from the Synod will have differing results. We can consider three of those areas relevant to the particular church.

### **4.3 Three Areas Affecting the Particular Church**

These three topics relate to the central theme of this work. First, just autonomy finds its descriptive reality within the particular church. This principle, though, can be a two-edged sword. While it protects the internal government and organisation of an institute from unwarranted interference, the institute itself is not immune from change.

Second, works proper to an institute constitute part of the patrimony of an institute. Yet, changing circumstances can put demands on members of institutes and diocesan bishops regarding the capacity of an institute to continue those works. Just autonomy and episcopal authority often interact at this point.

Third, the expansion of consecrated life into apostolic endeavours beyond their original proper works has seen the growth in entrusted works. The common law requires certain safeguards to be incorporated into the written agreements which govern these situations. But, again, we believe that certain elements relating to just autonomy and episcopal authority need to be included in these agreements.

#### 4.3.1 First Tension: Just Autonomy Describes a Relational Reality

Because it is a canonical reality, just autonomy exists today as an accepted fact.<sup>29</sup> Its provision in the CIC/83 confirms that it constitutes a normative element within the structural relationships comprising the ecclesial communion. In addition, its recognition by the legislator ratifies an underlying reality, namely the existence of separate but interconnected tiers of law.<sup>30</sup> When the common law recognises the just autonomy of institutes of consecrated life and societies of apostolic life, it also recognises the juridical capacity of such institutes and societies to legislate within the limits of their own competency. The common law affixes the adjective “just” to autonomy to emphasise that the constitutions, directories, and various general chapter enactments approved by competent authority describe the limits of this competency.<sup>31</sup> So while c. 631, §1 states that it belongs to general chapters to publish norms, that is, legislation not contained within the constitutions, which all members are bound to obey, the foremost duty of general chapters consists in protecting the patrimony of the institute or society. To sum up, then, the just autonomy of institutes and societies constitutes another example of the tolerance of the organic communion of the Church for several legislators.

Within this normative aspect of the multiple tiers of legislation one must take account of the limits of the different legislators. The Roman Pontiff, by virtue of his office, not only has power in the universal Church, but he also possesses a primacy of ordinary power over all the particular churches and groupings of churches (c. 333, §1). In like manner, cc. 590 and 732 determine that institutes of consecrated life and societies

---

<sup>29</sup> This does not detract from the still unresolved situation of the origin of just autonomy. Ghirlanda, as we have seen, maintains that it flows from the nature of the institute. We, in contrast, see it as a juridical consequence of erection as a juridic person.

<sup>30</sup> From another perspective just autonomy as a recognition that multiple levels of law exist within the one communion of the Church comes as no surprise. The general norm of c. 135, §2 recognises higher and lower levels of legislators. This general norm also recognises a hierarchy of the tiers of the legislators' activity for it states that “a legislatore inferiore lex iuri superiori contraria valide ferri nequit.”

<sup>31</sup> In the case of institutes or societies of diocesan right c. 595, §1 states that the diocesan bishop of the principal seat of the institute approves constitutions and confirms changes legitimately introduced into them, except in those matters in which the Apostolic See has intervened. For institutes and societies of pontifical right the CIC/83 states that they are immediately and exclusively subject to the power of the Apostolic See. The competent authority of the Apostolic See is the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life.

of apostolic life and their individual members are subject to the Supreme Pontiff. At another level, the diocesan bishop and those equivalent to him in law, while possessing ordinary, proper, and immediate power, are limited both by the boundaries of the portion of the people of God committed to them and by those cases which the Supreme Pontiff specifically reserves (c. 381, §1). At a further level, c. 631, §1 limits general chapters, and consequently superiors (c. 617), to the preservation of the patrimony of the institute or society and its renewal to the spirit of the institute's character.<sup>32</sup> Accordingly, it seems obvious that a certain overlap will occur as each legislator acts within his sphere of competence.<sup>33</sup> To avoid conflict where these tiers of law intersect, however, the law itself provides various mechanisms, one being just autonomy.<sup>34</sup>

Just autonomy exists so that institutes and societies may enact a discipline in the Church to preserve the patrimony of their institute or society.<sup>35</sup> At the same time that the law requires local ordinaries to safeguard and protect this autonomy (c. 586, §2), it also requires members of consecrated life to adopt a similar stance by their fidelity to the observance of c. 578. Just autonomy exhibits in practice the principle of subsidiarity. It affords institutes and societies the freedom to maintain, protect, and develop the spirit of their institute as it is recognised by the Church.<sup>36</sup> Simultaneously, just autonomy provides not only a protection from unwarranted interference in a sphere of governance

---

<sup>32</sup> Ironically, though, the diocesan bishop may have fewer persons subject to his power than the supreme moderator of some institutes. For instance, the diocesan bishop in most dioceses of the Pacific would have fewer priests subject to his power than the supreme moderator of most clerical institutes or societies of pontifical right.

<sup>33</sup> Among questions that would be useful for a further study we can mention the following. Whether the legislation of a particular church takes priority over the common law? How the primacy of the Supreme Pontiff interacts with the legislative capacity of the diocesan bishop? In this work, we treat of the interconnection between the consequences of proper law and particular law, especially in matters of the apostolate.

<sup>34</sup> Besides the provisions of c. 135, §2, which we have already seen, the CIC/83 uses other mechanisms to avoid conflicts. Canon 678, for instance, describes the areas in which the diocesan bishop has authority over religious in matters of the apostolate.

<sup>35</sup> The purpose of enacting these public juridic persons in the Church which act in the name of the Church consists precisely in this preservation and promotion of the institute. Excessive universal legislation has stifled the individuality of institutes. Such a situation certainly occurred after the promulgation of the CIC/17. See R. McDERMOTT, "Consecrated Life and the *Novus habitus mentis*," pp. 275-276.

<sup>36</sup> Green sees the principle of subsidiarity at work since it allows for an adaptation of church discipline to the diverse peoples and cultures throughout the Church. See T. GREEN, "Rights and Duties of Diocesan Bishops," in *CISA Proceedings*, 45 (1983), p. 19.

proper to the superiors of an institute but also a freedom to enhance what has been perceived as a gift of the Spirit.<sup>37</sup>

Just autonomy, however, does not constitute independence from episcopal authority. Rather, it needs to be harmonised with such authority. In other words, a balancing act takes place in the ecclesial communion between the just autonomy of institutes and the just dependence of institutes on the role of the diocesan bishop in his particular church.<sup>38</sup> *Mutuae relationes*, n. 13 and the *Instrumentum laboris*, n. 81, both assert this principle. The *Instrumentum laboris* states, "Autonomy and dependence are two dimensions relating to all church members and all church institutions." The *Instrumentum laboris* continues to speak of a proper blending of the two dimensions, using the guidance of church laws and achieving their realisation through charity, the soul of the church's communion.<sup>39</sup>

As long as one accepts that just autonomy does not consist in independence, then it follows that just autonomy is also relative. Even according to the CIC/83, autonomy becomes relative by the preceding adjective, "just." Moreover, the nature of the institute determines *a priori* limits to the relationship between the bishop and the institute. CIC/83 recognises that the diocesan bishop can exercise his authority less when the institute is one of pontifical right.<sup>40</sup> In the case of institutes of diocesan right, while the

---

<sup>37</sup> Gray prefers to see the call of the Second Vatican Council to religious as one to "repossess the authentic evangelical and community charisms." Maintenance of the past, he concludes, can imply that the kingdom is already fully possessed. Rather the institute needs to take its founding spirit and apply it to the needs of the present time. See H. GRAY, "The Challenge to Religious Leadership. Maintenance or Mission?" in P. PHILIBERT, (ed.), *Living in the Meantime*, New York, Paulist Press, 1994, pp. 40-41.

<sup>38</sup> J. BONFILS, "Mutuae relationes au Synod sur la vie consacree," in *Informationes*, 21 (1995), p. 180.

<sup>39</sup> "Autonomia et dependentia dimensiones sunt per quas attinguntur omnia Ecclesia membra et institutiones, peculiariter Instituta vitae consecratae. Sed licet inter sese nullatenus opponantur, aequilibrium postulant Ecclesiae legibus fultum et instructum caritate, quae communionis ecclesialis anima est." COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: instrumentum laboris*, n. 81, p. 100.

<sup>40</sup> Canon 593 states that "with due regard for the prescription of c. 586, institutes of pontifical right are immediately and exclusively subject to the power of the Apostolic See in internal governance and discipline." De Paolis states that the patrimony and mission of pontifical right institutes is not contained or exercised in one diocese or under one bishop, but they are still not independent of Church authority. V. DE PAOLIS, *La vita consacrata nella Chiesa*, p. 129. Beyer, however, states that the reference to autonomy is a reminder to the Roman Curia that they must also observe the autonomy of institutes. J. BEYER, *Le droit de la vie*

principle of just autonomy remains in place, the diocesan bishop possesses more influence.<sup>41</sup> So, according to the nature of an institute of consecrated life or a society of apostolic life both the implications and the extent of just autonomy and episcopal authority vary.

The contributions of the participants at the Synod also showed that the existential experience of consecrated life brings about variations in the relationship with the bishop. While the principle of just autonomy may remain intact, external political and cultural forces affect how close or distant this relationship actually appears. The experience of Eastern Europe, for instance, where the particular churches underwent various forms of repression, appears to have produced an apparently more cohesive relationship between the bishop and institutes of consecrated life.<sup>42</sup> The sense of a common foe seems paramount. This can be contrasted with Western views, where the relationship appears more tentative.<sup>43</sup> Here some bishops exhibit a tendency to confirm rather than attempt to direct the consecrated life. Moreover, the African and Asian experience brings to the fore a call that the gospel message be inculturated in those societies, which again

---

*consacree: normes communes*, p. 101. The diocesan bishop, however, has no authority concerning matters of internal governance and discipline. Because the institute is a public juridic person in the diocese, however, the institute is subject to the governance of the diocesan bishop in other areas. In the matter of apostolic works, as we have seen, the bishop can exercise his authority, even over exempt institutes. See W. ONCLIN, "De personalitate morali vel canonica," in *Acta Conventus internationalis canonistarum, Romae diebus 20-25 mai 1968 celebrati*, Citta del Vaticano, Typis Polyglottis Vaticanis, 1970, pp. 154-155.

<sup>41</sup> Canon 594 places an institute of diocesan right under the special care, *sub speciali cura*, of the diocesan bishop. The wording of this canon distinguishes it from c. 492, §2 of CIC/17, which gave the diocesan bishop absolute jurisdiction over the institute. In the present Code the power of the diocesan bishop is neither exclusive nor immediate. His competency is cumulative with that of the Holy See. Moreover, he must respect the internal governance of the institute. He is not regarded as the superior of the institute. His power is external and so he cannot, for instance, usurp the power of superiors and chapters described in c. 596 and unilaterally change the constitutions. Canon 595 sets out the implications of the diocesan bishop's authority in relation to constitutions. See also cc. 609, 616, 678-683. See J. BEYER, *Le droit de la vie consacrée: normes communes*, p. 103 and V. DE PAOLIS, *La vita consacrata nella chiesa*, pp. 130-131. See also S. WOYWOOD, *A Practical Commentary on the Code of Canon Law*, revised by C. SMITH, New York, Joseph F. Wagner, Inc., 1948, Vol. I, p. 207.

<sup>42</sup> See the contributions of Sr. Anna Stara from Belarus, in *L'Osservatore romano*, n. 43, 26 October 1994, pp. 11-12; Bishop Sigitas Tamkevicius of Lithuania, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 14, and Archbishop Tadeusz Gocłowski of Poland, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 15.

<sup>43</sup> See the contributions of Sr. Klara Sietman, in *L'Osservatore romano*, n. 43, 26 October 1994, p. 13; Cardinal Danneels of Belgium, in *L'Osservatore romano*, n. 44, 2 November 1994, p. 8; and Bishop Maximilian Aichern of Austria, in *L'Osservatore romano*, n. 45, 9 November 1994, p. 5.

localises the relationship between bishops and the consecrated life.<sup>44</sup> McDermott comments that the “challenge of inculturation runs counter to the phenomenon prominent in the United States today known as ‘parochial assimilation’ of consecrated life ... [which] refers to the widespread insertion of institutes and their members into the diocesan and parochial structures and positions in the particular churches to the point where the works entrusted to the institutes and/or individual members by diocesan bishops take precedence over the particular charism of the institute and the works inextricably bound up with the institute’s patrimony.”<sup>45</sup> Whatever the individual situations and their variations, one can say that, even if the bishops and the institutes and their members respect the principle of just autonomy, the nature of the relationship stands beyond the capability of the common law to regulate it. Rather the existential reality maintains the tension between episcopal authority and just autonomy in a way that remains beneficial to the individual particular churches. This means that the application of the principle of just autonomy will find its legislative character in particular law. The variations caused by the nature of institutes, their existential cultural and political settings, to say nothing of the personalities of bishops and superiors involved, implies that one will find most practical legislation in particular law rather than in universal law.

The participants at the Synod spoke often of the multiplicity of charisms in consecrated life. *Vita consecrata*, n. 5, states:

The Synod recalled this unceasing work of the Holy Spirit, who in every age shows forth the richness of the practice of the evangelical counsels through the multiplicity of charisms. In this way too he makes ever present in the Church and in the world, in time and space, the mystery of Christ.<sup>46</sup>

The exhortation states that this richness and diversity exist for the building up of the Body of Christ and for the Church’s mission in the world (n. 4). The local church

---

<sup>44</sup> See the contribution of Archbishop Orlando Quevedo of the Philippines, in *L’Osservatore romano*, n. 48, 30 November 1994, p. 11.

<sup>45</sup> R. McDERMOTT, “Consecrated Life and the *Novus habitus mentis*,” p. 285.

<sup>46</sup> “Perpetuam hanc Spiritus Sancti operam memoravit Synodus, qui saeculorum decursu thesauros depromit ipsius observationis consiliorum evangelicorum per multiplices gratias, qua etiam via perpetuo in Ecclesia et orbe terrarum in tempore et spacio praesens reddit Christi mysterium.” JOHN PAUL II, Apostolic Exhortation, *Vita consecrata*, p. 7 (English translation, *Vita consecrata*, p. 9).

constitutes part of the context wherein that richness and diversity exist. The diversity of the milieux of the particular churches can even become a guarantee that the diversity of the consecrated life and the specificity of individual institutes remains preserved. One might even say that the particular church satisfies a need for religious to express the specific character of their institute concretely.<sup>47</sup> Protecting the specific character of each institute, though, still remains part of the bishop's duty, as mandated in c. 586, §2. In the concrete situation, consultation between major superiors and the diocesan bishop, as well as a sense of collaboration in the one mission of the Church and an understanding of the role of both diocesan bishop and consecrated life will find its expression in the agreements reached between the parties.

The mutual relations between bishops and the consecrated life constitute the practical reality of the interface between just autonomy and episcopal authority. Even though each of the official synodal documents spoke about just autonomy, the exhortation mentions it only once. Although twenty-five of the participants at the Synod addressed the topic of mutual relations,<sup>48</sup> that constitutes only about ten per cent of those who spoke. From another point of view a perception may exist that bishops do not menace the consecrated life.<sup>49</sup> Equally, the decline in diocesan clergy and members of consecrated life in the Western countries, matched by the growing involvement of the laity, makes both bishops and major superiors wary of alienating one another resulting in further losses of personnel or, at least, creating more difficulty in continuing to maintain what already exists in the apostolate. In the long run, however, the success of balancing the just autonomy of institutes with the just authority of the diocesan bishop remains a

---

<sup>47</sup> Galante, a bishop in the USA, expresses the need he feels as a diocesan bishop to have religious, in this case the Franciscans, bring to his diocese the spirituality of their institute. The perceived need that he sees for his diocese is not "parochial assimilation," but rather the enriching of his diocese with the concrete expression of the Franciscan spirituality. But he also points to the juridical realities of shared responsibility and clarity in his purpose for inviting the Franciscans to come to his diocese. Galante expresses the concern to portray the specific character of the Franciscans in his diocese without the danger of destroying that specificity for the sake of parochial needs within the diocese. See J. GALANTE, "The Relationship of the Diocesan Bishop and Institutes of Pontifical Right," in *CLSA Proceedings*, 56 (1994), pp. 90-96.

<sup>48</sup> See R. MCDERMOTT, "The Ninth Ordinary Session of the Synod of Bishops. Four Moments and Six Canonical Issues," p. 292.

<sup>49</sup> B. MALVAUX, *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata,"* p. 183.

tension that will find a solution in the life of the particular churches themselves. Although propositions 29 and 34 of the Synod called for either a new edition of *Mutuae relationes* or a new document to speak about the relations between bishops, consecrated life, and the laity, one can interpret the fact that the exhortation remains silent on these issues as a sign that even the Roman authorities consider that suitable arrangements, made in the particular church, will deal properly with the matter. Such localised legislative activity more aptly reflects an on-going acceptance of the principle of subsidiarity.<sup>50</sup>

At times within the relationship the dividing line between isolationism and collaboration becomes as indistinct as that between interventionism and co-responsibility. Hence, the confluence of just autonomy and episcopal authority will create a tension. This tension can become itself the agenda for dialogue. The Synod emphasised mutuality and collaboration. These principles act as a bridge between the diocesan bishop and the consecrated life, but they necessarily remain relative to the particular situation. Thus the relationship will continue to appear more varied depending upon the changing circumstances of the consecrated life and the exigencies of the particular church. So, while the normative principle of just autonomy remains unchallenged, its developing existential description will continue to prevent a total definition regarding the nature of just autonomy.<sup>51</sup>

#### 4.3.2 Second Tension: The Changing Face of Works Proper to an Institute

Canon 587 presents an important and fundamental canon in understanding the uniqueness of an institute of consecrated life or society of apostolic life. The canon states:

---

<sup>50</sup> Gottemoeller comments on the legislative status of the exhortation, for instance, when she says, "Since its function is exhortatory, *Vita consecrata* does not contain any new legislation. In a few places it refers to the need for new legislation or *for a more culturally sensitive interpretation of existing norms*. [Emphasis added]. "*Vita consecrata: The Exhortation on Consecrated Life*," p. 215.

<sup>51</sup> We can see this as a corollary of the wish of the *coetus* drawing up this section of the Code to present general principles which find more detail in proper and particular law. See *Communications*, 1 (1969), pp. 77-85.

The intention of the founders and their determination concerning the nature, purpose, spirit and character of the institute which have been ratified by competent ecclesiastical authority as well as its wholesome traditions, all of which constitute the patrimony of the institute itself, are to be observed faithfully by all.<sup>52</sup>

In this description two terms possess an importance for our present question. First, Sweeney describes the purpose, *finem*, of an institute as “what an institute intends to achieve in and through its members and structures.” Again, “the purpose of an institute contributes to its identity and individuality and determines structures and modes of action.”<sup>53</sup> The apostolic works proper to an institute, therefore, flow from the patrimony of the institute. Furthermore, when the members of the institute heed the missionary call of the Church, these modes of action become expressions of the inner reality of the institute, which the competent authority views as a gift of the Holy Spirit, intimately belonging to the life and holiness of the Church.<sup>54</sup>

Second, the word, spirit or *spiritum*, approaches the sense of the term charism, which does not appear in the Code. While “spirit” possesses an indefinable quality, reflective of its origin in the work of the Holy Spirit, it tells of the formative action which inspires, nurtures, and pervades the whole life of an institute. “Spirit contributes the definite and individual quality to the nature, purpose, and apostolic works proper to an institute.”<sup>55</sup> In this way, the apostolate of an institute, that is, the works that flow from its patrimony, manifests the spirit of the institute and the spirituality of the members.<sup>56</sup>

---

<sup>52</sup> C 578 states, “Fundatorum mens atque proposita a competenti auctoritate ecclesiastica sancita circa naturam, finem, spiritum et indolem instituti, necnon eius sanae traditiones, quae omnia patrimonium eiusdem instituti constituunt, ab omnibus fideliter servanda sunt.” The CIC/83 intimately links this canon with c. 587 which dictates that in order to protect the particular vocation and identity of each institute, there is to be a written account of its constitutions in which the spiritual and juridical elements are to be suitably joined. Other norms established by the competent authority of the institute are to be recorded as well. This second canon becomes important, as we have stated before, because it provides the means of substantiating any claims regarding proper works of the institute

<sup>53</sup> B. SWEENEY, *The Patrimony of an Institute in the Code of Canon Law. A Study of Canon 578*, p. 166.

<sup>54</sup> LG art. 44 and VC n. 3

<sup>55</sup> B. SWEENEY, *The Patrimony of an Institute in the Code of Canon Law. A Study of Canon 578*, p. 166.

<sup>56</sup> Kallumkal maintains that “spirit” and “spirituality” are not the same. “[Spirit] is something that permeates the life and action of the members of an institute. Spirituality is one’s mode of relating to God through Christ and the particular style of life with which one relates to the cosmic realities and to other human beings in the concrete situation of one’s life.” J. KALLUMKAL, *The Patrimony of an Institute According to the*

In addition, the performance of the works strengthens and gives form to the spirituality. Apostolic works proper to an institute, then, constitute a necessary part of the life of the institute.

*Vita consecrata* makes frequent reference to fidelity to the founding charism and spirit of an institute by its members.<sup>57</sup> The exhortation considers that such fidelity preserves the institute itself (n. 36), deepens the spirituality of the individual members (n. 36), and opens them to the mission of the Church (nn. 49, 109).<sup>58</sup> The existential reality of this fidelity to the spirit and works proper to the institute, however, finds its expression in the particular church.

Within the particular church, c. 586, §2 requires that the local ordinary safeguard and protect the just autonomy of the institutes of consecrated life and societies of apostolic life within the diocese. In effect, the canon binds the diocesan bishop, the vicar general, and the other episcopal vicars to protect the specific nature of each institute and society within the diocese. Accordingly, the fidelity required of the members of the consecrated life to their institute is balanced by the duty of the diocesan bishop to see that persons and circumstances under his control do not hinder the capacity to maintain that fidelity, even when it involves matters of the apostolate within the diocese. Mutual respect for the differing roles and positions within the ecclesiastical structure means that

---

*Code of Canon Law*, Doctoral thesis, Romae. Pontificia Università Lateranense, p. 172. Nguyen Dan, on the other hand, sees the intimate link between the two. For him, the spirit of the founder becomes the spirit of the institute, which in turn, informs the spirituality of the individual members. P. NGUYEN DAN, *The Spiritual Patrimony of an Institute of Consecrated Life*, Doctoral thesis, Romae, Pontificia Universitas Urbaniana, 1989, pp. 65-66. See also E. GAMBARI, *Religious Life According to Vatican II and the New Code of Canon Law*, translated by the Daughters of St. Paul, Boston, St. Paul Editions, 1986, pp. 56-57.

<sup>57</sup> McDermott describes the duty of members of institutes in such a way that it acts as a description of this fidelity. She says, "Each member of an institute of consecrated life bears a weighty responsibility to witness and communicate the gift proper to the institute to their own brothers or sisters as well as to the other members of the Church and society." R. MCDERMOTT, "Consecrated Life and the *Novus habitus mentis*," p. 277.

<sup>58</sup> Canon 677, §1 gives juridic import to this call when it mandates that "superiors and members are faithfully to retain the mission and works proper to the institute; nevertheless they are to accommodate these prudently to the needs of times and places, including the use of new and appropriate means."

dialogue, collaboration, a sense of co-responsibility, and cooperation characterise the integration process of proper works into the overall mission of any particular church.

Even so, no right exists which allows the members of consecrated life to begin to perform their proper works in a diocese without some reference to the diocesan bishop. Canon 609, §1 states that "houses of a religious institute are erected by the competent authority according to the constitutions with the previous written consent of the diocesan bishop."<sup>59</sup> Canon 611, 2<sup>o</sup> mandates that, once the institute gains consent of the diocesan bishop to erect a religious house within the diocese, then this consent grants the right to exercise the works proper to the institute according to the norm of law, with due regard for any condition attached to the consent.<sup>60</sup> The matter now becomes one of an acquired right. Furthermore, since works proper to the institute flow from the character of the institute, they remain under the protection of the just autonomy of life recognised by the law. The bishop, however, may make their exercise within the existential situation of the particular church the subject of some condition when erecting the house.<sup>61</sup> But it does not follow that he can completely mitigate the exercise of those works proper to the institute in favour of some other type of work.<sup>62</sup> Nor does it follow that he can unilaterally change the original agreement conjoined at the time of erection of the house.<sup>63</sup> While these two canons mention the diocesan bishop's consent, one should also note that, since the matter involves the apostolate of religious, "it is necessary that

---

<sup>59</sup> C 609, §1 states. "Instituti religiosi domum eriguntur ab auctoritate competenti iuxta constitutiones, praevio Episcopi dioecesanii consensu in scriptis dato." C 733, §1, the parallel canon applicable to societies of apostolic life, adds two further elements. It states that not only is the house erected but a local community is established by the competent authority with the prior written consent of the diocesan bishop. It also states that he must be consulted for its suppression, which finds its parallel in c. 616, §1.

<sup>60</sup> C 611, 2<sup>o</sup> states. "Consensus Episcopi dioecesanii ad erigendam domum religiosam alicuius instituti secumfert ius: ... opera instituto propria exercendi ad normam iuris, salvis condicionibus in consensu appositis."

<sup>61</sup> For instance, c. 806, §1 permits the bishop to arrange, *inter alia*, for the geographic disposition of schools within his diocese. He may direct that an institute coming into his diocese for the purpose of conducting a school do so in a certain area, rather than another area preferred by the competent authority of the institute.

<sup>62</sup> In the case of clerical religious, for instance, the bishop cannot forbid the exercise of the priestly ministry, except in accordance with the law. Nor can he direct that all religious must teach in the diocesan schools.

<sup>63</sup> The original consent involved an action of the part of the major superior, whether that was presentation or accepting a request from the bishop, and an action on the part of the bishop, his written consent. The same two persons must be involved in any changes to the original agreement.

diocesan bishops and religious superiors proceed after consultation with each other.<sup>64</sup> Accordingly, the erection of a house and the subsequent right to undertake works proper to the institute involve an exercise of the dual competencies of diocesan bishop and religious superior. Both represent juridic persons.

Canon 612 makes a distinction between changes of apostolate and changes referring only to internal government and discipline. In the latter case the diocesan bishop must observe the protection afforded by just autonomy.<sup>65</sup> Changes in the apostolate, however, are equivalent to a new foundation and require the consent of the diocesan bishop.<sup>66</sup>

Several tensions exist in this area of establishment. First, the description of proper works in the constitutions is often general and non-specific. While such generality allows the institute to adapt to changing needs as the years and circumstances pass, it also possesses the potential for later problems.<sup>67</sup> It becomes important for

---

<sup>64</sup> C 678, §3 states, "In operibus apostolatus religiosorum ordinandis Episcopi dioecesani et Superiores religiosi collatis consiliis procedant oportet." For either to proceed without such consultation would be in violation of c 127. See J. HITE, "Mutual Rights and Obligations of Bishops and Major Superiors Regarding Public Ministry," in *Bulletin on Issues of Religious Law*, 14 (1997), p. 2.

<sup>65</sup> Such a change could be from a novitiate to a home for aged members of the institute. This constitutes an internal matter and does not require the consent of the diocesan bishop.

<sup>66</sup> C 612 states, "Ut domus religiosa ad opera apostolica destinetur diversa ab illis pro quibus constituta est, requiritur consensus Episcopi dioecesani, non vero, si agatur de conversione, quae, salvis foundationis legibus, ad internum regimen et disciplinam dumtaxat referatur." Modde states that this consent is only required when there is a major change in the purpose for which the house was established, for example, converting a school to a retreat house. M. MODDE, "Religious Houses and Governance: Canons 607-633," in J. HITE, S. HOLLAND, and D. WARD, (eds.), *A Handbook on Canons 573-746*, p. 69. We suggest that the determination of "substantial" may differ in the minds of the religious superior and the bishop. For instance, changing the nature of the school from a single sex school to a co-educational school constitutes a substantial change even if the institution remains a school. It would seem that to avoid disputes prior notice and consultation become useful tools in this situation. See J. HITE, "Mutual Rights and Obligations of Bishops and Major Superiors Regarding Public Ministry," p. 2.

<sup>67</sup> For instance, the Constitutions of the Sisters of Saint Joseph of the Sacred Heart, founded in Australia by Blessed Mary McKillop, state, "We serve in a variety of ministries of being and presence, of suffering and healing, of educating and caring." SISTERS OF SAINT JOSEPH OF THE SACRED HEART, *Constitutions*, [North Sydney, 1986?], p. 4. In the *Traditions and Practices*, we read, "Traditional emphases that still characterise our ministries are desire to work for the poor and neglected, involvement in the local church, loyalty and support for the priesthood, willingness to give way to others in our works, availability to serve in remote areas, and readiness to work in and through our weakness and frailty with trust in our dependence on God." SISTERS OF SAINT JOSEPH OF THE SACRED HEART, *Traditions and Practices*, p. 1. One can legitimately ask

bishops and their staff involved in the negotiations for establishing a house to read and understand the constitutions of the institute involved. First, the description of what exactly constitutes the proper works in a given situation needs to be clear. Second, the written consent should clearly specify for both parties exactly the extent, nature, and even the process to terminate such works within the diocese.<sup>68</sup> In short, the negotiations to erect a religious house once again involve balancing just autonomy, which flows to the proper works,<sup>69</sup> and episcopal authority.<sup>70</sup>

The *FORUS* study by Nygren and Ukeritis states in the executive summary that, "Many religious have migrated to the periphery of their congregation, often living lives that reflect significant ministerial contributions but which have little to do with their congregations or religious life."<sup>71</sup> J. Hite also points out that, "In our time the living arrangements for religious may not be in an 'erected religious house' and therefore Canon 611 may not apply."<sup>72</sup>

This situation then raises a second tension. In some cases the occupants of the house, or unit, in question reside there with the permission of their superior, but without the intervention of the diocesan bishop. The house itself, then, has not been canonically established.<sup>73</sup> Therefore, any works performed by these members are not covered by c.

whether every possible apostolic work might be encompassed by such generalities. Further investigation of the healthy traditions of the sisters' history shows involvement in classroom teaching and hospitals.

<sup>68</sup> J. HITE, "Mutual Rights and Obligations of Bishops and Major Superiors Regarding Public Ministry," p. 2. McDermott states that some bishops do not understand what exactly constitutes the proper works of a particular institute and, second, that, unless limitations have been placed, the consent gives the religious institute rights to carry out works proper to the institute. Such lack of knowledge can lead to future tensions. See R. MCDERMOTT, "Consecrated Life and the *Novus habitus mentis*," p. 274

<sup>69</sup> C. 586, §1 speaks of just autonomy of life. Since works proper to the institute express the inner life of the institute, then just autonomy applies to them.

<sup>70</sup> Gottemoeller describes another situation where religious have difficulty "in finding employment which is an expression of their congregation's charism and mission and which brings in sufficient remuneration. The result is a kind of scattering of the membership, which diffuses corporate identity and mission." D. GOTTEMOELLER, "*Vita consecrata*: The Exhortation on Consecrated Life," p. 225.

<sup>71</sup> D. NYGREN and M. UKERITIS, "Future of Religious Orders in the United States," in *Origins*, 22 (1992-1993), p. 271

<sup>72</sup> J. HITE, "Mutual Rights and Obligations of Bishops and Major Superiors Regarding Public Ministry," p. 2.

<sup>73</sup> Perhaps an argument can be put forth that custom is able to establish a juridic person independently of the intervention of the bishop. This matter, though, is beyond the scope of this work.

611. Even if they assume the same form as the proper works of the institute, just autonomy does not apply to them. The law guarantees the right to exercise proper works to the canonically established house only.<sup>74</sup> It does not give individual members of an institute this right independently of the house. In such cases the diocesan bishop does not contravene the just autonomy if he requires that the members of the consecrated life cease their exercise of the apostolate from a house not canonically established.<sup>75</sup> The bishop, however, would breach the just autonomy if he unilaterally tried to remove the members from such a house. Since residence of members of an institute constitutes an internal matter, the appropriate religious superior possesses the right to make that change. At best the bishop can only make his feeling felt to the appropriate religious superior. But he cannot usurp the authority of the religious superior.

Besides issues concerning the establishment of houses, another tension also can exist. With the passage of time, the original apostolate, or its method of implementation, necessarily changes. In some cases, when religious superiors or diocesan bishops recognise this change early, negotiations between them produce changes more suitable to the present times.

In other cases, changes are more subtle and incremental. Years ago a specific apostolic purpose motivated the canonical erection of certain houses. But the understanding of those proper works in that concrete context occurred many years in the

---

<sup>74</sup> In the case of members of the consecrated life who separate themselves from their community to live independently, the law provides no guarantee that what they do is protected by the right contained in c. 611, §2.

<sup>75</sup> According to Khoury, the intent of c. 611 is to protect the patrimony of the institute and to defend it against possible deviations. See J. KHOURY, *Vie consacrée (essai de commentaire des canons 573-709)*, Rome: s.n., 1984, p. 120. Hence, c. 611, §2 includes the words, *ad normam iuris*. Modde interprets this as the proper law of the institute. See M. M. MODDE, "Religious houses and Governance Canons 607-633," p. 68. So two conditions need to be addressed. First, the works must be in accord with the proper law of the institute. Second, those restrictions imposed by the bishop are to be observed. More importantly the canon sets up a relationship between an institute, a religious house, and the particular church through the diocesan bishop. The erection of the house provides the point at which the communion between diocesan bishop and the consecrated life becomes visible yet again. See *Christus Dominus* art. 35, *Ecclesiae sanctae* n. 29, and *Perfectae caritatis* art. 20. Since 1965, the members of the consecrated life are to be in communion with the local bishop in the exercise of the apostolate. The canonical establishment of a *domus* constitutes the way that institutes bring their proper works to the diocese.

past so that the present diocesan bishop and major superior have never discussed the subject.<sup>76</sup> Furthermore, changes brought about by the decline in vocations, the number of resignations, and the aging of the incumbent population sometimes means that few, if any, members in the house now engage in the work originally purposed in the consent of the bishop. The problem becomes further complicated when institutes, with the consent of the bishop at the time, established institutions in which to perform the work. Their labours brought many hospitals, schools, convalescent homes, retreat houses, orphanages, and other institutions into being. In many cases the institute sought and gained ownership of the institution. M. Knittel describes one consequence of this when she says, "These places, these institutions, became the symbolic body of our corporate identity within the church and the symbolic immortality within our destinies."<sup>77</sup> The life of the institute became so identified with the life of the institution that for some members change or closure of the institution signals to them the death of the institute.<sup>78</sup> Still, the present situation differs vastly from what existed when the original consent was given.

By way of a practical example, when the bishop originally gave his consent for the erection of a certain house some sixty years ago, teaching in the neighbouring school constituted the purpose for his consent. This apostolate resonated with the description in the constitutions, which stated that the education of the young comprised part of the institute's proper apostolate. The members of the institute living in the house grew fewer in number and older in age, so that they were incapable of fulfilling the role of teacher in the class-room. Some members of the house became involved in other apostolates away from the school. Gradually, a change took place. The original staff consisted entirely of professed members of the institute in the beginning, now non-professed laity comprise

---

<sup>76</sup> J. HITE, "Mutual Rights and Obligations of Bishops and Major Superiors Regarding Public Ministry," p. 2.

<sup>77</sup> M. KNITTEL, "Corporate Sponsorship The 1990's and the Fruits of Our Lives," in *Review for Religious*, 54 (1995), p. 501.

<sup>78</sup> Austin makes the valid point, however, that a distinction needs to be made between apostolic works and the material resources used to accomplish the apostolic work. "There is no necessary connection between ownership of real property and the proper apostolic work." R. AUSTIN, "Catholic Schools of Religious Institutes and Canons 805-806," in *Canon Law Society of Australia and New Zealand Newsletter*, 1996, p. 11. Indeed, ES I, 29 (1), expressly mentions the case of proper works performed in places which are not owned but only leased. Yet, Knittel's remarks show that for many religious the departure from institutions precipitates a psychological problem rather than a canonical one

the present staff.<sup>79</sup> Thus, after sixty years, the visible presence of the institute can only be seen in the one member who occupies a position on the school council or board.

In the beginning, by teaching in the school, the members of the institute fulfilled the apostolate proper to their institute. They brought the spirit of the institute into the class-room and often passed it on to the pupils. Each member acted in fidelity to the institute through teaching. Since the members no longer teach, now there appears little to distinguish the school and its ethos from other Catholic schools in the diocese. The institution of the school has been preserved, but its relationship to the institute has changed in character.

A series of questions thus arises: 1) What are the constitutive elements of works proper to an institute? 2) Does performance of the works proper to an institute by the members of the institute itself form a constitutive element of proper works? 3) Since the spirit of an institute and the work proper to an institute bear a necessary relationship to each other, what becomes of the work when the spirit is no longer a visible part of the work? 4) While the apostolate of an institute can be performed by persons other than members of an institute, can the work so performed be canonically identified as a proper work? 5) Can the diocesan bishop, in the situation described above, take action to assume the work as a diocesan enterprise without interfering with the autonomy of the institute?

---

<sup>79</sup> This process of "laification" has taken place in many spheres. The staff in Catholic hospitals, orphanages, and convalescent homes, as well as schools, has become predominantly lay. This growth has paralleled the growth of the term "sponsorship." Its use in the literature has not been univocal. Sr. Concilia Moran, RSM, originally used the following definition in 1978, "Sponsorship consists of the support of, influence on, and responsibility for a project, program or institution which furthers the goals of the sponsoring group ... Sponsorship further implies that the sponsoring group is publicly identified with the project, program or institution, and makes certain resources available to them." This quotation is taken from the following article, M. GRANT, "Sponsorship Challenge: Influence through Governance," in *Health Progress*, 67 (1986), No. 7, pp. 37-38. See also A. MAIDA and N. CAFARDI, *Church Property, Church Finances, and Church-related Corporations: A Canon Law Handbook*. St. Louis, MO., Catholic Health Association of the United States, 1984, pp. 213-214 and pp. 304-305. In other cases authors use it to focus on the continuity of the institution as in the continuity of the hospital by a lay group, whether religious are involved or not. In essence it means a change in the juridic person who controls the institution. See L. O'CONNELL, "Responding to the Needs of the Times," in *Health Progress*, 67 (1986), No. 7, p. 33.

The last question has implications for the relationship between just autonomy and episcopal authority. The CIC/83 recognises proper and entrusted works only, so if, indeed, these latter works change their canonical status from proper works, then, they cease to possess the protection afforded by the just autonomy. Consequently, the diocesan bishop can exercise more of his authority concerning the existence and execution of these works.

Works proper to an institute possess certain constitutive elements. First, these works flow from the nature of the institute as established by the founder and approved by the competent authority.<sup>80</sup> Second, they are described, at least generically, in the constitutions, rules, and statutes, of the institute as part of the apostolate proper to the institute, c. 587.<sup>81</sup> Third, while the spirit of the institute animates the work, the work itself becomes an expression of the spirituality of the individual members.<sup>82</sup> That is to say, the performance of proper works necessitates the presence of the spirit of the institute informing the spirituality of the individual member. Otherwise, while still remaining a work of the Church, it does not bear the distinctiveness of the institute.

An institute, however, means members. *Renovationis causam*, n. 5, refers to the distinctive nature of the vocation and apostolate of consecrated life. This instruction contrasts this vocation and that of secular institutes and the laity when it says:

There is a diversity of gifts. For this reason each one must stand firm in the vocation to which he has been called, since the mission of those called to the

---

<sup>80</sup> It must be noted that in some cases the apostolic works envisaged by the founder or foundress may be now either incapable of execution or inappropriate. But, the *sanctae traditiones* may have already legitimately led the institute beyond the original purpose. PC 20 states, “[Institutes] should employ appropriate and even new means, rejecting those which nowadays are less suited to the spirit and native genius of their institute.” PC 20, English translation in FLANNERY, p. 622. HILL describes a foundation of the education of daughters of the aristocracy being changed to education of the young. R. HILL, “The Apostolate of Institutes,” p. 203. It should further be noted that the proper works are not just works of the institute. By virtue of the erection of the institute, these works become works of the Church.

<sup>81</sup> Hill considers these the only two constitutive elements to describe proper works. See R. HILL, “The Apostolate of Institutes,” p. 204.

<sup>82</sup> Ghirlanda maintains that both the apostolate and proper works of the institute are strictly linked to the spirit of the institute. See G. GHIRLANDA, *Il diritto nella chiesa, mistero di comunione: compendio di diritto ecclesiale*, Milano, Edizioni Paoline, p. 179.

religious state in the Church is one thing; the mission of secular institutes is another thing; the temporal and apostolic mission of the laity not especially consecrated to God in an institute, is quite another.<sup>83</sup>

Again, official documents from the Second Vatican Council to the present time continually exhort those in consecrated life to remain faithful to the character of their institute. The works proper to the institute form part of the character of the institute. *Vita consecrata* not only ties this fidelity to the spiritual heritage of the institute, but it also states that the performance of the works proper to the institute constitutes a primary way in which the individual member fulfils his or her call to holiness.<sup>84</sup> Therefore, performance of works proper to the institute grounds the institute existentially, and such works, done in the name of the Church, belong properly to the members of an institute. Thus, since these works flow from the nature of the institute, since they are a primary means for the sanctification of the members of the institute, and since the action they entail continues the existence of the institute, the members of an institute should ordinarily perform these works.

While it seems necessary for a member of the institute to perform the works proper to the institute, the problem remains, however, as to whether the performance by members of the institute exists as a constitutive factor in these works. The question does not concern the work itself, but whether it retains the status of a proper work when performed by someone other than a member of the institute.

---

<sup>83</sup> "Diversa sunt enim dona qua de causa unusquisque vocationi sibimet ipsi attributae inhaereat, siquidem aliud est munus eorum, qui ad statum religiosum in Ecclesia sunt vocati, aliud munus Institutorum saecularium, aliud denique munus temporale et apostolicum laicorum, qui peculiari ratione in aliquo Instituto Deo dicati non sunt." CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, Instruction, *Renovationis causam*, 6 January 1969, n. 5, in *AAS*, 61 (1969), p. 109, (English translation, *The Renewal of Religious Formation*, in *TPS*, 14 [1969], p. 68)

<sup>84</sup> See VC nn. 37, 103. The Congregation for Religious and secular Institutes has expressed this notion previously in its 1983 letter to the Bishops of the USA. It said, "The individual Religious finds his or her personal apostolic work within the ecclesial mission of the institute." CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, Letter to the Bishops of the United States, *Essential Elements in the Church's Teaching on Religious Life as Applied to Institutes Dedicated to Works of the Apostolate*, [= *Essential Elements*], 31 May 1983, in *TPS*, 28 (1983), p. 313

*Ecclesiae sanctae* 1, 29 (1) and (2) draws the distinction between proper works and entrusted works. Although this document speaks of “works carried on in the houses of an institute, even in houses which are leased” as proper works, it seems to presume that members of the institute will perform the works. The 1969 statement by the Sacred Congregation for the Evangelisation of Peoples, however, lays emphasis on works founded by the institute itself.<sup>85</sup> This confirms the understanding that the institute possesses the right to perform works which flow from its nature. But the 1983 letter of the Congregation for Religious and Secular Institutes says clearly that the mission undertaken by an institute

is undertaken as a community responsibility. It is *to the institute as a whole* that the Church commits that sharing in the mission of Christ which characterises it and which is expressed in works inspired by the founding charism. This corporate mission does not mean that all the members of the institute are doing the same thing or that the gifts and qualities of the individual are not respected. It does mean that the works of all the members are directly related to the common apostolate, which the Church has recognised as expressing concretely the purpose of the institute.<sup>86</sup>

In other words, the Church commits the proper works to the institute as a public juridic person, that is to the corporate personality. This means that the proper work exists as a function of the public juridic person.<sup>87</sup> The public juridic person controls and exercises control over the proper works. The members of an institute, therefore, possess a duty to perform the proper works committed to them by the competent authority.

On the other hand, *Ecclesiae sanctae*, 1, 29 (1) states that superiors of the institute “shall carry out their task of ruling them (proper works) and directing them in

---

<sup>85</sup> SACRED CONGREGATION FOR THE EVANGELISATION OF NATIONS, *Suggested Forms of Contract in Mission Territories between Residential Bishops, or Other Local Ordinaries, and Missionary Institutes*, 1969, in *CLD*, Vol 7, p. 859.

<sup>86</sup> *Essential Elements*, p. 312. (Emphasis added.)

<sup>87</sup> So, since the superior acts in the name of the public juridic person, the matter of personnel placement remains protected by the just autonomy of governance. As such, because the work itself exists independently of individual members of the institute, it means that the religious superior can change periodically the personnel who are involved in the work, vary the numbers of members assigned to the work, and determine the length of appointment to the work without reference to the local ordinary.

accordance with the constitutions.<sup>88</sup> If the constitutions and later enactments of the general chapter do not prohibit the involvement of persons other than members of the institute in the proper works of the institute, then, provided that the institute retains control of the work and the character of the institute retains its distinctive integrity, the public juridic person can be said to perform the work.

Canon 120, §2 becomes important in this regard. It states:

If even one member of a collegial juridic person survives, and the aggregate of persons has not ceased to exist according to its statutes, the exercise of all of the rights devolves upon that one member.<sup>89</sup>

Theoretically, then, unless the constitutions provide otherwise,<sup>90</sup> if an institute should shrink to one member, this person acts as the juridic person. The person would retain the right to exercise the proper works of the institute by himself/herself, or with or through another provided control remains with the institute.

Thus performance of the proper work by members of the institute does not constitute a constitutive element of the work itself. Rather, the key issue remains the preservation of the patrimony of the institute by the members of the public juridic person. Therefore, maintaining direct or indirect control<sup>91</sup> of the proper work so that the

---

<sup>88</sup> This same prescription forms the directive in c 617 "Superiores suum munus adimpleant suamque potestatem exercent ad normam iuris universalis et proprii."

<sup>89</sup> The Latin text states, "Si vel unum ex personae iuridicae collegialis membris supersit, et personarum universitas secundum statuta esse non desierit, exercitium omnium iurium universitatis illi membro competit."

<sup>90</sup> The Holy See, through the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life will usually intervene before the institute has reached such a low number of members. It will make provision for the course that the institute follows, be it a merger with another institute or even closure of the institute.

<sup>91</sup> Morrissey provides a number of canonical criteria with which to test the "catholicity" of an institution. Among these are direction by an ecclesiastical authority, canonical establishment, and "direct" or "indirect" control. In the school environment, a member of the institute who is also the principal of the school is one example of an institute exercising direct control. If the competent authority of the institute appoints another person as principal the authority still retains control by the power of the appointment, but the control of the day-to-day running of the school is now only indirect. See F. MORRISSEY, "What Makes an Institution 'Catholic'?" in *The Jurist*, 47 (1987), pp. 535 - 540. See also B. DUNN, *Sponsorship of Catholic Institutions, Particularly Healthcare Institutions, by the Sisters of Providence in the Western United States*, Doctoral thesis, Ottawa, Saint Paul University, 1995, pp. 147 - 152.

distinctive features of the institute within the work is the constitutive element, not the performance of the work by individual members of the institute.<sup>92</sup>

To safeguard this distinctiveness, Pope John Paul II, in *Vita consecrata*, n. 56, advises institutes that sharing the works of the institute with associate members and lay volunteers "should always be done in such a way that the identity of the Institute in its internal life is not harmed."<sup>93</sup> The Pope states that institutes will achieve this by providing proper formation.<sup>94</sup> Therefore, a difference exists between non-members of an institute who engage in the work of the institute with such formation and those who do not possess such formation.<sup>95</sup> Without such programs in place, one can ask whether the institute causes damage and loss to the institute even though it preserves the work of the institution.<sup>96</sup> Yet, even without this formation, canonically, the work remains a proper work as long as the public juridic person maintains such control and influence<sup>97</sup> that the ends of the institute are in evidence.

<sup>92</sup> In *Vita consecrata*, Pope John Paul II identifies these two criteria when he says, "Moreover, it should be borne in mind that initiatives involving lay persons at the decision-making level, in order to be considered the work of a specific Institute, must promote the ends of that Institute and be carried out under its responsibility." *Vita consecrata*, n. 56, p. 95

<sup>93</sup> "vitae interioris eius intrinseca peculiaritas nihil patiatur detrimenti." JOHN PAUL II, Apostolic Exhortation, *Vita consecrata*, n. 56, p. 64. English translation in *Vita consecrata*, p. 95.

<sup>94</sup> The spirituality of the institute constitutes a part of that formation as stated in the *Instrumentum laboris*, n. 98, which spoke about priests and laity who share the spirituality of an institute and cooperate in its mission.

<sup>95</sup> McDermott states, "Many institutes in the wake of the vocation shortage and the increasing numbers of aging members have employed the talents and efforts of their members to form and prepare lay men and women to take responsibility in their many sponsored institutions." In the same article she asserts that, "persons who are employed in institutions sponsored by some institutes are instructed in the charism and its implications for the particular apostolate." R. McDERMOTT, "Consecrated Life and the *Novus habitus mentis*," pp. 273 and 277. It seems that these act as purposeful exercises to maintain the control and influence the work with the distinctive features of the institute.

<sup>96</sup> We are not speaking here about a concern to preserve a work as a Catholic work, but rather the concern to continue to express the distinctiveness of the institute's proper work. In deciding what are "Catholic works," as opposed to a "works of Catholics" Provost notes that juridic bond to the Church or a bishop's recognition are essential elements. See J. PROVOST, "The Canonical Aspects of Catholic Identity in the Light of *Ex corde Ecclesiae*," in *Studia canonica*, 25 (1991), pp. 168-172. In trying to identify the works proper to an institute, though, more seems required than to identify them as "Catholic works." The distinctive element consists in the identification of the work to the patrimony of the institute.

<sup>97</sup> Grant identifies control with the "reservation of powers, as required by canon law for the administration of church property. Influencing direction and decisions has proved a more complex and challenging dimension of sponsorship." M. GRANT, "Sponsorship Challenge: Influence through Governance," p. 38. Gallin speaks of "influence" and indirect control stating that ways must be devised that promote a corporate leadership that do not intrude into governing authority yet profoundly affect it. See A. GALLIN, "Lay-Religious Partnership Needed in Higher Education," in *Health Progress*, 67 (1986), No. 7, p. 57. We

The focal point to challenge a change in the status of an apostolic work does not consist in simply noting the lack of members of the institute involved in the enterprise. Rather, when the Church commends a work to the institute, the institute makes it its own proper work, setting about to control and influence its mission environment. So the focus of the tension is not the lack of members, but whether the institute still maintains its control and influence over the work.

Logically, the work proper to an institute constitutes a smaller group than a work done in the name of the Church. So while a work may remain "Catholic" in nature,<sup>98</sup> we see it as still conceivable that the same work could cease to exhibit the spirit of the institute. If this becomes so, the question can be legitimately asked whether the work can still claim the status of a proper work of the institute.<sup>99</sup> Since the Council, the Church has placed so much emphasis on the distinctiveness of institutes, that reducing their proper works to simply apostolic function seems to run counter to the theological richness that has evolved since the Council. The question of necessarily identifying the spirit of each institute in its proper works remains open-ended, and perhaps the future will see more development in this area.

Canon 678, §3 demands that in directing the apostolic works of religious, diocesan bishops and religious superiors must proceed by way of mutual consultation.

---

maintain that the patrimony of the institute, including its spirit, becomes the concrete expression of this influence.

<sup>98</sup> We have already noted, in footnote 36, that Morrissey sets out various canonical criteria to ensure the catholicity of an institution. Grant also describes the same situation, setting out five items under the title of reserved powers. They consist of: 1) To establish the philosophy, 2) To approve the articles and by-laws, 3) To ratify or approve the trustees, 4) To buy, sell, or encumber real estate, and 5) To merge or dissolve the corporation. M. GRANT, "Sponsorship Challenge: Influence through Governance," p. 38. Morrissey refines these elements in regard to a hospital entrusted by a bishop to a religious institute. He requires special statutes which contain treatment of "medical-moral issues, adherence to Catholic teaching, the right of visitation and other areas named in the law." See F. MORRISSEY, "Juridic Status: Canonical Provisions, Possible Applications," in *Health Progress*, 67 (1986), No. 7, p. 44.

<sup>99</sup> The length of this work permits the opening of the question only. Another thesis could investigate the elements that determine how an institute maintains control and influence to ensure that the work clearly reflects the spiritual heritage of the institute. Such a thesis could also investigate the relationship between a work proper to the institute and works of the Church.

This imperative also applies to the closure of the apostolic works of religious. Hite describes an obvious reason for this when he says that “such an apostolate usually has an important place in the service to the people of the diocese.”<sup>100</sup> T. Harvey takes a more sociological stance when he says that in these cases, “Conflict generally arises from competition for limited resources or from value differences.”<sup>101</sup> Shortages in personnel for the overall mission of the diocese as well as for the universal needs of the institute can provide just such a milieu for conflict. The use of authority does not serve well the resolution of such conflict, he says. Rather, “negotiating the value of broad-based participation and consultation” exists as a more acceptable mode. Furthermore, the CIC/83, when dealing with the apostolate of religious, begins from the *communio* theology, which supports the concepts of participation, co-responsibility, and dialogue. Thus, “integration” rather than “insertion” better describes the involvement of religious and their proper works in the diocese. Their cessation also requires dialogue, consultation, and mutual appreciation of the proper place of all participants in the mission of the Church.

As the relationship between the institute, its apostolate, the diocesan bishop, and the apostolate of the diocese intersect, various tensions are likely to appear. The tension that exists collaterally with the integration of works proper to an institute into a diocese involves first the correct identification of the basis of the tension. Simply stated, this tension revolves about the capacity of the institute to control and influence the works that are proper to it. While members of the institute have the responsibility to carry out the works proper to their institute, their performance of the work alone does not make the work a proper work. Proper works require a juridic relationship to the institute. But a set of tensions can arise as one sets about to determine what elements constitute control and influence. A further tension becomes possible when deciding who is the appropriate person or persons to decide that the institute has lost control and influence over the work.

---

<sup>100</sup> J. HITE, “Mutual Rights and Obligations of Bishops and Major Superiors Regarding Public Ministry,” p. 4

<sup>101</sup> T. HARVEY, “Alternative Sponsorship - A Test for the Church,” in *Health Progress*, 67 (1986), No. 7, p. 59

Certainly, the principle of just autonomy still prevails in such a situation. Yet, the diocesan bishop possesses authority where the apostolate of institutes is concerned. Finally, a tension also exists, if the work is to be changed or ceased, especially where institutes own institutions or other means of exercising the said apostolate. These exigencies and the interrelationship between the differing tiers of law demand that a process in these areas of tension requiring collaboration, negotiation, and dialogue between the diocesan bishop and the major superior(s) involved.

#### 4.3.3. Third Tension: Entrusting Works to Religious and Written Agreements

Of the five references to written agreements in the CIC/83, three, cc. 520, §2; 681, §2; and 738, §3, refer to religious.<sup>102</sup> The last mentioned canon, c. 738, §3, does not strictly concern the relationship between a religious superior and a diocesan bishop. Rather, in the situation where a cleric is incardinated in a diocese other than that of his proper bishop, the canon provides two instruments, namely the constitutions of the society of apostolic life and a written agreement between the two ordinaries involved, which act as clarifying documents regarding the jurisdiction of each bishop over the said cleric. The previous part of the canon, c. 738, §2, however, refers the reader to cc. 679-683 so that the provisions of c. 681, §2 apply equally to societies of apostolic life. Thus cc. 520, §2; 681, §2; and 738, §2 with its reference to c. 681, §2, mandate the agreement between diocesan bishops and religious superiors concerning entrusted works within a diocese.

The wording of the two main canons, cc. 520, §2 and 681, §2, regarding the written agreement echoes *Ecclesiae sanctae* I, 30, §1, even though two different groups formulated these canons in the drafting process.<sup>103</sup> Canon 520, §2 states, "This agreement must expressly and accurately define, among other things, the work to be

<sup>102</sup> Canon 520 concerns the specific commission of a parish to a clerical religious institute. Canon 681 concerns commission of works in general to institutes or individuals.

<sup>103</sup> The Latin text of ES I, 30, §1 states, " . . . inter alia, perspicue definiantur quae ad opus explendum, ad sodales eidem addicendos et ad res oeconomicas spectant."

done, the persons to be assigned to it and the financial arrangements."<sup>104</sup> Canon 681, §2 states, "This agreement must expressly and accurately define, among other things, the work to be done, the members to be assigned to it and the financial arrangements."<sup>105</sup> The preference for "persons" in one canon and "members" constitutes the only obvious difference between the canons. There appears no specific reason why this change from the wording of *Ecclesiae sanctae* occurs, especially since "members" necessarily indicates a juridic link between the individual and the institute or society. The use of "person" means that one must imply the juridic link between the individual and, in the case of c. 520, the clerical religious institute from the context.<sup>106</sup>

The written agreement concerning entrusted works signifies a juncture between the just autonomy of the life of institutes and societies and the authority of the diocesan bishop as he tries to meet the needs of his diocese. M. Wiljens points out that in exercising his legislative power according to c. 391, the bishop has to make three judgements:

(1) He must identify a value as truly good and fit to be appropriated by a Christian community; (2) he must relate that value to his own community as necessary to fulfil a need, or at least as useful for their progress; (3) he must assess the capacity of his community to reach out for, and to appropriate, that value through action. If the community is incapable of doing so, the law remains fruitless.<sup>107</sup>

When the diocesan bishop commits works to an institute or its members, one can interpret his action as an invitation to exercise the capacity within the diocesan community to bring a perceived value into action.<sup>108</sup>

<sup>104</sup> The Latin text of c. 520, §2 reads as follows, " ... inter alia expresse et accurate definiantur, quae ad opus explendum, ad personas eidem addiciendas et ad res oeconomicas spectent."

<sup>105</sup> The Latin text of c. 681, §2 reads as follows, " ... inter alia expresse et accurate definiantur, quae ad opus explendum, ad sodales eidem addiciendos et ad res oeconomicas spectent."

<sup>106</sup> The only other change from the text of *Ecclesiae sanctae* is the expansion of "precisely" to "expressly and accurately."

<sup>107</sup> M. WILJENS, "'For You I Am a Bishop, With You I Am a Christian': The Bishop as Legislator," pp. 81-82.

<sup>108</sup> There exists no obligation on the bishop's part to establish houses and thereby grant the right to proper works. He may, however, commit similar works to religious in the name of the diocese creating a situation in which the value of the unique spirit of their institute becomes visible within the diocese.

Nevertheless, McDermott indicates the potential for conflict in the existential reality of the diocese. She says:

Too often bishops and major superiors do not understand one another's perspectives and goals. Bishops view the diocese alone as their pastoral concern, whereas major superiors have a more universal concern for the Church and move their members in and out of dioceses. Often agreements between the diocese and the institutes are poorly delineated or non-existent. It is only when a religious is fired from a diocesan apostolate, or there is a misunderstanding about the nature or scope of employment, that the diocesan bishop and religious superior realize they have no mutual understanding regarding the particular apostolate. At diocesan meetings for compensation for religious, it seems evident that some bishops have no comprehension of the judicial effects of the vow of poverty for the individual religious, nor how the temporal goods of an institute are administered. On the other hand, major superiors and treasurers of religious institutes are not knowledgeable with regard to the administration of the finances of a diocese.<sup>109</sup>

It seems, on the one hand, that some bishops, despite their membership in the college of bishops, may not exhibit a concern for the universal Church (LG art. 23), while, on the other hand, some institutes may fail to understand that the particular church grounds their mission. The written agreement, if preceded by mutual consultation, acts as one possible solution to these areas of tension.

We have considered much of the content of the written agreement previously.<sup>110</sup> Our purpose in this section is to comment on that content in the light of the experience of the Synod and the exhortation. While the exhortation itself makes no reference to the written agreement, it does state certain principles which impinge upon this instrument.

During the Synod some participants mentioned the written agreement.<sup>111</sup> The participants expressed two principal concerns: 1) clarity in such agreements regarding economic measures and 2) the frequent movement of the institute's members by their

---

<sup>109</sup> R. McDERMOTT, "Consecrated Life and the *Novus habitus mentis*," p. 274.

<sup>110</sup> Pp. 121-124

<sup>111</sup> See p. 175

superiors. The contribution of Bishop Rios Mont, however, echoes a further theme found in the exhortation, namely the preservation of the individuality of each institute.<sup>112</sup> This, together with the preference for dialogue and cooperation rather than total submission to hierarchical authority,<sup>113</sup> requires that written agreements specify this individuality of institutes.

The exhortation makes two references which provide an innate tension in regard to entrusted works. The first posits a call to members of the consecrated life to retain a dynamic fidelity to the works and spirit of the institute.<sup>114</sup> In the exercise of the works proper to the institute, the institute is protected by the just autonomy of life recognised in c. 586, §1. One can state that this first principle exists to remind members of consecrated life that abandonment of their institute's proper works constitutes an effect detrimental to their institute and themselves. Moreover, the principle reminds bishops, who simply seek a work force for their diocese, that members of consecrated life possess a theological and pastoral priority which pertains to their institute. The principle acts as a subtle reminder that interventionism on the part of bishops can produce destructive results for the institutes and societies.<sup>115</sup>

Yet, on the other hand, the exhortation explicitly states that just autonomy and, where institutes have been granted it, exemption, cannot be used

in order to justify choices which actually conflict with the demands of organic communion called for by a healthy ecclesial life. Instead, the pastoral initiatives

---

<sup>112</sup> Bishop Rios Mont states, "It is therefore essential when drafting the respective agreements clearly to distinguish the charism of each institute, the form of its collaboration, and the period during which it will assume primary responsibility." M. RIOS MONT, in *L'Osservatore romano*, n.45, 9 November 1994, p. 7

<sup>113</sup> Malvaux suggests that the exhortation views the ecclesiology of communion as characterised by a confidence and a mutual respect on the part of the parties concerned in the relationship. See B. MALVAUX, "La vie consacrée, signe de communion dans l'Église," p. 172. Certainly the exhortation, at n. 48 and at n. 50, expresses as a value constant dialogue between major superiors and bishops "in order to promote mutual understanding, which is the necessary precondition for effective cooperation, especially in pastoral matters."

<sup>114</sup> VC n. 37

<sup>115</sup> Instead the exhortation describes the task of the bishop as one "to discern and respect individual charisms, and to promote and coordinate them." See VC n. 49

of consecrated persons should be determined and carried out in cordial and open dialogue between Bishops and Superiors of the different Institutes.<sup>116</sup>

There can be no suggestion of a separate church for consecrated life living and working within the particular church. The life and mission of institutes form part of the apostolic life of the diocese. Each individual member and each institute or society necessarily find their concrete existence exercised in the particular church. Thus this principle simply warns of the danger of isolationism. The practice of isolationism merely deprives the institute or member of the proper place in which to bring their particular charism into the life of the Church.

Yet, the exhortation presents its own compromise to this potential dilemma. It exhorts members of the consecrated life to cooperate generously with the particular churches "as much as they can and with respect for their own charism, working in full communion with the Bishop in the areas of evangelisation, catechesis and parish life."<sup>117</sup> Pope John Paul II invites the members of consecrated life to participate generously in the life of the particular churches. Yet, their participation remains dependent upon their first priority, that is "respect for their own charism." Just as the diocesan bishop, in erecting a religious house in his diocese can prevent certain proper works from being carried out, so the religious superior can decline the invitation of the diocesan bishop if the committed work suggested by the bishop does not bear some link to the character of the particular institute.<sup>118</sup>

---

<sup>116</sup> "Reminiscendum est Instituta Ecclesiae universalis famulatum conciliando cum Ecclesiae particularis munere congruam autonomiam ipsamque exemptionem, quibus complura ex iis fruuntur, sibi vindicare non posse ut quaedam electiones iustificentur quae revera dissident ab ordinatae communionis necessitatibus quas recta vita ecclesialis requirit. Oportet contra ut pastoralia personarum religiosarum incepta benevolo et aperto instituto dialogo inter Episcopos et variorum Institutorum Praepositos decernantur et compleantur." JOHN PAUL II, Apostolic Exhortation, *Vita consecrata*, n. 49, p. 58

<sup>117</sup> "Personae vitae consecratae, vicissim, liberaliter sociatam suam operam in Ecclesiam particularem suis pro cuiusque viribus conferent, proprio servato charismate, *dum Episcopo arte adhaerentes operantur* in provincia evangelizationis, catechesis, atque paroecialis vitae." JOHN PAUL II, Apostolic Exhortation, *Vita consecrata*, n. 49, pp. 57-58. The English phrase, "as much as they can," translates the Latin "liberaliter." As such the phrase does not imply capacity on the part of members of consecrated life. A better translation of the Latin is "generously."

<sup>118</sup> Canon 674 excludes institutes wholly ordered to contemplation from any invitation to aid in pastoral ministries. But, as Beyer says, "There are many religious who have abandoned more appropriate tasks to take on parish work or some other social work. Some have thus changed the shape of their institute and

For this reason, the written agreement could profitably contain a description illustrating how the entrusted work relates to the spirit and character of the institute. Such a description would serve, first, to remind religious and the diocesan bishop that members of institutes are obliged to maintain fidelity to their institute despite being engaged in entrusted works. Second, because of this emphasis on fidelity to the proper works of the institute, entrusted works which appear incompatible with the character and spirit of the institute should be undertaken only for a short time, if, indeed, at all. Such a description in the agreement facilitates the rationale to limit any incompatible works to a short period of time or for a prescribed set of conditions.

The commission of apostolic works to members of the consecrated life is a complex matter. The complexity can arise from the degree to which the institute commits members to the enterprise. Yet, even if only one member of an institute or society becomes involved in the work, as, for example, one member becoming involved in parochial visitation, the work remains a work of the diocese entrusted, not to the individual, but to the institute or society. Canon 681, §2 states that the parties to the agreement are the diocesan bishop and the person who represents the juridic person of the institute, the competent superior. Therefore, whether one or many members perform the work, the law understands that the institute performs the work for the diocese. Hence, a description, as envisaged above, aids in keeping clear the primary duty of the religious as well as providing the bishop with a concrete measure of what he must protect as well.

---

this can only harm its life. Such an approach can contradict charism and can be an obstacle to true vocations. Many religious are threatened by this tendency to go beyond the goals of their institute. They risk losing identity. Some lose the distinctive features of their vocation and their apostolic mobility." He concludes, "Diocesan bishops ought to protect religious men and women in the true nature of their particular vocation." J. BEYER, "Religious and the Local Church," *The Way Supplement*, 50 (1984), p. 91. See also V. DE PAOLIS, "Schema of an Agreement for the Assignment of a Parish to Religious," in *Consecrated Life*, 12 (1988), p. 229.

In some cases a work may be entrusted to a community of consecrated life, with only some members actually involved in the work. By way of example, c.520 allows for the commission of a parish to a clerical religious institute. While in charge of the parish, though, the opportunity exists for the members of the consecrated life to perform other works, proper to their institute, within the community of the parish. This is amply illustrated in the schema agreement for the assignment of a parish to religious drawn up by the mixed commission of bishops and religious of the Italian Conference of Bishops. The schema includes the following paragraph,

6. The presence of the religious institute in the diocese enriches the diocese. The religious manifest their charismatic identity by the testimony of their fraternal life, by remaining faithful to the spirit of the institute in pastoral activity, by giving special attention to \_\_\_\_\_ by promoting the activity of groups of \_\_\_\_\_ and by recruiting vocations for the benefit of the entire Church and their institute.<sup>119</sup>

Such a paragraph attests to the value of consecrated life for a diocese.<sup>120</sup> Moreover, it makes the call for fidelity concrete and actualised in specific undertakings within the parish context. Such a framework could also prove beneficial in other situations involving even individual members of an institute.

The complexity of the interface between religious institutes and the multiplicity of diocesan works seems to preclude the use of a *pro forma* document to safeguard the rights and duties of both parties to the agreement. No single document will suffice to express adequately all the elements needed in the written agreement. For instance, when the canons speak of financial matters, salary or honorarium or stipend does not constitute the only probable inclusion here. Matters such as health insurance, car allowance, liability insurance, *pro rata* use of vehicles, houses, office equipment, and the like have the potential to make these agreements quite comprehensive.<sup>121</sup>

<sup>119</sup> V DE PAOLIS, "Schema of an Agreement for the Assignment of a Parish to Religious," pp. 131-132.

<sup>120</sup> We have already seen something of this in the article by Galante. See J. GALANTE, "The Relationship of the Diocesan Bishop and Institutes of Pontifical Right," in *CJSA Proceedings*, 56 (1994), pp. 90-96.

<sup>121</sup> Olheiser and Ward provide a sample form of agreement. This form acts simply as a cover sheet to a more intricate document which they mention in these terms, "The specific terms of the agreement to be carried out

It should be emphasised, however, that such agreements bind both sides, bishop and major superior, to a collaborative effort as far as they are able. The nature of the agreement is the self-commitment of the parties to the terms of the agreement. Therefore, it seems opportune to include a statement of the character and spirit of the institute to remind the major superior and the members involved in the work that their fidelity to their own unique charism stands as their first priority. It also acts to remind the bishop that he does not have total control of the members of consecrated life. While accountable to him in matters of the external apostolate, the just autonomy of life protects them from unwarranted interference by the bishop and others in the life and governance of the institute or society.

#### 4.4 Conclusion

Since the Ninth Ordinary Synod of Bishops concluded in 1994, reflection has continued regarding the place of consecrated life within the Church and the world. Even before the post-synodal apostolic exhortation, *Vita consecrata*, appeared, the journals reflected the mood of writers in the subject area. It has to be said that the exhortation has not inspired a voluminous amount of material. By and large, most articles written before and after the exhortation illustrate that more reflection is taking place on the inner life of institutes than on the external relationship between the hierarchy and institutes of consecrated life or societies of apostolic life. One might even suggest that *Vita consecrata* has been honoured more by benign neglect than by any adulation.

So too, the relationship between institutes, their members, and diocesan bishops does not feature prominently within the canonical literature of the post-synodal period. Yet, the interplay between the just autonomy of life, recognised as a right pertaining to institutes, and the management and control of a diocese by a diocesan bishop receives almost equal non-treatment at the hands of the authors. Acceptance of autonomy as a

---

are attached hereto” See M. OLHEISER and D. WARD, “Forms to Record or to Verify Canonical Acts,” in J. HITE, S. HOLLAND, and D. WARD, (eds.), *A Handbook on Canons 573-746*, p. 343.

canonical fact by both sides appears to be one reason for this silence. Moreover, a generally more open realisation that the post-Vatican II ecclesiology of *communio* can tolerate tensions and differences without destroying either unity of purpose or diversity of function causes the further awaking to understanding the tensions as a sign of the life cycles within the Church's mission and apostolate.

In short, no matter how universal the mission of the Church may become, it continues to find its ultimate grounding and existence within the parameters of the particular church. Therefore, the universal tendencies in the mission of consecrated life ultimately face the reality of living within a particular church. It is here, in the particular church, that the exploration of the balance between just autonomy of life for institutes and their dependence on the local bishop finds itself being realised.

The dynamic tensions of universal and particular reflected in the relationship between consecrated life and the diocesan bishop do not need new editions of universalist documents, such as *Mutuae relationes*. Rather the cooperation and collaboration of religious and bishops in their mutual understanding of their parts in the mission of the Church find written expression in the agreements recognising both proper works and those works committed to religious. Properly edited, these agreements should express the creative tension needed by both parties to the agreements.

For their part, religious need to express their fidelity to the character and spirit of their institute in such a way that it reflects not only the founder's wishes but also these followers' response to present day needs. Experimentation can likely take place through the medium of committed works. Yet, such tension can bring the possibility that for some institutes it would be better to go out of existence.

For his part, the bishop becomes confronted by diversity within his diocese, a diversity of mission spirits and, as they are absorbed by members, by a diversity of spiritualities. In accepting religious into his diocese whether by establishing houses or by

committing works to them, he accepts more than a work-force. He accepts the inherent diversity of the Church's mission. The Church so respects this diversity that it demands of him that he protect and safeguard it.

## CONCLUSION

This dissertation began with some contributions that participants made at the Ninth Ordinary Synod of Bishops held in Rome in October 1994. These statements show that the consecrated life, as lived in the world today, exists as a diversity in consequence of its foundation by a plurality of founders. They also demonstrate a plurality of means necessitated by the mission of the Church multifariously and diversely attempted throughout the Church and the world. Since the Second Vatican Council consecrated life has undergone profound internal and external changes. Some of these changes result from reflection on consecrated life's place in the Church and in the world. Yet this form of Christian living has endeavoured to maintain and enhance its place within the Church and the world. Consequently, some of these changes are the result of tensions and adaptations which result from grounding the consecrated life in the existential life of the particular churches with all the external forces met in that milieu.

Even though the words, "just autonomy," do not occur in the documents of the Second Vatican Council, their place in the CIC/83 appears as a fruit of the renewal mandated by the Council. The Vatican Council documents, especially *Lumen gentium* and *Perfectae caritatis*, express a concern to preserve within the Church the signs of the Holy Spirit working through multiple gifts. These gifts display the richness of the Church's life manifest in that Spirit. Consecrated life constitutes but one example displaying the richness that is possible in the universal call to holiness. In order to preserve their patrimony while living the consecrated life, institutes require the tier of proper law to safeguard the value of that life.

Furthermore, the Second Vatican Council in *Lumen gentium*, art. 22, stated that bishops, whilst loyally respecting the primacy and pre-eminence of the head of the College of Bishops, exercise their own proper authority for the good of their faithful, indeed even for the good of the whole Church. Diocesan bishops govern their particular churches with all ordinary, proper, and immediate power needed to fulfil their pastoral

## CONCLUSION

office. Bishops use the tier of particular law to express direction of the mission within their particular church. Particular law becomes another tier in the legislative *corpus* of the Church.

While just autonomy was not mentioned in the former Code of Canon Law, preserving the diversity of consecrated life and accepting multiple tiers of law require that mechanisms occur within the legal system to preserve the unity and good order of the law in its existential function. The deliberations of the *coetus* show that their understanding of the origin of just autonomy came from a fuller understanding of the nature of the juridic personality granted to institutes of consecrated life and societies of apostolic life. Once juridic personality is granted, the Code rightly speaks of just autonomy being recognised, for no further grant on the part of a competent authority is required. Thus, just autonomy as applied to the consecrated life stands in continuity with the use of autonomy in other parts of the CIC/83.

Just autonomy occurs in the Code of Canon Law to safeguard the life and governance of the institutes of consecrated life and societies of apostolic life from unwarranted interference by persons or groups. But, just autonomy also assumes the members' fidelity to the particular patrimony of their institute and society. In short, c. 586, §1 speaks equally, though implicitly, to superiors and members of the consecrated life as it does to bishops and others, who may attempt to interfere in the life of the institute or society. The institutes and societies themselves constitute the subjects of just autonomy. Individual members share in this just autonomy only in so far as they act within the framework of their patrimony.

While local ordinaries stand as the addressed subject of c. 586, §2, the safeguarding and protection of this autonomy can be possible only if there exists a structure of effective dialogue between the major superiors and local ordinaries. In reality, the local ordinary possesses no coercive authority, except in matters of the apostolate, over the members of institutes. Certainly, after the Second Vatican Council a

## CONCLUSION

key to understanding the relationship between bishops and the consecrated life has been the encouragement to dialogue. The Council encouraged the integration of the consecrated life into the life of the diocese, not just for matters of the apostolate, but also because the consecrated life possesses a value in itself. Constantly since that time, the various documents have stressed this collaborative theme. *Vita consecrata* also stresses the necessity of dialogue and collaboration in a spirit of charity. The dialogue begins at a point of mutuality. That is to say, from the point of acceptance of the diversity of office and charism in the Church and the legitimate role of each. Such an understanding and starting point counter any tendency to arbitrariness on the part of the bishop. In like manner, it is foreign to any concept of an institute existing and living independently of the life of the diocese. In this frame, then, just autonomy marks a point of meeting rather than a barrier. While, it certainly marks a boundary regarding the competencies of the religious superior and the diocesan bishop, it also defines a point at which negotiation, collaboration, and mutual respect become essential.

The contributions of the participants at the Synod demonstrated the diversity of application of the principle of just autonomy as promulgated in the common law. The nature of institutes themselves and the context in which they exercise their proper mission or exercise that mission committed to them by the diocesan bishop ensures that there must necessarily be an unevenness in the application of the principle of just autonomy. So, while the principle remains unchallenged in its statement, its application continues to be a process subject to the varying needs of institutes and dioceses. Such unevenness is not necessarily to be shunned or avoided. The variability of the application of the principle of just autonomy is just that, variability. Variability does not mean abandonment, or even compromise. Rather, the contributions of those at the Synod demonstrated that such variability allows room for further dialogue and collaboration. Given the changing nature of institutes such negotiation becomes necessary even at the level of formal agreements.

## CONCLUSION

Agreements for the canonical establishment of a house, and even a change in its apostolate, exist as institutional agreements. That is to say, they exist between the institute, represented by a competent superior, and the diocese, represented by the bishop. In the same way, the commission of apostolic works to institutes and societies contains agreements between the public juridic person of the institute or society and the public juridic person of the diocese. Just autonomy resides within this institutional context guaranteeing, in part, the integrity of the agreement by protecting both parties to the agreement. While the content of these agreements concerns the work to be done, the persons involved, financial arrangements, and other matters, such agreements would be seriously amiss if they did not predicate protection for both juridic persons involved in the agreements without losing sight of the physical persons undertaking works of the apostolate. Just autonomy balances the just dependence between the juridic persons participating, in communion, in the one mission of the Church.

A historical development exists for the principle of just autonomy. Its inclusion in the 1983 Code of Canon Law follows the desire of the conciliar fathers to maintain the uniqueness of each institute of consecrated life or society of apostolic life. Even though the Code expresses the principle of just autonomy, its translation from universal principle to existential reality remains a variable. The participants at the 1994 Synod demonstrated the relativity of the principle of just autonomy in its application phase. Hence, others can undertake further research into the application of the principle.

Based on the geographical variations described during the 1994 Synod, a study of the differences between the particular churches in the application of the principle would be a profitable undertaking. Certain external forces seem to influence the relationship between the diocesan bishop and the consecrated life in the achievement of a unified approach to mission. An empirical study considering political, economic, and cultural variables may prove valuable in assessing the requirements for future agreements and structures in other similar situations.

## CONCLUSION

Second, the variations in the relationship between the diocesan bishop and the consecrated life caused by gender differences also provides material for further study in the area of just autonomy. Some would argue, for instance, that the emphasis given to women in *Vita consecrata* is symptomatic of a historical variation in treatment between institutes of men and institutes of women.

Third, *Vita consecrata*, n. 53, strongly advocates the use of mixed commissions. A further study as to why they have been effective in places where they have been employed would also be advantageous. Although not applicable at the diocesan level, such commissions express the attitudinal requirements necessary for continued good-will between various parties to the *communio* of the Church.

As a principle of law, just autonomy has its source in the ecclesiology of the Second Vatican Council. The history of its application has varied from continent to continent and even within the one continent. Its validity as a principle of law remains unchallenged, but its application will continue to be the subject of further investigation.

## APPENDIX 1: THE TEXTUAL DEVELOPMENT OF CANON 586

### 1. Sessio XVI: 6-9 May 1974

Can 16 (novus)

“§1. Omnibus Institutis illa autonomia vitae et praesertim regiminis agnoscenda est qua gaudeant propria disciplina, proprio, si casus ferat, liturgico usu atque integrum servare valeant suum patrimonium doctrinale et spirituale.

§2. Apostolicae Sedis necnon Episcoporum est hanc autonomiam sancire et in tuto servare.”<sup>1</sup>

### 2. 1977 Schema

Can. 16

“§1. Singulis Institutis iusta autonomia vitae, praesertim regiminis, agnoscenda est qua gaudeant in Ecclesia propria disciplina atque integrum servare valeant suum patrimonium doctrinale, spirituale et liturgicum.

§2. Apostolicae Sedis necnon Episcoporum est hanc autonomiam sancire et in tuto servare.”<sup>2</sup>

### 3. Session III: 26 February - 3 March 1979

Can. 12

“§1. Singulis (proinde) Institutis iusta autonomia vitae, praesertim regiminis, agnoscitur qua gaudeant in Ecclesia propria disciplina atque integrum servare valeant suum patrimonium de quo in can. 5.

§2. Apostolicae Sedis necnon Episcoporum ius et officium est hanc autonomiam sancire et propriis legibus tueri atque fovere”<sup>3</sup>

---

<sup>1</sup> *Communicationes*, 28 (1996), p. 87

<sup>2</sup> PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Schema canonum de institutis vitae consecratae per professionem conciliorum evangelicorum*, Romae, Typis Polyglottis Vaticanis, 1977, pp. 5-6.

<sup>3</sup> *Communicationes*, 11 (1979), pp. 51-52

## APPENDIX I

**4. 1980 Schema**

Can. 514

“§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. 507.

§2 Episcoporum est hanc autonomiam tueri atque fovere.”<sup>4</sup>

**5. 1982 Schema novissimum**

Can. 588

“§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. 581.

§2 Ordinariorum locorum est hanc autonomiam servare ac tueri.”<sup>5</sup>

**6. The 1983 Code of Canon Law**

“§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.

§2 Ordinariorum locorum est hanc autonomiam servare ac tueri.”<sup>6</sup>

---

<sup>4</sup> PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Codex iuris canonici: schema Patribus Commissionis reservatum*, Civitate Vaticana, Libreria Editrice Vaticana, 1980, p. 125

<sup>5</sup> PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Codex iuris canonici: schema novissimum iuxta placita Patrum Commissionis emendatum atque Summo Pontifici praesentatum*, Civitate Vaticana, Typis Polyglottis Vaticanis, 1982, p. 109

<sup>6</sup> *Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, in Citta del Vaticano, Libreria Editrice Vaticana, 1989, p. 164

## SELECT BIBLIOGRAPHY

### SOURCES

- Canon Law Digest: Officially Published Documents Affecting the Code of Canon Law*. T. BOUSCAREN (ed.), Milwaukee, Bruce Publishing, vol. 1-3; T. BOUSCAREN and J. O'CONNOR (eds.), New York, Bruce Publishing, vol. 4-6; J. O'CONNOR (ed.), Mundelein, Canon Law Digest, vol. 7-10; E.G. PFNAUSCH (ed.), Washington, DC, Canon Law Society of America, vol. 11.
- CATAZZO, E. (ed.). *La vita religiosa nel magistero pontificio postconciliare*, Vicenza, Edizioni ESCA, 1969, 370 p.
- Codex canonum Ecclesiarum orientalium auctoritate Ioannis Pauli P.P. II promulgatus*, Typis Polyglottis Vaticanis, 1990. (English translation: *Code of Canons of the Eastern Churches, Latin-English edition*, translation prepared under the auspices of the Canon Law Society of America, Washington, DC, Canon Law Society of America, 1992. xlvii-785 p.)
- Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus fontium annotatione et indice analytico-alphabetico auctus*, in Città del Vaticano, Libreria Editrice Vaticana, 1989, xxxii-669 p. (English translations: *Code of Canon Law, Latin-English edition*, translation prepared under the auspices of the Canon Law Society of America, Washington, DC, Canon Law Society of America, 1983, xlii-668 p. *The Code of Canon Law in English Translation*, Prepared by the Canon Law Society of Great Britain and Ireland in association with the Canon Law Society of Australia and New Zealand and the Canadian Canon Law Society. London, Collins, 1983, xvi-319 p. French translation: *Code de droit canonique. Texte officiel et traduction française* par La Société internationale de droit canonique et de législations religieuses comparées avec le concours des Faculté de droit canonique de l'Université Saint-Paul d'Ottawa, Faculté de droit canonique de l'Institut catholique de Paris. Ottawa. Editions de la C.E.C.C., 1984, xxxii-363 p. Italian translation: *Codice di diritto canonico. Testo ufficiale e versione italiana*, sotto il patrocinio della Pontificia Università Lateranense e della Pontificia Università Salesiana, Roma, Unione editori cattolici italiani, 1983, 1159 p. )
- Codex iuris canonici Pii X Pontificis Maximi iussu digestus, Benedicti Papae XI auctoritate promulgatus, praefatione, fontium annotatione et indice analytico-alphabetico ab Em.mo Petro Card. Gasparri auctus*, Romae, Typis Polyglottis Vaticanis, 1918, xlvii-786 p.
- CONGREGATION FOR THE DOCTRINE OF THE FAITH, Letter to the Bishops of the Catholic Church, *Some Aspects of the Church Understood as Communion*, 28 May 1992, Boston. St Paul Books and Media, 1992, 30 p.

CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES. Instruction, *Renovationis causam*, 6 January 1969, in *Acta Apostolicae Sedis* [= AAS], 61 (1969), pp. 103-120, (English translation, *The Renewal of Religious Formation*, in *The Pope Speaks* [= TPS], 14 [1969], pp. 61-77).

\_\_\_\_\_. Instruction, *Venite seorsum*, 15 August 1969, in AAS, 61 (1969), pp. 674-690, (English translation, *The Contemplative Life and the Cloister of Nuns*, in TPS, 14 (1969), pp. 268-282).

\_\_\_\_\_. Document, *Religiosi e promozione umana*, 12 August, 1980, in *L'Osservatore romano*, Supplement, 12 November 1980, pp. I-VI. (English translation, *Religious Profession and Human Promotion*, in TPS, 26 (1981), pp. 97-122).

\_\_\_\_\_. Document, *La dimensione contemplativa della vita religiosa*, 12 August 1980, in *L'Osservatore romano*, Supplement, 12 November 1980, pp. VI-VIII. (English translation *The Contemplative Dimension of Religious Life*, in TPS, 26 (1981), pp. 123-139).

\_\_\_\_\_. Letter to the Bishops of the United States, *Essential Elements in the Church's Teaching on Religious Life as Applied to Institutes Dedicated to Works of the Apostolate*, 31 May 1983, in TPS, 28 (1983), pp. 304-329).

CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE. Instruction, *Normae directivae de institutione in religiosis institutis, Potissimum institutioni*, 2 February 1990, in AAS, 82 (1990), pp. 470-532. (English translation, *Directives on Formation in Religious Institutes*, in *Consecrated Life*, 15 (1990), Supplement, xv-66 p.)

\_\_\_\_\_. Document, *Congregavit nos in unum Christi amor*, 2 February 1994. (English translation in *Fraternal Life in Community*, Sherbrooke, Éditions Paulines, 1994, 68 p.)

COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: instrumentum laboris*, 20 June 1994, Rome, Libreria Editrice Vaticana, 1994, 155 p. (English translation, *1994 Synod Working Paper Consecrated Life's Role in the Church and the World*, in *Origins*, 24 [1994-1995], pp. 97, 98-138. French translation *La vie consacrée et sa mission dans l'Église et dans le monde*, Ottawa, Conférence des évêques catholiques du Canada, 1994, 155 p.)

## SELECT BIBLIOGRAPHY

- COUNCIL OF THE GENERAL SECRETARIAT OF THE SYNOD, *De vita consecrata deque eius munere in Ecclesia et in mundo: lineamenta*, 24 November 1992. Libreria Editrice Vaticana, 1992, 70 p. (English translation *The Consecrated Life and Its Role in the Church and in the World: Lineamenta*, Ottawa, Canadian Conference of Catholic Bishops, 1992, 71 p. French translation *La vie consacrée et sa mission dans l'Église et dans le monde*, Ottawa, Conférence des évêques catholiques du Canada, 1992, 70 p.)
- \_\_\_\_\_, *Elenchus unicus propositionum*, E civitate Vaticana, 1994, 42 p.
- \_\_\_\_\_, *Elenchus finalis propositionum*, E civitate Vaticana, 1994, 44 p.
- \_\_\_\_\_, Final Message of the Ninth Synod of Bishops: *Consecrated Life: Expression of the Church's Vitality*, in *Origins*, 24 (1994-1995), pp. 369, 371-374.
- \_\_\_\_\_, *Nuntius*, 24 October 1994, E civitate Vaticana,
- COURTOIS, G., (ed.), *The States of Perfection According to the Teaching of the Church*, (translated by John A. O'Flynn), Dublin, M.H. Gill and Son, 1961, xv-400 p.
- DINN, M., L. TESSIER and E. COURNEENE, (eds.), *Canonical Documentation on Consecrated Life (1963-1976)*, Ottawa, Saint Paul University, 1977, x-451 p.
- DENZINGER, H., and A. SCHONMETZER (eds.), *Enchiridion symbolorum definitionum et declarationum de rebus fidei et morum*, Editio XXXVI, Freiburg, Herder, 1976, xxxii-954 p.
- GASPARRI, P., and I. SEREDI, (eds.), *Codex iuris canonici fontes*, Romae, Typis Polyglottis Vaticanis, 1923-1939, 9 vols.
- JOHN PAUL II, Letter to the Bishops of the United States, *In This Extraordinary Holy Year*, 3 April 1983, in *Origins*, 13 (1983-84), pp. 129, 131-133.
- \_\_\_\_\_, Letter, *Epistola ad religiosos religiosasque Americae Latinae imminente anno ab Evangelio tibi nunciato*, 29 June 1990, in *AAS*, 83 (1991), pp. 22-25.
- \_\_\_\_\_, Apostolic Constitution, *Sacrae disciplinae leges*, 25 January 1983, in *AAS*, 75 (1983), pars II, pp. vii-xiv.
- \_\_\_\_\_, Apostolic Exhortation, *Redemptionis donum*, 25 March 1984, in *AAS*, 76 (1984), pp. 513-546, (English translation, *Mystery of Redemption*, Ottawa, Canadian Conference of Catholic Bishops, 1984, 50 p.)
- \_\_\_\_\_, Apostolic Constitution, *Ex corde Ecclesiae*, 15 August 1990, in *AAS*, 82 (1990), pp. 1475-1509. (English translation in *Origins*, 20 (1989-1990), pp. 265-276.

- JOHN PAUL II, Apostolic Exhortation, *Vita consecrata*, 25 March 1996, Latin translation, Vatican City, Vatican Press. Libreria Editrice Vaticana, 1996. 139 p. English translation, *Vita consecrata*, Vatican City, Vatican Press, Libreria Editrice Vaticana, 1996, 208 p.
- \_\_\_\_\_, Homily, *In festo praesentationis Beatae Virginis Mariae*, in *L'Osservatore romano*, 3-4 February, 1992, p. 5.
- \_\_\_\_\_, Homily for the Opening of the 1994 World Synod of Bishops on the *Consecrated Life*, in *Origins*, 24 (1994-1995), pp. 305, 307-308.
- \_\_\_\_\_, Homily for the Conclusion of the 1994 World Synod of Bishops on the *Consecrated Life*, in *Origins*, 24 (1994-1995), pp.374-375.
- PAUL VI, Motu proprio, *Ecclesiae sanctae*, 6 August 1966, in *AAS*, 58 (1966), pp. 757-787. (English translation in A. FLANNERY, (gen. ed.), *Vatican Council II: The Conciliar and Post Conciliar Documents*, rev. ed., New York, Costello Publishing Co., 1992, [= FLANNERY], I, pp.591-610; II, pp. 624-633; III, pp. 857-862).
- \_\_\_\_\_, Apostolic Exhortation, *Evangelica testificatio*, 29 June 1971, in *AAS*, 63 (1971), pp. 497-526, (English translation, *Apostolic Exhortation on the Renewal of the Religious Life*, in FLANNERY, pp. 680-706.)
- PIUS XII, Apostolic Constitution, *Provida Mater Ecclesia*, 2 February 1947, in *AAS*, 39 (1947), pp. 114-124.
- PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Communicationes*, vols. 1-16, 1969-1983; PONTIFICIA COMMISSIO AD CODICEM IURIS CANONICI AUTHENTICE INTERPRETANDUM, vols. 16-20, 1983-1988; PONTIFICUM CONSILIUM DE LEGUM TEXTIBUS INTERPRETANDIS, vols 21- ,1989-.
- \_\_\_\_\_, *Codex iuris canonici: schema novissimum iuxta placita Patrum Commissionis emendatum atque Summo Pontifici praesentatum*, Civitate Vaticana, Typis Polyglottis Vaticanis, 1982, xviii-308 p.
- \_\_\_\_\_, *Codex iuris canonici: schema Patribus Commissionis reservatum*, Civitate Vaticana, Libreria Editrice Vaticana, 1980, xxiii-382 p.
- \_\_\_\_\_, *Lex Ecclesiae fundamentalis*, Civitate Vaticana, Libreria Vaticana, 1980, 54 p.

## SELECT BIBLIOGRAPHY

- PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, *Relatio complectens synthesim animadversionum ab em.mis atque exc.mis Patribus Commissionis ad novissimum schema Codicis iuris canonici exhibitarum, cum responsionibus a Secretariis et Consultoribus datis*, Civitate Vaticana. Typis Polyglottis Vaticanis, 1981, 358 p.
- \_\_\_\_\_. *Schema canonum de institutis vitae consecratae per professionem conciliorum evangelicorum*, Romae. Typis Polyglottis Vaticanis, 1977, xiii-36 p.
- RODRÍGUEZ, A., (ed.), *La vida religiosa, Documentos conciliares y postconciliares*, Madrid, Instituto Teológico de Vida Religiosa, 1987, 571 p.
- SACRED CONGREGATION FOR BISHOPS, *Directorium de pastorali ministerio episcoporum, Ecclesiae imago*, 22 February 1973, Civitate Vaticana. Typis Polyglottis Vaticanis, 1973, 252 p. English translation by Benedictine Monks of the Seminary of Christ the King, Mission, B.C., *Directory on the Pastoral Ministry of Bishops*, Ottawa, Publications Service of the Canadian Conference of Catholic Bishops, 1974, 116 p.
- SACRED CONGREGATION FOR RELIGIOUS, *Normae*, in *AAS*, 13 (1921), pp. 312-319.
- SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, *Instruction, Renovationis causam*, 6 January 1969, in *AAS*, 51 (1969), pp. 103-120. (English translation in *FLANNERY*, pp. 634-655).
- SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, and SACRED CONGREGATION FOR BISHOPS, *Document, Normae directivae pro mutuis relationibus inter episcopos et religiosos*, 14 May 1978, in *AAS*, 70 (1978), pp. 473-506
- SACRED ROMAN ROTA, *Decisiones seu sententiae quae prodierunt anno 1940 cura eiusdem s. Tribunalis editae*, Vol XXXII, Typis Polyglottis Vaticanis, 1949, c. Jullien, 11 July 1940, pp. 531-545.
- SECOND VATICAN COUNCIL, *Acta synodalia sacrosancti Concilii oecumenici Vaticani secundi, cura et studio archivi Concilii oecumenici Vaticani II*, in Civitate Vaticana, Typis Polyglottis Vaticanis, 1970-1983, 29 vols.
- \_\_\_\_\_. *Decree on the Up-to-date Renewal of Religious Life, Perfectae caritatis*, 28 October 1965, in *AAS*, 58 (1966), pp. 702-712, (English translation in *FLANNERY*, pp. 611-623).
- \_\_\_\_\_. *Decree on the Pastoral Office of Bishops, Christus Dominus*, 28 October 1965, in *AAS*, 58 (1966), pp 673-701. (English translation in *FLANNERY*, pp.564-590).

## SELECT BIBLIOGRAPHY

SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church, *Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), pp. 5-71, (English translation in *FLANNERY*, pp. 350-426).

\_\_\_\_\_, *Schemata constitutionum et decretorum ex quibus argumenta in Concilio disceptanda seligentur*, Series tertia [in Civitate Vaticana], Typis Polyglottis Vaticanis, 1962-1963, 4 vols.

SISTERS OF SAINT JOSEPH OF THE SACRED HEART, *Constitutions, Traditions and Practices*, 2 Vols. in 1, [North Sydney, 1986?], 53 p. and 26 p.

TANNER, N. P., *Decrees of the Ecumenical Councils*, Washington, DC. Sheed and Ward and Georgetown University Press, 1990, 2 vols.

## SYNODAL ADDRESSES

## 1. Summaries:

NONA ASSEMBLEA GENERALE ORDINARIA DEL SINODO DEI VESCOVI, *La vita consacrata e la sua missione nella Chiesa e nel mondo*, [= *Nona Assemblea*], Vatican City, *L'Osservatore romano*, 1994, 176 p.

THE FIRST GENERAL CONGREGATION, in *L'Osservatore romano*, n. 41, 12 October 1994, pp. 7-14.

THE SECOND, THIRD, AND FOURTH GENERAL CONGREGATIONS, in *L'Osservatore romano*, n. 42, 19 October 1994, pp. 5-12.

THE FIFTH, SIXTH, AND SEVENTH GENERAL CONGREGATIONS, in *L'Osservatore romano*, n. 43, 26 October 1994, pp. 5-13.

THE EIGHTH, NINTH, TENTH, AND ELEVENTH GENERAL CONGREGATIONS, in *L'Osservatore romano*, n. 44, 2 November 1994, pp. 8-21.

THE TWELFTH, THIRTEENTH AND FOURTEENTH GENERAL CONGREGATIONS, in *L'Osservatore romano*, n. 45, 9 November 1994, pp. 4-13.

THE FIFTEENTH, SIXTEENTH, AND SEVENTEENTH GENERAL CONGREGATIONS, in *L'Osservatore romano*, n. 46, 16 November 1994, pp. 6-14.

THE EIGHTEENTH, AND NINETEENTH GENERAL CONGREGATIONS AND 'IN SCRIPTIS' INTERVENTIONS, in *L'Osservatore romano*, n. 47, 23 November 1994, pp. 9-18.

## SELECT BIBLIOGRAPHY

THE TWENTIETH, TWENTY-FIRST, TWENTY-SECOND, AND TWENTY-SEVENTH GENERAL CONGREGATIONS, in *L'Osservatore romano*, n. 48, 30 November 1994, pp. 11-18.

**2. Full Texts:**

BERNARDIN, J., "Authenticity and Diversity in Consecrated Life," in *Origins*, 24 (1994-1995), pp. 308-312.

BROWN, G., "Religious in Society: Speaking and Acting Together," in *Origins*, 24 (1994-1995), pp. 321, 323.

COUTURE, M., "Consecrated Women: Equality in the Church," in *Origins*, 24 (1994-1995), pp. 358-359.

DANNEELS, G., "Asking the Right Questions," in *Origins*, 24 (1994-1995), pp. 360-362.

EYT, P., "Les religieuses, dans nos diocèses," in *La documentation catholique*, 91 (1994), pp. 953-955.

FINNEGAN, V.M., "Of Social Works and Holiness: Women Religious," in *Origins*, 24 (1994-1995), p. 349.

GEORGE, F., "Crises are Calls to Convert," in *Origins*, 24 (1994-1995), pp. 332-334.

GOTTEMOELLER, D., "Apostolic Women Religious: Identity and Mission," in *Origins*, 24 (1994-1995), pp. 325-326.

\_\_\_\_\_, *et al.*, "Eight Synod Addresses," in *Religious Life Review*, 34 (1995), pp. 32-57.

HUME, B., "Relatio ante disceptationem," in *L'Osservatore romano* (English edition), 12 October, 1994, pp. 9-14.

\_\_\_\_\_, "Segunda relacion," in *Vida religiosa*, 76 (1994), pp. 463-483.

KEELER, W., "Voices of Religious: Themes of Pain, Tension and Promise," in *Origins*, 24 (1994-1995), pp. 346-347.

LUBACHIVSKY, M., "Religious in Post-Communist Ukraine," in *Origins*, 24 (1994-1995), pp. 350-351.

MALONEY, R., "Say to Us, 'Live a Simple Lifestyle'," in *Origins*, 24 (1994-1995), pp. 323-324.

## SELECT BIBLIOGRAPHY

- MAMIE, P., "L'oecuménisme spirituel des consacrés," in *La documentation catholique*, 91 (1994), pp. 955-956.
- MARADIAGA, R., "Education: The Way Out of Poverty," in *Origins*, 24 (1994-1995), p. 334.
- NICHOLS, V., "How Religious Institutes and the Laity Relate," in *Origins*, 24 (1994-1995), pp. 351-352.
- QUINN, J., "Mission and Consecration: No Necessary Contradiction," in *Origins*, 24 (1994-1995), pp. 328-331.
- \_\_\_\_\_, *et al.*, "Synod Addresses," in *Religious Life Review*, 34 (1995), pp. 106-120.
- RADCLIFFE, T., "To Live Moments of Tension Fruitfully," in *Origins*, 24 (1994-1995), p. 335.
- SIETMANN, K., "Assuring Consecrated Women's Roles in the Church," in *Origins*, 24 (1994-1995), pp. 348-349.
- STARKEN, E. *et al.*, "Religious Address the Synod," in *Religious Life Review*, 33 (1994), pp. 334-361.
- THEISEN, J., "The Vows in Context: A Total Way of Life," in *Origins*, 24 (1994-1995), pp. 326-327.
- TIMLIN, J., "Devastating Years for Religious Life," in *Origins*, 24 (1994-1995), pp. 331-332.
- TURCOTTE, J.-C., "A Profusion of New Religious Foundations," in *Origins*, 24 (1994-1995), pp. 356-357.
- \_\_\_\_\_, *et al.*, "From the Synod," in *Religious Life Review*, 34 (1995), pp. 294-309.
- WARD, J., "The Harvest of Renewal," in *Origins*, 24 (1994-1995), p. 336.

**BOOKS**

- ABBO, J.A. and J.D. HANNAN, *The Sacred Canons: A Concise Presentation of the Current Disciplinary Norms of the Church*, 2nd rev. ed., St. Louis, B. Herder Book Co., 1960, 2 vols.
- ABBOTT, W.M., *The Documents of Vatican II*, (trans. ed. J Gallagher), London, Geoffrey Chapman, 1966, xxii-794 p.

## SELECT BIBLIOGRAPHY

- ABIDEMI ASANBE, 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. 455, §4*, Doctoral thesis, Romae, Pontificia Universitas Urbaniana, 1996, xiii-276 p.
- APARICIO RODRÍGUEZ, A. and J. CANALS CASAS, (eds.) *Diccionario teológico de la vida consagrada*, 2nd ed., Madrid, Publicaciones Claretianas, 1992, xxviii-1987 p.
- AQUINAS, T., *Summa theologiae*, Vol 47, *The Pastoral and Religious Lives (2a2ae. 183-9)*, Latin text, English translation, Introduction and Glossary [by] Jordan Aumann, Cambridge, Blackfriars, in conjunction with McGraw-Hill, New York, and Eyre and Spottiswoode, London, [1973], xvii-288 p.
- ARBUCKLE, G., *Out of Chaos: Refounding Religious Congregations*, New York, Paulist Press, 1988, v-201 p.
- \_\_\_\_\_, *Refounding the Church: Dissent for Leadership*, New York, Orbis Books, 1993, 226 p.
- ARBUCKLE, G., and D. FLEMING, (eds.), *Religious Life: Rebirth Through Conversion*, New York, Alba House, 1990, xv-142 p.
- AUGUSTINE, P.C., *A Commentary on the New Code of Canon Law*, 2nd ed., St. Louis, B. Herder Book Co., 1923, 7 vols.
- BERZDORF, F., *Autonomie und Exemption der kanonischen Lebensverbände*, St. Ottilien, EOS Verlag, 1995, xxxiv-254 p.
- BEYER, J., *Vers un nouveau droit des instituts de vie consacrée: commentaire du projet et premières observations*, Paris, Editions Saint Paul, 1978, 325 p.
- \_\_\_\_\_, *Du concile au Code de droit canonique: la mise en application de Vatican II*, Paris, Tardy, 1985, 127 p.
- \_\_\_\_\_, *Le droit de la vie consacrée: normes communes*, Bourges, Tardy, 1988, 224 p.
- \_\_\_\_\_, *Le droit de la vie consacrée: instituts et sociétés*, Bourges, Tardy, 1988, 327 p.
- BLACK, H., *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern*, 5th ed., by the Publisher's editorial staff, St Paul, West Publishing Co., 1979, xiv-1511 p.
- BONI, A., *I religiosi nella dottrina del concilio ecumenico Vaticano II*, Rome Pontificio Ateneo Antoniano, 1966, xvi-145 p.

## SELECT BIBLIOGRAPHY

- BOUSCAREN, T.L., and A.C. ELLIS, *Canon Law: A Text and Commentary*, 3rd rev. ed., Milwaukee. Bruce Publishing Co., 1961, xviii-980 p.
- BOWERS, R., *Episcopal Power of Governance in the Diocesan Church: From 1917 Code of Canon Law to the Present*. Canon Law Studies No. 535, Doctoral Thesis, Catholic University of America, Washington DC, Ann Arbor MI, UMI, 1990. xi-352 p.
- CAPEZZALI, B., *De iuridico relationum fundamento religiones inter et ordinarios locorum*, Rome, Pontifical Lateran University, 1962, 180 p.
- CAPPAROS, E., M. THÉRIAULT, and J. THORN, (eds.), *Code of Canon Law Annotated*, Montréal. Wilson & Lafleur Limitée, 1993, 1631 p.
- CHAMBERLAIN, G., and P. HOWELL, (eds.), *Empowering Authority: The Charisms of Episcopacy and Primacy in the Church Today*, Kansas City. Sheed and Ward, 1990, xiii-130 p.
- CHANTRAINE, G., *L'expérience synodale*, Namur, Culture et Verité, 1988, 175 p.
- CHIAPPETTA, L., *Il Codice di diritto canonico: commento giuridico-pastorale*, Napoli. Edizioni Dehoniane, 1988, 2 vols.
- COMITÉ CANONIQUE FRANÇAIS DES RELIGIEUX, *L'Évêque et les Instituts Religieux en droit canonique*, Paris. Éditions du Cerf, 1986, 33 p.
- Vie religieuse, érémitisme, consécration des vierges, communautés nouvelles*, Paris. Éditions du Cerf, 1993, 253 p.
- CONGAR, Y., *I Believe in the Holy Spirit*, Vol. 2, *Lord and Giver of Life*, (English translation by D. Smith), London. Geoffrey Chapman, 1983, x-230 p.
- CORIDEN, J.A., T.J. GREEN, and D.E. HEINTSCHEL, (eds.), *The Code of Canon Law: A Text and Commentary*, New York. Paulist Press, 1985, 1152 p.
- CASTAÑO, J., *Gli istituti di vita consacrata, (cann. 573-730)*, Rome, Millenium Romae, 1995, 350 p.
- CUVA, A., *De iuridicis relationibus inter ordinarios locales et religiones clericales exemptas ad cultum quoad attinet*, Rome, Pontifical Lateran University, 1956, 87 p.
- De PAOLIS, V., *La vita consacrata nella chiesa*, Bologna, Editoriale Dehoniane, 1992, 461 p.

## SELECT BIBLIOGRAPHY

- Du CANGE, C., *Glossarium mediae et infimae latinitatis*, Graz, Austria. Akademische Druck-u Verlagsanstalt. 1954. 5 Vols.
- DUNN, B., *Sponsorship of Catholic Institutions, particularly Healthcare Institutions, by the Sisters of Providence in the Western United States*, Doctoral thesis. Ottawa. Saint Paul University, 1995. v-272 p.
- FLANNERY, A., *Vatican Council II. More Postconciliar Documents*, Grand Rapids. MI. Eerdmans, 1982. xxi-920 p.
- \_\_\_\_\_. (ed). *Towards the 1994 Synod of Bishops: The Views of Religious*, Dublin. Dominican Publications. 1993.173 p.
- FLEMING, D., and E. McDONOUGH. (eds.). *The Church and Consecrated Life: The Best of the Review - 5*, St. Louis. Review for Religious, 1996, viii-440 p.
- FOGLIASSO, E., *Introductio in vigentem disciplinam de iuridicis relationibus inter Religiosos et Ordinatum loci*, Taurinorum, Schola Typographica Salesiana, 1948. 173 p.
- GALLAGHER, M., *The Common Life: An Element of Apostolic Religious Institutes of Women*, Doctoral thesis. Ottawa. Saint Paul University, 1995. 257 p.
- GAMBARI, E., *Religious Life According to Vatican II and the New Code of Canon Law*, translated by the Daughters of St. Paul, Boston. St. Paul Editions. 1986. 668 p.
- \_\_\_\_\_. *I religiosi nel Codice. Commento ai singoli canoni*, Milano. Ancora. 1986. 445 p.
- GARCIA MARTIN, J., *Exemptio religiosorum iuxta Concilium Vaticanum II*, Doctoral thesis. Rome. Pontificia Universitas Lateranensis. 1980. 137 p.
- GESER, F., *The Canon Law Governing Communities of Sisters*, St. Louis. B. Herder Book Co., 1953. xii-415 p.
- GHIRLANDA, G. *Il diritto nella chiesa, mistero di comunione: compendio di diritto ecclesiale*, Milano, Edizioni Paoline. 711 p.
- GHIRLANDA, G., V. DE PAOLIS, and A. MONTAN, (eds.), *Il Codice del Vaticano II. La vita consecrata*, Bologna, EDB. 1983. 201 p.
- 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*, Doctoral thesis. Ottawa, Saint Paul University, 1986, xxvi-302 p.

## SELECT BIBLIOGRAPHY

- HAYES, E., *Rightful Autonomy of Life and Charism in the Proper Law of the Norbertine Order*, Canon Law Studies No. 532, Doctoral thesis, Catholic University of America, Washington DC. Ann Arbor, MI, UMI, 1990, xii-588 p.
- HAUSMAN, N., *Vie religieuse apostolique et communion de l'Église. L'enseignement du Concile Vatican II*, Paris, Éditions du Cerf, 1987, 244 p.
- HITE, J., S. HOLLAND, and D. WARD, (eds.), *A Handbook on Canons 573-746*, Collegeville, MI, Liturgical Press, 1985, 400 p.
- HYNOUS, M., *The Relationship Between Religious and the Hierarchy Since the Second Vatican Council*, Doctoral thesis, St Thomas University, Rome. Typis Pontificiae Universitatis Gregorianae, 1969, 75 p.
- KALLUMKAL, J., *The Patrimony of an Institute According to the Code of Canon Law*, Doctoral thesis, Romae, Pontificia Università Lateranense, 1989, ix-208 p.
- KHOURY, J., *Vie consacrée (essai de commentaire des canons 573-709)*, Rome: s.n., 1984, 332 p.
- KNOWLES, D., *From Pachomius to Ignatius. A Study in the Constitutional History of Religious Orders*, Oxford, Clarendon Press, 1964, 98 p.
- 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)*, Doctoral thesis, Rome, Pontificium Institutum Orientale, Facultas Iuris Canonici Orientalis, 1994, xxxvii-192 p.
- LESAGE, G., *Traité de la vie religieuse*, Ottawa, Conférence Religieuse Canadienne, 1978, 180 p.
- \_\_\_\_\_. *Renouveau de la vie religieuse*, Montréal, Les Éditions Paulines, 1985, 267 p.
- McNAMARA, K., (ed ), *Vatican II: The Constitution on the Church: A Theological and Pastoral Commentary*, London, Geoffrey Chapman, 1968, 437 p.
- MAIDA, A., and N. CAFARDI, *Church Property, Church Finances, and Church-related Corporations: A Canon Law Handbook*, St Louis, MO, Catholic Health Association of the United States, 1984, xxii-339 p.
- MALVAUX, B., *Les relations entre évêques diocésains et instituts religieux cléricaux de droit pontifical du Concile Vatican II à l'exhortation apostolique post-synodale "Vita consecrata."* Doctoral Thesis, Ottawa, Université Saint-Paul, 1996, xiii-252 p.

## SELECT BIBLIOGRAPHY

- 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, xv-289 p.
- METZ, J., *Followers of Christ*, New York, Paulist Press, 1978, 96 p.
- MICHIELS, G., *Normae generales juris canonici*, Parisiis, Tornaci, Romae. Desclée et Socii, 1949. 2 vols.
- MORRISEY, F., *Papal and Curial Pronouncements: Their Canonical Significance in the Light of the Code of Canon Law*, (2nd edition, revised by M. THERIAULT), Ottawa, Faculty of Canon Law SPU, 1995, 46 p.
- N.C.W.C. *The Sixteen Documents of Vatican II and the Instruction on the Liturgy*, Boston, St Paul Editions, 1966. 624 p.
- NGUYEN DAN, P., *The Spiritual Patrimony of an Institute of Consecrated Life*. Doctoral thesis, Romae, Pontificia Universitas Urbaniana, 1989, xvii-207 p.
- NWAGWU, M., *Autonomy and Dependence of Religious Institutes of Diocesan Law on the Local Ordinary*, Doctoral thesis, Frankfurt am Main - Bern - New York, Peter Lang, 1987, 260 p.
- OCHOA, X., *Index verborum cum documentis Concilii Vaticani Secundi*, Rome, Commentarium pro religiosis, 1967, 847 p.
- \_\_\_\_\_, *Index verborum ac locutionum Codicis iuris canonici*, Città del Vaticano, Libreria Editrice Lateranense, 1984, xv-592 p.
- O'MALLEY, J., *Tradition and Transition. Historical Perspectives on Vatican II*, Wilmington, DE, Michael Glazier, 1989, 191 p.
- PAGÉ, R., *Le conseil diocésain de pastorale, lieu de dialogue entre les laïcs, les religieux, les prêtres et l'évêque*, Montreal, Fides, 1969, 187 p.
- PINHEIRO, A., *Bishop-Religious Relationship in the Apostolic Activities of the Diocese According to the Code of Canon Law*, Doctoral thesis, Rome, Pontifical Lateran University, 1986, 174 p.
- PHILIBERT, P., (ed.), *Living in the Meantime*, New York, Paulist Press, 1994, x-222 p.
- RAHNER, K., and J. RATZINGER, *The Episcopate and the Primacy*, Quaestiones disputatae No. 4, London, Burns and Oates, 4th Impression, 1966, 135 p.

## SELECT BIBLIOGRAPHY

- RAHNER, K., *Theological Investigations, Vol. VI. Concerning Vatican II*, (trans. K.-H. and B. Kruger), London, Darton, Longman and Todd, 1969, xiv-417 p.
- REILLY, T., *The Visitation of Religious*, Doctoral Thesis, Washington, DC, The Catholic University of America, 1938, xi-195 p.
- ROBINSON, G., (ed.), *An Introduction to the New Code of Canon Law*, Sydney, Canon Law Society of Australia and New Zealand, 1982, 199 p.
- SECONDIN, B., *Per una fedeltà creativa. La vita consacrata dopo il Sinodo*, Milan, Figlie de San Paolo, 1995, 430 p.
- SHEEHY, G., et al. (eds.), *The Canon Law Letter & Spirit: A Practical Guide to the Code of Canon Law*, Collegeville, The Liturgical Press, 1995, xxv-1060 p.
- SCHOENMAECKERS, M., *Genèse du chapitre VI «De religiosis» de la constitution dogmatique sur l'Église «Lumen gentium»*, Rome, Gregorian University Press, 1983, 328 p.
- SWEENEY, B., *The Patrimony of an Institute in the Code of Canon Law. A Study of Canon 578*, Doctoral thesis, Rome, Pontifical University of St Thomas Aquinas, 1995, 197 p.
- 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 Società San Paolo (For private Circulation), 1993, 36 p.
- \_\_\_\_\_. *Consecrated Life Today. Charisms in the Church for the World*, Slough - Maynooth - Homebush, St Pauls, 1994, 284 p.
- URRUTIA, F., *Les normes générales: commentaire des canons 1-203*, Paris, Editions Tardy, 1994, 295 p.
- VALDRINI, P. et al. (eds.), *Droit canonique*, Paris, Dalloz, 1990, xxvi-749 p.
- VIENS, F., *Charismes et vie consacrée*, Rome, Typis Pontificiae Universitatis Gregorianae, 1983, xxvi-275 p.
- VORGRIMLER, H., (ed.), *Commentary on the Documents of Vatican II*, New York, Herder and Herder, 1967-1969, 5 vols.
- WOYWOD, S., *A Practical Commentary on the Code of Canon Law*, revised by C. SMITH, New York, Joseph F. Wagner, Inc., 1948, Vols. I and II.

## SELECT BIBLIOGRAPHY

ZORZI, D., *Towards Altering Canonical Status: A Case for Catholic Universities and Colleges in Canada*, Doctoral Thesis, Ottawa, Saint Paul University, 1995, 269 p.

## ARTICLES

AGUILAR, F., "Relacions entre Obispos y consagrados. Algunas reflexiones post-sinodales." in *Vida religiosa*, 79 (1995), pp. 76-79.

AMALADOSS, M., "The Religious and Mission," in *Vidyajyoti Journal of Theological Reflection*, 57 (1993), pp. 705-718.

ANDRÉS, D., "Meditaciones sobre la exhortación apostólica «Vita consecrata»," in *Commentarium pro religiosis et missionariis*, 77 (1996), pp. 139-145.

ARBUCKLE, G., "Suffocating Religious Life: A New Type Emerges," in *The Way Supplement*, 65 (1989), pp. 26-39.

AUBRY, J., "Le renouveau de la mission dans les instituts religieux apostoliques," in *Vie consacrée*, 58 (1986), pp. 31-46 and 89-106.

AUGÉ, M., "El Sinodo sobre la vida consagrada. Reflexiones en voz alta," in *Vida religiosa*, 78 (1995), pp. 46-52.

AUMANN, J., "A Time of Pruning the Vines," in *Boletín Eclesiástico de Filipinas*, 69 (1993), pp. 399-406.

AUSTIN, A., "Catholic Schools of Religious Institutes and Canons 805-806," in *Canon Law Society of Australia and New Zealand Newsletter*, 1996, pp. 6-29.

AYMANS, W., "Ecclesiological Implications of the New Legislation," in *Studia canonica*, 17 (1983), pp. 63-93.

BANDERA, A., "Vita consecrata: il numero iniziale," in *Vita consecrata*, 33 (1997), pp. 244-264.

BEDOUELLE, G., "La vie religieuse et les frontières," in *Vie consacrée*, 66 (1994), pp. 7-22.

BÉLANGER, V., "Cette portion du peuple de Dieu .... (en particulier les religieux)," in *Studia canonica*, 1 (1967), pp. 1-19.

BEYER, J., "La vie consacrée dans l'Église," in *Gregorianum*, 44 (1963), pp. 32-61.

\_\_\_\_\_, "Religious Life or Secular Institute," in *The Way Supplement*, 7 (1969), pp. 112-132.

## SELECT BIBLIOGRAPHY

- \_\_\_\_\_, "Institutes of Apostolic Life," in *The Way Supplement*, 8 (1969), pp. 182-207.
- \_\_\_\_\_, "Secular Institutes: A New Form of Apostolic Life," in *The Jurist*, 29 (1969), pp. 157-173.
- \_\_\_\_\_, "Institutes of Perfection in the New Law of the Church," in *The Way Supplement*, 13 (1971), pp. 87-115.
- \_\_\_\_\_, "Où en est la réforme du droit canon? Les Instituts de vie consacrée," in *Vie consacrée*, 43 (1971), pp. 273-308.
- \_\_\_\_\_, "Le nouveau droit des religieux: un projet original et ouvert," in *Concilium*, 97 (1974), pp. 89-99.
- \_\_\_\_\_, "Ad documentum 'Notae directivae' pro mutuis relationibus inter Episcopos et Religiosos. annotationes," in *Periodica*, 68 (1979), pp. 564-611.
- \_\_\_\_\_, "Le deuxième projet de droit pour la vie religieuse," in *Studia canonica*, 15 (1981), pp. 87-134.
- \_\_\_\_\_, "Droit ancien, droit nouveau," in *Vie consacrée*, 55 (1983), pp. 157-172.
- \_\_\_\_\_, "Religious in the New Code and their Place in the Local Church," in *Studia canonica*, 17 (1983), pp. 171-183.
- \_\_\_\_\_, "Religious and the Local Church," *The Way Supplement*, 50 (1984), pp. 80-98.
- \_\_\_\_\_, "De novo iure circa vitae consecratae instituta et eorum sodales quaesita et dubia solvenda," in *Periodica*, 73 (1984), pp. 411-459; 527-554; 75 (1986), pp. 525-596.
- \_\_\_\_\_, "Principe de subsidiarité ou «juste autonomie» dans l'Église," in *Nouvelle revue de théologie*, 108 (1986), pp. 801-822.
- \_\_\_\_\_, "La vie religieuse et l'Église universelle," in M. THERIAULT and J. THORN (eds.), *The New Code of Canon Law*, Vol. I, Ottawa, Faculty of Canon Law, Saint Paul University, 1986, pp. 563-576.
- \_\_\_\_\_, "Life Consecrated by the Evangelical Councils: Conciliar Teaching and Later Developments," in *Vatican II: Assessment and Perspectives: Twenty-five Years After (1962-1987)*, (ed. R. LATOURELLE), Vol. III, New York, Paulist Press, 1989, pp. 64-89.

## SELECT BIBLIOGRAPHY

- BEYER, J., "Gli aspetti 'giuridici' della vita consacrata nei Lineamenta," in *Vita consacrata*, 29 (1993), pp. 556-570.
- \_\_\_\_\_, "La vita consacrata nella Chiesa e nel mondo," in *Vita consacrata*, 30 (1994), pp. 159-180.
- BOCOS MERINO, A., "Validez y futuro del proceso de renovación," in *Vida religiosa*, 78 (1995), pp. 33-38.
- BONFILS, J. "Les Sociétés de vie apostolique," in *Vie consacrée*, 55 (1983), pp. 213-226.
- \_\_\_\_\_, "The Genesis of the Document," in *Consecrated Life*, 16, (1991), pp. 155-160.
- \_\_\_\_\_, "Mutuae relationes: Ten Years Later," in *Consecrated Life*, 17 (1993), pp. 122-134.
- \_\_\_\_\_, "Mutuae relationes au Synod sur la vie consacrée," in *Informationes*, 21 (1995), pp. 174-197.
- BONHOMME, A. de. "Les responsables diocésains des religieux et religieuses," in *Vie consacrée*, 45 (1973), pp. 276-291.
- BOUCHET, P., "La hiérarchie et l'apostolat des religieux," in *Revue de droit canonique*, 18 (1968), pp. 105-130.
- BOUCHER, M.-A., "Un nouveau droit proposé aux Instituts religieux," in *Studia canonica*, 11 (1977), pp. 351-388.
- BOUCHER, R., "Experiences and Propositions of a Bishop," in *Consecrated Life*, 17 (1993), pp. 3-9.
- BOVIS, A. de. "Vie religieuse et secularisation," in *Vie consacrée*, 41 (1969), pp. 257-279.
- BROWNE, M.J., "Religious Brethren and Episcopal Laws," in *Irish Ecclesiastical Review*, 45 (1935), pp. 74-76.
- \_\_\_\_\_, "Are Religious Bound by Diocesan Penal Laws?," in *Irish Ecclesiastical Review*, 45 (1935), pp. 529-530.
- BUCKLEY, M., "The Charism and Identity of Religious Life," in *Review for Religious*, 44 (1985), pp. 654-664.

## SELECT BIBLIOGRAPHY

- CABRA, P., "Congregavit nos in unum Christi amor," in *Vita consecrata*, 30 (1994), pp. 262-271.
- \_\_\_\_\_, "L'esortazione apostolica «Vita consecrata» una presentazione," in *Commentarium pro religiosis et missionariis*, 77 (1996), pp. 119-137.
- \_\_\_\_\_, "A Reflection for the Synod on the Consecrated Life: From the *Lineamenta* to the *Instrumentum laboris*," in *Consecrated Life*, 19 (1996), pp. 45-59.
- CALERO, A., "En la Iglesia y para la Iglesia. Lectura eclesiológica de la «VC»," in *Confer*, 35 (1996), pp. 629-645.
- CALIGIURI, A., "The Ecclesial Dimension of Ministry," in *Review for Religious*, 39 (1980), pp. 428-433.
- CALLAM, D., "The Consecrated Life," in *The Canadian Catholic Review*, September 1996, pp. 2-4.
- CASTELLANO CERVETERA, J., "*Lumen gentium* - *Perfectae caritatis* - *Vita consecrata*: unità dinamica e novità di tre testi magisterali sulla vita consacrata," in *Informationes*, 22 (1996), pp. 164-184.
- CASTILLO LARA, R., "De ecclesialitate vitae religiosae in Codice iuris canonici," in *Periodica*, 74 (1985), pp. 419-437.
- CHITTISTER, J., "The New Code and the Development of Religious Life," in *The Way Supplement*, 50 (1984), pp. 113-121.
- \_\_\_\_\_, "Reflections on the Synod, 2," in *Religious Life Review*, 34 (1995), pp. 91-94.
- COLLINS, P., "The State of Religious Life Today: One Man's Analysis," in *Review for Religious*, 43 (1984), pp. 699-705.
- COMYNS, J., "The Relations of the Religious Pastor to the Local Ordinary," in *The Jurist*, 15 (1955), pp. 186-204.
- CONGAR, Y., "La vie religieuse vue dans l'Église selon Vatican II," in *Vie consacrée*, 43 (1971), pp. 65-88.
- CROWLEY, L., "Reflections of a Bishop on Religious Communities," in *Review for Religious*, 38 (1979), pp. 21-27.
- CUSSON, G., "Attentes des religieux et des religieuses à l'approche du Synode sur la vie religieuse," in *Vie consacrée*, 65 (1993), pp. 223-235.

## SELECT BIBLIOGRAPHY

- DANIÉLOU, J., "La place des religieux dans la structure de l'Église," in G. BARAÚNA, *L'Église de Vatican II. Études autour de la Constitution conciliaire sur l'Église*, (French translation by Y. CONGAR), Vol. III, (Unam Sanctam 51c) [= *US 51c*], Paris, Éditions du Cerf, 1966, pp. 1173-1180.
- DANNEELS, G., "La parole d'un pasteur," in *Vie consacrée*, 66 (1994), pp. 140-165.
- DE CARDEDAL, O. G., "Development of a Theology of the Local Church from the First to the Second Vatican Council," in *The Jurist*, 52 (1992), pp. 11-43.
- DELANEY, A., "Bishops and Religious: The Document *Mutuae relationes*," in *The Furrow*, 34 (1983), pp. 233-241.
- DELCOURT, F., "Le rôle des religieux et des religieuses dans l'évangélisation de l'Europe," in *Vie consacrée*, 64 (1992), pp. 163-169.
- \_\_\_\_\_. "Message de la Présidente de l'UESM," in *Vie consacrée*, 66 (1994), pp. 290-296.
- DEMONTY, É., "Jean-Paul II et la vie consacrée," in *Vie consacrée*, 54 (1982), pp. 259-270.
- DE PAOLIS, V., "Exemptio an autonomia Institutorum vitae consecratae?," in *Periodica*, 71 (1982), pp. 147-178.
- \_\_\_\_\_. "Schema of an Agreement for the Assignment of a Parish to Religious," in *Consecrated Life*, 12 (1988), pp. 129-146 and 218-242.
- DIVARKAR, P., "An Indian Contribution to the Next Synod," in *Vidyajyoti Journal of Theological Reflection*, 57 (1993), pp. 332-334.
- DOMINIC, A., "Charism, Charisms, and Faddism," in *Review for Religious*, 53 (1994), pp. 43-57.
- DORTEL-CLAUDOT, M., "Les nouvelles dispositions du Code concernant la vie religieuse," in *Vie consacrée*, 55 (1983), pp. 186-200.
- DVORNIK, F., "Origins of Episcopal Synods," in J.A. CORIDEN, (ed.), *The Once and Future Church*, New York, Alba House, 1971, pp. 25-56.
- EUART, S., "A Canonical Analysis of 'Essential Elements' in Light of the 1983 Code of Canon Law," in *The Jurist*, 45 (1985), pp. 438-501.

## SELECT BIBLIOGRAPHY

- EUART, S., "Religious Institutes and the Juridical Relationship of the Members to the Institute," in *The Jurist*, 51 (1991), pp. 103-118.
- FAGAN, S., "The Institutional and the Charismatic," in *Religious Life Review*, 33 (1994), pp. 66-71.
- \_\_\_\_\_, "Preparing for the Synod: The *Instrumentum laboris*," in *Religious Life Review*, 33 (1994), pp. 258-263.
- FALEY, R., "The Financial Compensation of Religious," in *Review for Religious*, 49 (1990), pp. 391-396.
- FAMERÉE, J., "La vie religieuse apostolique en Europe occidentale," in *Vie consacrée*, 66 (1994), pp. 297-301.
- FLEMING, D., "Communion: Divine Life Enlarging Our Desires," in *Review for Religious*, 56 (1997), pp. 118-131.
- FOGARTY, G., "The Bishop versus Religious Orders: The Suppressed Decrees of the Third Plenary Council of Baltimore," in *The Jurist*, 33 (1973), pp. 384-398.
- FORD, N., "Why Religious Revised the Constitutions," in *Review for Religious*, 42 (1983), pp. 218-225.
- FRANSEN, G., "L'évolution du droit des religieux," in *Vie consacrée*, 55 (1983), pp. 150-156.
- FUTRELL, J., "Discovering the Founder's Charism," in *The Way Supplement*, 14 (1971), pp. 62-70.
- GALANTE, J., "The Relationship of the Diocesan Bishop and Institutes of Pontifical Right," in *CLSA Proceedings*, 56 (1994), pp. 90-96.
- GALLAGHER, C., "The Church and Institutes of Consecrated Life," in *The Way Supplement*, 50 (1984), pp. 3-15.
- GALLAGHER, J., "Individualism and Religious Life," in *Review for Religious*, 54 (1995), pp. 585-589.
- GALLEN, J., "Authority and Autonomy," in *Review for Religious*, 43 (1984), pp. 594-599.
- GALLIN, A., "Lay-Religious Partnership Needed in Higher Education," in *Health Progress*, 67 (1986), No. 7, pp. 55-57.

## SELECT BIBLIOGRAPHY

- GALOT, J., "Valore e necessità della vita consacrata," in *Vita consacrata*, 32 (1996), pp. 108-119.
- GAMBARI, E., "How to Read *Mutuae relationes*," in *Doctrine and Life Supplement*, 19 (1979), pp. 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), pp. 85-99.
- GARCÍA MARTIN, J., "Les relaciones entre ordinarios del lugar e institutos religiosos en las misiones segund el Codigo de derecho canonico 1983," in *Commentarium pro religiosis et missionariis*, 65 (1984), pp. 121-166.
- GAUTHIER, A., "Juridical Persons in the Code of Canon Law," in *Studia canonica*, 25 (1991), pp. 77-92.
- GEEROMS, G., "La vie fraternelle dans la vie consacrée religieuse," in *Vie consacrée*, 66 (1994), pp. 72-84.
- GHIRLANDA, G., "Relazioni tra istituti religiosi e vescovi diocesani," in *Informationes*, 1988, pp. 49-89.
- \_\_\_\_\_, "Iusta autonomia et exemptio Institutorum religiosorum: fundamenta et extensio," in *Periodica*, 78 (1989), pp. 113-142. (Also as "La giusta autonomia e l'essenzione degli Istituti religiosi," in *Vita consacrata*, 1989, pp. 679-699).
- \_\_\_\_\_, "Relations Between Religious Institutes and Diocesan Bishops," in *Consecrated Life*, 14 (1989), pp. 37-71.
- \_\_\_\_\_, "L'Instrumentum laboris per il Sinodo sulla vita consacrata," in *Periodica*, 83 (1994), pp. 437-468.
- \_\_\_\_\_, "La vita consacrata nella Chiesa," in *Informationes*, 21 (1995), pp. 94-131.
- \_\_\_\_\_, "Dimensione ecclesiological della vita consacrata nel Sinodo dei Vescovi del 1994," in *Periodica*, 84 (1995), pp. 655-685.
- \_\_\_\_\_, "La vie consacrée dans l'Église," in *Vie consacrée*, 68 (1996), pp. 88-101.
- \_\_\_\_\_, "L'esortazione apostolica *Vita consacrata*: aspetti teologici ed ecclesiologicali," in *Periodica*, 85 (1996), pp. 555-596.
- \_\_\_\_\_, "L'esortazione apostolica *Vita consacrata*: aspetti canonici," in *Periodica*, 85 (1996), pp. 597-623.

## SELECT BIBLIOGRAPHY

- GIALLANZA, J., "Hopes for the Synod and Beyond," in *Review for Religious*, 53 (1994), pp. 58-63.
- \_\_\_\_\_, "Life in Community: A Recent Roman Document," in *Religious Life Review*, 33 (1994), pp. 141-148.
- \_\_\_\_\_, "Continuing Formation: Perspectives from *Vita consecrata*," in *Review for Religious*, 56 (1997), pp. 468-477.
- GIOVANNINI, L., "Un 'itinerario' di discernimento e di incoraggiamento per la vita consacrata e il suo futuro," in *Vita consacrata*, 30 (1994), pp. 516-528.
- \_\_\_\_\_, "Il Messaggio del Sinodo, una pagina aperta il Sinodo guarda avanti," in *Vita consacrata*, 31 (1995), pp. 66-84.
- GLORIEUX, J.-M., "Institutions: une entrée progressive du civil dans les religieux," in *Vie consacrée*, 66 (1994), pp. 23-41.
- GOFFI, T., "L'essenzione dei religiosi e l'autorità dei vescovi," in *Divinitas*, 6 (1962), pp. 197-218.
- GONZALES SILVA, S., "Consacrati per la missione," in *Informationes*, 22 (1996), pp. 55-69.
- GOTTEMOELLER, D., "*Vita consecrata*: The Exhortation on Consecrated Life," in *Religious Life Review*, 36 (1997), pp. 214-226.
- GRAHAM, G., "The Power of Bishops in Recent Documents," in *The Jurist*, 25 (1968), pp. 425-448.
- GRANT, M., "Sponsorship Challenge: Influence through Governance," in *Health Progress*, 67 (1986), No. 7, pp. 36-40.
- GREEN, T., "The Diocesan Bishop in the Revised Code: Some Introductory Reflections," in *The Jurist*, 42 (1982), pp. 320-347.
- \_\_\_\_\_, "The Pastoral Governance Role of the Diocesan Bishop: Foundations, Scope and Limitations," in *The Jurist*, 49 (1989), pp. 472-506.
- GREEN, T., "Rights and Duties of Diocesan Bishops," in *CUSA Proceedings*, 45 (1983), pp. 18-36.
- GROGAN, B., "The Theology of Religious Life in the *Directives*," in *The Way Supplement*, 71 (1991), pp. 16-28.

## SELECT BIBLIOGRAPHY

- GUTIÉRREZ, A., "Vicarius episcopalis pro Religiosis," in *Commentarium pro religiosis et missionariis*, (1979), pp. 105-117.
- \_\_\_\_\_, "Canones de institutis vitae consecratae extra partem propriam vagantes," in *Commentarium pro religiosis et missionariis*, 64 (1983), pp. 72-96 and 255-280, and 65 (1984), pp. 7-22, 207-222, and 315-325.
- \_\_\_\_\_, "The New Code of Canon Law and the Internal Law of Institutes of Consecrated Life," in *Consecrated Life*, 9 (1984), pp. 81-97.
- GUTIÉRREZ MARTÍN, L., "De ratione episcopos inter et religiosos iuxta Concilium Vaticanum II," in *Commentarium pro religiosis et missionariis*, 47 (1966), pp. 121-148.
- \_\_\_\_\_, "Criteria practica ad rationes inter Episcopos et religiosos componendas," in *Commentarium pro religiosis et missionariis*, 48 (1967), pp. 19-31.
- \_\_\_\_\_, "Sinodo de obispos - 1994: observaciones a los Lineamenta," in *Commentarium pro religiosis et missionariis*, 75 (1994), pp. 117-123.
- HAMER, J., "The Bishop and Religious Life," in *Consecrated Life*, 10 (1986), pp. 57-60.
- \_\_\_\_\_, "De munere Episcopi erga vitam religiosam" in *Commentarium pro religiosis et missionariis*, 67 (1986), pp. 136-139.
- \_\_\_\_\_, "Introduction," in *Consecrated Life*, 16 (1991), pp. ix-xii.
- HARVEY, T., "Alternative Sponsorship - A Test for the Church," in *Health Progress*, 67 (1986), No. 7, pp. 58-60.
- HAUSMAN, N., "La vie religieuse apostolique comme vie ecclésiale," in *Vie consacrée*, 56 (1984), pp. 331-344.
- \_\_\_\_\_, "Jean-Paul II et la vie religieuse," in *Vie consacrée*, 57 (1985), pp. 249-257.
- \_\_\_\_\_, "L'avenir de la vie religieuse apostolique," in *Vie consacrée*, 59 (1987), pp. 144-159 and 212-224.
- \_\_\_\_\_, "Après le synode sur la vie consacrée et sa mission dans l'Église et dans le monde," in *Vie consacrée*, 67 (1995), pp. 7-11.
- \_\_\_\_\_, "La vie consacrée après le synode des Évêques. Des apories, une question," in *Vie consacrée*, 68 (1996), pp. 102-116.

## SELECT BIBLIOGRAPHY

- HAUSMAN, N., "Vita consecrata: un guide de lecture," in *Vie consacrée*, 69 (1997), pp. 151-174.
- HAYES, J., "Religious and the Diocesan Administration," in *Studia canonica*, 3 (1969), pp. 251-258.
- HEBBLETHWAITE, P., "The Avant-garde of Charity," in *The Tablet*, 248 (1994), pp. 1258-1261.
- \_\_\_\_\_, "The Synod of the Two Hats," in *The Tablet*, 248 (1994), pp. 1321-1324.
- \_\_\_\_\_, "The Light at the End of the Tunnel," in *The Tablet*, 248 (1994), pp. 1358-1360.
- \_\_\_\_\_, "Green Light for Women," in *The Tablet*, 248 (1994), pp. 1489-1490.
- HILL, R., "Complementary Competencies: Bishops, Superiors and Apostolates," in *Bulletin on Issues of Religious Law*, 1/2 (1985), pp. 7-10.
- \_\_\_\_\_, "Autonomy of Life," in *Review for Religious*, 46 (1987), pp. 137-141.
- \_\_\_\_\_, "Schools of Religious and the Diocese," in *Review for Religious*, 46 (1987), pp. 295-299; 47 (1988), pp. 459-464.
- HINNEBUSCH, W., "Origins and Development of Religious Orders," in *Review for Religious*, 28 (1969), pp. 910-930; 29 (1970), pp. 59-78.
- HITE, J., "Mutual Rights and Obligations of Bishops and Major Superiors Regarding Public Ministry," in *Bulletin on Issues of Religious Law*, 14 (1997), pp. 1-8.
- HOGAN, W., "Canonical Room for Charisms," in *Review for Religious*, 52 (1993), pp. 596-601.
- HOLLAND, S., "The New Code and Religious," in *The Jurist*, 44 (1984), pp. 67-80.
- \_\_\_\_\_, "The Episcopal Vicar for Religious," in *The Way Supplement*, 50 (1984), pp. 99-112.
- HOSTIE, R., "Vie et mort des Ordres religieux," in *Concilium*, (1974), pp. 21-30.
- HUELS, J., "The Demise of Religious Exemption," in *The Jurist*, 54 (1994), pp. 40-55.
- HUERRE, D., "Le gouvernement dans la vie religieuse après Vatican II," in *Vie consacrée*, 64 (1992), pp. 149-162, 247-258.

## SELECT BIBLIOGRAPHY

- IGLESIAS, F., "Guidelines of the Council and the Magisterium," in *Consecrated Life*, 9 (1984), pp. 37-49.
- JUBANY, N., "Les religieux, collaborateurs du ministère pastoral des Évêques (Nos 33-35)" in W. ONCLIN (ed.), *La charge pastorale des Évêques: decret «Christus Dominus». Texte latin et trad. française*, (Unam Sanctam 74), Paris, Éditions du Cerf, 1969, pp. 297-327.
- JUKES, J., "A Commentary on the *Notae directivae* for the Mutual Relations Between Bishops and Religious in the Church." in *Clergy Review*, 63 (1978), pp. 472-477; and 64 (1979), pp. 21-30.
- KAPTIJN, A., "Quelques éléments d'évaluation vis-à-vis des communautés nouvelles et des nouveaux mouvements religieux." in *L'Année canonique*, 36 (1993), pp. 113-116.
- KAY, D., "De Societatis Iesu exemptione." in *Periodica*, 80 (1991), pp. 311-333.
- \_\_\_\_\_. "The Historical Origins of Canon 591 of the Code of Canon Law." in *Studia canonica*, 25 (1991), pp. 451-464.
- KNITTEL, M. M., "Corporate Sponsorship: The 1990's and the Fruits of Our Lives," in *Review for Religious*, 54 (1995), pp. 499-507.
- KENEL, S., "Challenges Facing Active Religious Today," in *Review for Religious*, 49 (1990), pp. 5-14.
- KOMONCHAK, J., "Subsidiarity in the Church: The State of the Question." in *The Jurist*, 48 (1988), pp. 298-349.
- KOLVENBACH, P., "Nella Chiesa e per la Chiesa." in *Informationes*, 22 (1996), pp. 43-54.
- KREMSMAIR, J. von, "Garantiert die Autonomie im CIC/1983 die Eigenart der Ordensinstitute?," in *Österreichisches Archiv für Kirchenrecht*, 38 (1989), pp. 73-84.
- LAFONT, G., "L'ecclésiologie de «Mutuae relationes»," in *Vie consacrée*, 54 (1982), pp. 323-339.
- LAGHI, P., "Priorities for Religious." in *Review for Religious*, 42 (1983), pp. 161-165.
- LAPIERRE, M., "Why Religious Life." in *Studia canonica*, 2 (1968), pp. 289-306.

## SELECT BIBLIOGRAPHY

- LEDÓCHOWSKA, T., "A la recherche du charisme d'un Institut religieux," in *Vie consacrée*, 49 (1977), pp. 7-23.
- LEE, B., "A Socio-Historical Theology of Charism," in *Review for Religious*, 48 (1989) pp. 124-135.
- LEGRAIN, M., "Les sociétés de vie apostolique," in *Vie consacrée*, 61 (1989), pp. 103-110.
- LESAGE, G., "Les religieux et l'Église locale," in M. THÉRIAULT and J. THORN (eds.), *The New Code of Canon Law*, vol. II, Ottawa, Faculty of Canon Law, Saint Paul University, 1986, pp. 681-705.
- LEVEY, M., "Mission or Consecrated Religious Person: Which Comes First in Apostolic Institutes," in *Review for Religious*, 50 (1991), pp. 670-681.
- LINSCOTT, M., "The Consecrated Life of Apostolic Religious Today," in *Review for Religious*, 47 (1988), pp 3-23.
- LOZANO, J., "Founder and Community: Inspiration and Charism," in *Review for Religious*, 37 (1978) pp. 214-236.
- LUSTIGER, J.-M., "Un Synode des évêques sur la vie consacrée," in *Vie consacrée*, 65 (1993), pp. 72-77.
- LYNCH, J., "The Changing Role of the Bishop: A Historical Survey," in *The Jurist*, 39 (1979), pp. 289-312.
- MCCARTY, S., "Enlarging Perspectives for the Future of Religious Life," in *Review for Religious*, 49 (1990), pp. 15-21.
- MACCISE, C., "Favorire la comunione fra gli istituti di vita consacrata (*Lineamenta* n. 38)," in *Vita consacrata*, 30 (1994), pp. 80-82.
- \_\_\_\_\_, "El desafío de una nueva espiritualidad," in *Vida religiosa*, 78 (1995), pp. 39-45.
- McDERMOTT, R., "Consecrated Life and Its Role in the Church and the World: the *Lineamenta* for the 1994 Synod of Bishops," in *The Jurist*, 53 (1993), pp. 239-262.
- McDERMOTT, R., "Governance in Religious Life," in *Review for Religious*, 39 (1980), pp. 441-447.

## SELECT BIBLIOGRAPHY

McDERMOTT, R., "The Fruits of Consultation: The 1994 Synod's *Instrumentum Laboris*," in *Review for Religious*, 54 (1995), pp. 180-191.

\_\_\_\_\_, "Two Approaches to Consecrated Life: The Code of Canons of the Eastern Churches and the Code of Canon Law," in *Studia canonica*, 29 (1995), pp. 193-239.

\_\_\_\_\_, "The Ninth Ordinary Session of the Synod of Bishops: Four Moments and Six Canonical Issues," in *Commentarium pro religiosis et missionariis*, 77 (1996), pp. 261-294.

\_\_\_\_\_, "*Vita consecrata*: A Vocation for the Third Millenium," in *Review for Religious*, 55 (1996), pp. 454-461.

\_\_\_\_\_, "Consecrated Life and the *Novus habitus mentis*," in *The Jurist*, 56 (1996), pp. 267-287.

MacDONALD, S., "Covenanting Ministry: Religious and the Diocese," in *Review for Religious*, 42 (1983), pp. 50-53.

McDONOUGH, E., "The Protection of Rights in Religious Houses," in *The Jurist*, 46 (1986), pp. 164-204.

\_\_\_\_\_, "Canonical Considerations of Autonomy and Hierarchical Structure," in *Review for Religious*, 45 (1986), pp. 669-690.

\_\_\_\_\_, "Relationship between Bishops and Religious: Mutual Rights and Duties," in *Bulletin on Issues of Religious Law*, 5:2 (1989), pp. 1-8.

\_\_\_\_\_, "Beyond the Liberal Model: *Quo vadis?*," in *Review for Religious*, 50 (1991), pp. 171-188.

\_\_\_\_\_, "The Past is Prologue: *Quid agis?*," in *Review for Religious*, 51 (1992), pp. 78-97.

\_\_\_\_\_, "Juridical Deconstruction of Religious Institutes," in *Studia canonica*, 26 (1992), pp. 307-341.

\_\_\_\_\_, "The Synod on Consecrated Life," in *Review for Religious*, 52 (1993), pp. 616-621.

\_\_\_\_\_, "Charisms and Religious Life," in *Review for Religious*, 52 (1993), pp. 646-659.

## SELECT BIBLIOGRAPHY

- McDONOUGH, E., "Conciliar and Postconciliar Documents on Consecrated Life," in *Review for Religious*, 52 (1993), pp. 780-786.
- \_\_\_\_\_, "Lumen gentium's Chapter 6: Religious," in *Review for Religious*, 52 (1993), pp. 927-932.
- \_\_\_\_\_, "The Conciliar Decree *Perfectae caritatis*," in *Review for Religious*, 53 (1994), pp. 142-148.
- \_\_\_\_\_, "Norms for Renewal and Reflections on Its Progress," in *Review for Religious*, 53 (1994), pp. 303-308.
- \_\_\_\_\_, "Directives for the Relationship Between Bishops and Religious: *Mutuae relationes*," in *Review for Religious*, 53 (1994), pp. 467-472.
- \_\_\_\_\_, "Religious and Human Promotion," in *Review for Religious*, 53 (1994), pp. 662-628.
- \_\_\_\_\_, "The Contemplative Dimension of Religious Life," in *Review for Religious*, 53 (1994), pp. 781-785.
- \_\_\_\_\_, "An Apostolic Exhortation to Religious, *Redemptionis donum*," in *Review for Religious*, 53 (1994), pp. 840-846.
- \_\_\_\_\_, "Cloister for Nuns: From the 1917 Code to the 1994 Synod," in *Review for Religious*, 54 (1995), pp. 772-778.
- \_\_\_\_\_, "Vita Consecrata: A Vocation for the Third Millenium," in *Review for Religious*, 55 (1996), pp. 454-461.
- \_\_\_\_\_, "Diocesan Institutes and Pontifical Institutes," in *Review for Religious*, 56 (1997), pp. 96-97.
- \_\_\_\_\_, "Apostolic Institutes," in *Review for Religious*, 56 (1997), pp. 207-211.
- \_\_\_\_\_, "Levels of Legislation in an Institute," in *Review for Religious*, 56 (1997), pp. 428-432.
- McGRATH, A., "Between Charism and Institution: The Approval of the Rule of Saint Clare in 1253," in *Studia canonica*, 31 (1997), pp. 423-448.
- McINTYRE, J., "The Acquired Right: A New Context," in *Studia canonica*, 26 (1992), pp. 25-38.

## SELECT BIBLIOGRAPHY

- McKENNA, T., "Images for the Future of Religious Life," in *Review for Religious*, 49 (1990), pp. 358-371.
- MALVAUX, B., "La vie consacrée, signe de communion dans l'Église. L'apport de *Vita consecrata* (Vc 41-58)," in *Vie consacrée*, 69 (1997), pp. 161-174.
- MARCHESI, G., "Il prossimo Sinodo dei Vescovi sulla vita consacrata," in *La civiltà cattolica*, 145 (1994), pp. 413-421.
- \_\_\_\_\_, "Il Sinodo dei vescovi sulla vita consacrata," in *La civiltà cattolica*, 145 (1994), pp. 590-599.
- MARTELET, G., "A Theological Reflection on *Perfectae caritatis*," in *Review for Religious*, 25 (1966), pp. 986-999.
- MODDE, M., "Private Association: Opportunity for Laity," in *Health Progress*, 67 (1986), No. 7, pp. 46-50.
- MOLINARI, P., "Renewal of Religious life According to the Founder's Spirit," in *Review for Religious*, 27 (1968), pp. 796-806.
- MONTAN, A., "Un documento 'organico e completo'," in *Vita consacrata*, 30 (1994), pp. 24-30.
- MORRISEY, F., "The Spirit of the Proposed New Law for Institutes of Consecrated Life," in *Studia canonica*, 9 (1975), pp. 77-94.
- \_\_\_\_\_, "The Apostolate of Religious According to the New Code," in *Australasian Catholic Record*, 60 (1983), pp. 380-391.
- \_\_\_\_\_, "Juridic Status: Canonical Provisions, Possible Applications," in *Health Progress*, 67 (1986), No. 7, pp. 41-45.
- \_\_\_\_\_, "What Makes an Institution 'Catholic'?" in *The Jurist*, 47 (1987), pp. 531-544.
- NASSAL, J., "Reclaiming Our Name," in *Review for Religious*, 53 (1994), pp. 840-846.
- NOTHOMB, D., "Une existence transfigurée. Une première approche de l'exhortation *Vita consecrata*," in *Vie consacrée*, 68 (1996), pp. 343-351.
- NYGREN, D., and M. UKERITIS, "Future of Religious Orders in the United States," in *Origins*, 22 (1992-1993), pp. 257, 259-272.

## SELECT BIBLIOGRAPHY

- O'BRIEN, R., "Diocesan Government and Religious," in *The Jurist*, 27 (1967), pp. 283-296.
- O'CONNELL, L., "Responding to the Needs of the Times," in *Health Progress*, 67 (1986), No. 7, pp. 32-35.
- O'CONNOR, D., "Should a Diocesan Institute Seek Pontifical Recognition?," in *Review for Religious*, 39 (1980), pp. 919-923.
- \_\_\_\_\_, "Constitutions and the Revised Code of Canon Law," in *Review for Religious*, 42 (1983), pp. 506-513.
- \_\_\_\_\_, "Two Forms of Consecrated Life: Religious and Secular Institutes," in *Review for Religious*, 45 (1986), pp. 205-219.
- O'CONNOR, E., "Vatican II and the Renewal of Religious Life," in *Review for Religious*, 26 (1967), pp. 404-423.
- O'DONNELL, D., "*Vita consecrata* on Community," in *Religious Life Review*, 35 (1996), pp. 305-309.
- O'HIGGINS, P., and A. RYDER, "Religious in the Twenty-first century - Ten Pointers of the Synod," in *The Furrow*, 45 (1994), pp. 297-303.
- ONCLIN, W., "De personalitate morali vel canonica," in *Acta conventus internationalis canonistarum Romae diebus 20-25 mai 1968 celebrati*, Città del Vaticano. Typis Polyglottis Vaticanis, 1970, pp. 121- 157.
- OLPHE-GALLIARD, M., "Le charisme des fondateurs religieux," in *Vie consacrée*, 39 (1967), pp. 338-352.
- O'NEILL, M. *et al.*, "Views of Roman Congress," in *Religious Life Review*, 33 (1994), pp. 97-101.
- OMBRES, R., "Iusta autonomia vitae. Religious in the Local Church," in *Clergy Review*, 69 (1984), pp. 310-319.
- O'RIORDAN, S., "The Synod on the Consecrated Life," in *The Furrow*, 46 (1995), pp. 78-86.
- O'ROURKE, J., "The Office of Bishop and Its Relationship to the Particular Church and to the Universal Church," in *Studia canonica*, 5 (1971), pp. 227-243.
- O'ROURKE, K., "Cooperation of Religious with the Local Ordinary According to the Second Vatican Council," in *The Jurist*, 27 (1967), pp. 426-438.

- O'ROURKE, K., "The New Law for Religious: Principles, Content, Evaluation," in *Review for Religious*, 34 (1975), pp. 23-49.
- ÖRSY, L., "Collegiality: Its Meaning," in *America*, 112 (1965), pp. 705-709.
- \_\_\_\_\_. "A Theology of the Local Church and Religious Life," in *Review for Religious*, 36 (1977), pp. 666-682.
- \_\_\_\_\_. "Hierarchy and Religious: Responsibilities, Rights and Duties," in *The Way Supplement*, 37 (1978), pp. 115-125.
- \_\_\_\_\_. "Magisterium: Assent and Dissent," in *Theological Studies*, 48 (1987) pp. 473-497.
- OSIEK, C., "Relation of Charism to Rights and Duties in the New Testament Church," in *The Jurist*, 41 (1981), pp. 295-313.
- PARDILLA, A., "Dove va la vita consacrata? La vita consacrata dopo il Sinodo," in *Vita consacrata*, 31 (1995), pp. 554-584.
- PASINI, S., "Vita consacrata e consigli evangelici (I) il concetto teologico-giuridico di «Vita consecrata», in *Commentarium pro religiosis et missionariis*, 77 (1996), pp. 157-177; (II) «La distinzione tra «Consacrazione» e «Professione»,» pp. 345-361.
- PASQUALE, G., "Autonomia e corresponsabilità dei religiosi nel Codex iuris canonici," in *Commentarium pro religiosis et missionariis*, 76 (1995), pp. 259-312.
- PFAB, J., "Formed for the Mission," in *Consecrated Life*, 15 (1991), pp. 29-39.
- \_\_\_\_\_. "The Particular Church and the Consecrated Life," in *Consecrated Life*, 19 (1996), pp. 59-68.
- PINHEIRO, A., "Bishop-Religious Relationship. The 'Apostolic Subjection' of Religious to the Power of Diocesan Bishop in the Exercise of Apostolic Activities in the Diocese (can. 678, §§ 1 & 2)," in *Commentarium pro religiosis et missionariis*, 68 (1987), pp. 35-76; 193-292.
- \_\_\_\_\_. "Bishop-Religious Relationship According to CIC and CCEO," in *Vidyajyoti Journal of Theological Reflection*, 58 (1994), pp. 91-105, 229-248.
- PIRONIO, E., "La vie religieuse dans l'Église et dans le monde," in *Vie consacrée*, 54 (1982), pp. 67-80.
- POLI, G., "Insieme verso il Sinodo '94," in *Vita consacrata*, 29 (1993), pp. 3-15.

## SELECT BIBLIOGRAPHY

- PROESMANS, H., "Les religieux dans la pastorale diocésaine et paroissiale," in *Concilium*, 28 (1967), pp. 77-84.
- PROVOST, J., "The Canonical Aspects of Catholic Identity in the Light of *Ex corde Ecclesiae*," in *Studia canonica*, 25 (1991), pp. 155-192.
- QUITNN, J., "The Pastoral Service of Bishops to Religious," in *Review for Religious*, 43 (1984), pp. 161-169.
- REGAN, T., "New Needs ... New Paradigms: The Changing Character of Religious Life," in *Review for Religious*, 49 (1990), pp. 220-226.
- RENARD, L., "Épiscopat et vie religieuse," in *Vie consacrée*, 50 (1978), pp. 362-369.
- RENFRO, J., "Religious Charism: Definition, Rediscovery and Implications," in *Review for Religious*, 45 (1986), pp. 520-530.
- RENWART, L., "Vers un nouveau droit canonique," in *Vie consacrée*, 49 (1977), pp. 229-245.
- \_\_\_\_\_, "La vie religieuse active a-t-elle encore sa raison d'être?," in *Vie consacrée*, 50 (1978), pp. 7-21.
- \_\_\_\_\_, "La vie religieuse apostolique à la lumière de Vatican II," in *Vie consacrée*, 57 (1985), pp. 169-178.
- RINERE, E., "Community Life and a Small Point of Law," in *Review for Religious*, 44 (1985), pp. 856-859.
- \_\_\_\_\_, "Dialogue Between Bishops and Religious," in *Review for Religious*, 45 (1986), pp. 368-375.
- ROCHE, G., "Hierarchy: From Dionysius to Trent to Vatican II," in *Studia canonica*, 16 (1982), pp. 367-389.
- ROELKER, E., "Acquired Rights and the Retroactivity of Laws," in *The Jurist*, 4 (1944), pp. 491-521.
- RUIZ JURADO, M., "Consecrated Life and the Charisms of the Founders," in *Vatican II: Assessment and Perspectives: Twenty-five Years After (1962-1987)*, (ed. R. LATOURELLE), Vol. III. New York, Paulist Press, 1989, pp. 3-26.
- RYAN, S., "Episcopal Consecration: The Fullness of Order," in *Irish Theological Quarterly*, 32 (1965), pp. 295-324.

## SELECT BIBLIOGRAPHY

- RYAN, S., "Episcopal Consecration: The Legacy of the Schoolmen," in *Irish Theological Quarterly*, 33 (1966), pp. 3-38.
- \_\_\_\_\_, "Episcopal Consecration: Trent to Vatican II," in *Irish Theological Quarterly*, 33 (1966), pp. 133-150.
- \_\_\_\_\_, "Vatican II: The Re-discovery of the Episcopate," in *Irish Theological Quarterly*, 33 (1966), pp. 208-241.
- SAID, M., "The Present State of the Reform of the Code Concerning the Section 'De institutis perfectionis'." in *Studia canonica*, 8 (1974), pp. 213-235.
- \_\_\_\_\_, "De vita consecrata per consiliorum evangelicorum professionem: eius relatio ad baptismum. ad charisma. ad missionem instituti." in *Periodica*, 67 (1978), pp. 361-371.
- ST. HILAIRE, T., "Bishops and Religious Life," in *Review for Religious*, 26 (1967), pp. 860-868.
- SCARVAGLIERI, G., "The Development of the Document," in *Consecrated Life*, 4 (1980), pp. 358-362.
- SCHILLEBEECKX, E., "Collaboration des religieux avec l'épiscopat." in *Vie consacrée*, 38 (1966), pp. 75-90.
- SCHALÜCK, H., "Le Synode des Evêques sur la vie consacrée. Pour une prise de conscience renouvelée de notre charisme fondateur." in *Vie consacrée*, 68 (1996), pp. 72-87.
- SCHNEIDERS, S., "Formation for New Forms of Religious Community Life," in *The Way Supplement*, 62 (1988), pp. 63-76.
- SCHOTTE, J., "The Synod of Bishops: A Permanent yet Adaptable Church Institution," in *Studia canonica*, 26 (1992), pp. 289-306.
- \_\_\_\_\_, "The Consecrated Life in Church and World," in *Review for Religious*, 53 (1994), pp. 29-42.
- SEASOLTZ, R.K., "Monastic Autonomy and Exemption," in *The Jurist*, 34 (1974), pp. 316-355.
- SEBASTIÁN, F., "La vida consagrada en el siglo XXI. Las principales orientaciones del Sínodo de los Obispos sobre la vida consagrada," in *Vida religiosa*, 79 (1995), pp. 132-145.

## SELECT BIBLIOGRAPHY

- SECONDIN, B., "Temi e problemi teologici," in *Vita consacrata*, 31 (1995), pp. 52-65.
- \_\_\_\_\_, "La celebración del Sínodo. Los *circuli minores*," in *Vida religiosa*, 78 (1995), pp. 25-32.
- \_\_\_\_\_, "Exhortation *Vita consecrata* dans le contexte ecclésiologique actuel," in *Vie consacrée*, 69 (1997), pp. 74-90.
- SHEEHAN, M., "Institutional Relationships: Religious Life in the Church," in *The Way Supplement*, 65 (1989), pp. 78-89.
- SHEERAN, D., "Charism as Empowerment to Discern, to Decide, to Act, to Assess," in *Review for Religious*, 47 (1988), pp. 161-175.
- SMYTH, M., "The Hierarchy and Religious," in *The Furrow*, 21 (1970), pp. 216-226.
- SNIJDERS, J., "Bishops and Religious: The Document on the Mutual Relations Between Bishops and Religious," in *Review for Religious*, 39 (1980), pp. 115-126.
- SOULLARD, R., "Chronique de la vie consacrée," in *L'Année canonique*, 35 (1992), pp. 297-306; 37 (1994), pp. 329-336.
- STARKEN, E., "Reflections on the Synod. 1," in *Religious Life Review*, 34 (1995), pp. 86-90.
- \_\_\_\_\_, "*Vita consecrata*: Commentary on the Document, No. 2," in *Religious Life Review*, 35 (1996), pp. 242-246.
- STEVENS, M., "The Shifting Order of Religious Life in Our Church," in *Review for Religious*, 48 (1989), pp. 515-529.
- SUELZER, A., "Ecclesial Relationships for Religious: Desires and Limits," in *Review for Religious*, 43 (1984), pp. 511-523.
- SWEENEY, J., "The Synod, Was It Worth It?," in *Religious Life Review*, 34 (1995), pp. 3-16.
- \_\_\_\_\_, "Consecrated Life: The Synod and Theology," in *Religious Life Review*, 34 (1995), pp. 75-85.
- \_\_\_\_\_, "*Vita consecrata*: Commentary on the Document, No 1" in *Religious Life Review*, 35 (1996), pp. 218-228.

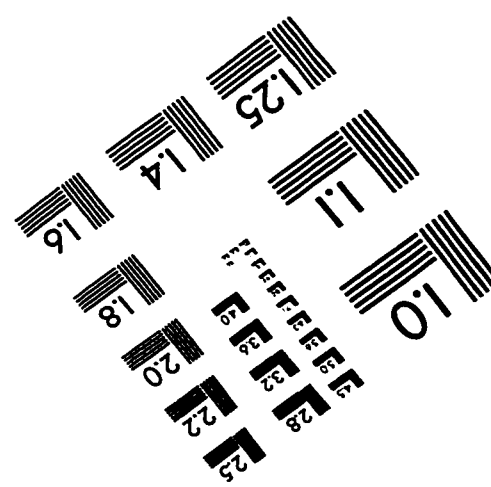
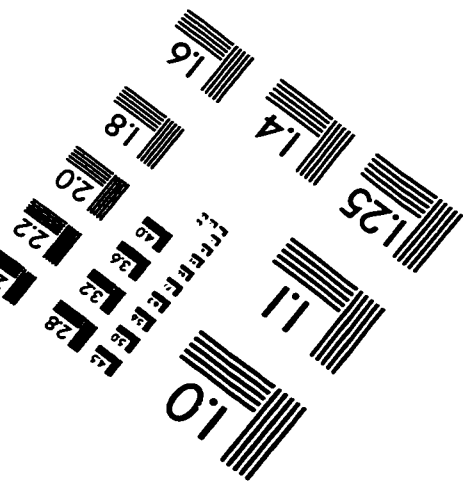
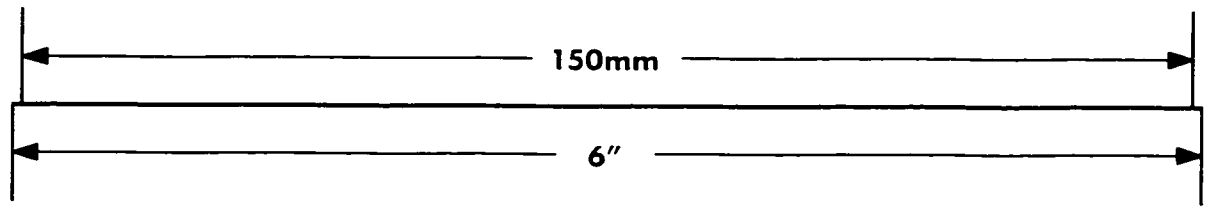
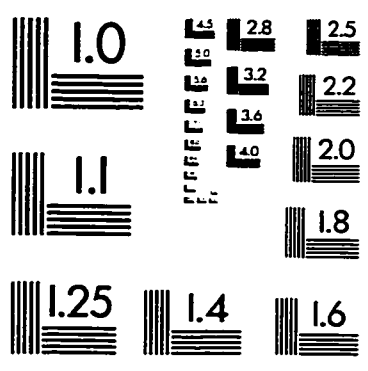
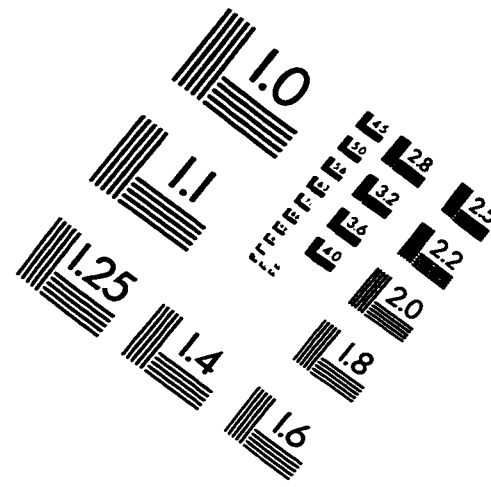
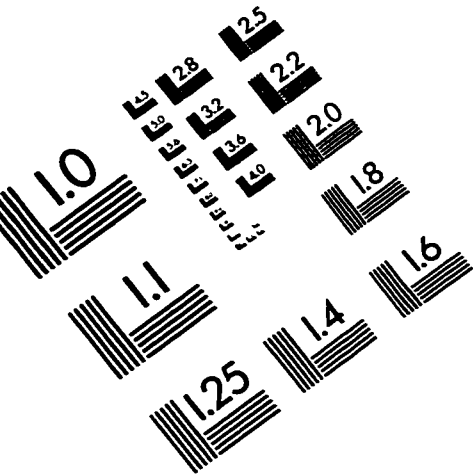
## SELECT BIBLIOGRAPHY

- TELLO INGELMO, N., "Pensando en el Sínodo que viene," in *Vida religiosa*, 76 (1994), pp. 2-5.
- \_\_\_\_\_, "Discusiones en el aula Sinodal: síntesis temática," in *Vida religiosa*, 76 (1994), pp. 485-509.
- TILLARD, J.-M.-R., "Relations entre hiérarchie et supérieurs majeurs d'après les directives du Concile Vatican II," in *Nouvelle revue théologique*, 99 (1967), pp. 561-581.
- \_\_\_\_\_, "Authority and Religious Life," in *Review for Religious*, 27 (1968), pp. 80-103.
- \_\_\_\_\_, "Les grandes lois de la rénovation de la vie religieuse," in J.-M.-R. TILLARD, (ed.) *L'adaptation et la rénovation de la vie religieuse: décret "Perfectae caritatis."* Texte latin et trad. Française par J.-M.-R. TILLARD. Unam Sanctam, 62. Paris, Éditions du Cerf. 1968. pp. 77-158.
- \_\_\_\_\_, "Vingt ans de grâce ou de disgrâce?," in *Vie consacrée*, 58 (1986), pp. 323-340.
- VALDRINI, P., "Unité et pluralité des ensembles législatifs. Droit universel et droit particulier. D'après le Code de droit canonique latin," in *Ius Ecclesiae*, 9 (1997), pp. 3-17.
- VERBRUGGHE, A., "The Figure of the Episcopal Vicar for Religious in the New Code of Canon Law," in *Commentarium pro religiosus et missionarius*, 65 (1984), pp. 223-246, 327-338 and 66 (1985) pp. 43-58.
- VIGANO, E., "The Theological Principles of the Document on the Relations Between Bishops and Religious," in *Consecrated Life*, 4 (1980), pp. 263-270.
- \_\_\_\_\_, "Il Sinodo sulla vita consacrata," in *Vita consacrata*, 31 (1995), pp. 201-216.
- VILNET, J., "Common Responsibilities of Bishops and Major Superiors," in *Consecrated Life*, 4 (1980), pp. 271-287
- WALSH, V., "The Bishop and Religious," in *The Clergy Review*, 52 (1967), pp. 131-134.
- WALTER, P., "Religious Life in Church Documents," in *Review for Religious*, 51 (1992), pp. 550-561.
- WELCH, M., "Sponsorship," in *Bulletin on Issues of Religious Law*, 10 (1994), pp. 1-12.

## SELECT BIBLIOGRAPHY

- WJLENS, M., "'For You I Am a Bishop, With You I Am a Christian': The Bishop as Legislator," in *The Jurist*, 56 (1996), pp. 68-87.
- WILLIAMSON, E., "The Notion of Charism in Religious Life," in *Studia canonica*, 19 (1985), pp. 99-114.
- WILSON, G., "Corporate Commitments," in *Review for Religious*, 49 (1990), pp. 747-753.
- WITTEBERG, P., "Dyads and Triads: The Sociological Implications of Small Group Living Arrangements," in *Review for Religious*, 49 (1990), pp. 43-51.
- WOODWARD, E., "Images of Community," in *The Way Supplement*, 71 (1991), pp. 73-84.
- WYNANTS, P., "Histoire de la vie religieuse (XVIIe-XIXes.)," in *Vie consacrée*, 62 (1990), pp. 367-380.
- YUHAUS, J., "The 1994 Synod: Uniqueness and Challenge," in *Review for Religious*, 54 (1995), pp. 833-851.
- ZUROWSKI, M., "Autorité et liberté dans l'Église," in M. THÉRIAULT and J. THORN (eds.), *The New Code of Canon Law*, vol. I, Ottawa, Faculty of Canon Law, Saint Paul University, 1986, pp. 375-384.

# IMAGE EVALUATION TEST TARGET (QA-3)



**APPLIED IMAGE, Inc**  
 1653 East Main Street  
 Rochester, NY 14609 USA  
 Phone: 716/482-0300  
 Fax: 716/288-5989

© 1993, Applied Image, Inc., All Rights Reserved