

THE BISHOP'S CARE AND VIGILANCE ON THE INSTITUTES OF CONSECRATED LIFE: JURIDICAL ASPECTS

1. Introduction

Vatican II dealt with the relationships between diocesan Bishops and Religious Institutes in the Decree *Christus dominus*, which, in nos 33-35 provides norms to regulate them with regards to active ministry. These regulations of the Council were then formulated more precisely in the 1983 Code of Canon Law (= 1983 CCL).

On the bases of 1983 CCL, I will try to outline the rights and duties of the diocesan Bishop with regards to the Institutes of Consecrated Life and Societies of Apostolic Life; these rights and duties express the care and vigilance which he should have for them.

I will divide the canons according to these themes: 1) the interpretation of the praxis of the evangelical counsels and the pastoral care of the Institutes of Consecrated Life and Societies of Apostolic Life; 2) the internal life of the Institutes and Societies; 3) the ministry of the Institutes and Societies; 4) the individual forms of consecration.

2. Canons concerning Institutes of Consecrated Life (ICL) and Societies of Apostolic Life (SAL) in general

2.1 Interpretation and regulation of the evangelical counsels, erection and care of the ICL and SAL

Can. 576 affirms: «It is for the competent authority of the Church to interpret the evangelical counsels, to direct their practice by laws, and by canonical approbation to establish the stable forms of living deriving from them, and also, for its part, to take care that the institutes grow and flourish according to the spirit of the founders and sound traditions».

The canon makes a general reference to the "competent authority of the Church", and therefore, even though in a limited way to the Holy See, it is also referring to the diocesan Bishop.

Consecrated Life in general, and the individual Institutes are a gift of the Spirit, not only to those who are called for this form of life, but to the entire Church because Consecrated Life is part of the Church's nature itself.

This means that it is under the authority of the Church, but this same authority, like all faithful, is under the Spirit; therefore, for the good of the consecrated persons and the Insti-

tutes, it must see that the evangelical counsels are correctly interpreted not only theoretically in the Constitutions and Rules, but also in practice.

Certainly, it is the Roman Pontiff or the College, the Supreme authority of the Church which, through the Magisterium may interpret, from the doctrinal point of view, the evangelical counsels and to acknowledge new forms of Consecrated Life. The acknowledgment of new forms of Consecrated Life is, first of all, a magisterial act, which is then followed by a legislative act and then by administrative acts.

The Supreme authority gives Laws to the entire Church which regulate Consecrated Life in general, and also issues administrative acts (Instructions, Guidelines, etc.) which are applicable to the Laws. On a local level, the diocesan Bishop, besides seeing that the universal laws and administrative norms are respected by the Institutes and the consecrated persons, he may issue administrative acts which are applicable to the universal Laws for the good of all the faithful of his diocese.

This administrative activity includes the approval of Institutes and Societies, which first of all must be granted at diocesan level and only later at pontifical level. According to can. 579, the approval must be expressed by a formal decree which must state that it is an Institute of Consecrated Life, which, as such, is a public person in the Church and therefore has a public juridical personality, with all the canonical consequences that this entails (can. 116). Then, according to can. 589, the Institute remains of diocesan right until it obtains the approval decree from the Holy See. These two canons are linked to can. 732; thus, this is valid also for Societies of Apostolic Life.

The canonical erection of an Institute comes at the end of a somewhat long process, and generally takes place after the erection of a Public Association with the intention of becoming an Institute of Consecrated Life¹. This time is needed for a specific discernment on the diocesan Bishop's part. In fact, the bishop is called to examine whether there is an authentic gift of the Spirit, or simply a human project clothed in religious forms. First of all, the Bishop must ascertain the doctrinal and moral integrity of the founder or foundress; he must verify that the government respects the dignity of the persons (can. 618), even if the members are duty bound to obey (can 601); he must see that the spiritual life is based upon an authentic spirituality and that misguided devotions are not introduced; therefore, he must decide whether the Institute to be founded is truly useful not only for the particular Church, but for the universal Church, and also whether the charismatic originality and usefulness have a real possibility to develop (PC 19)².

¹ Cf. JOHN PAUL II, Ap. Const. *Pastor Bonus*, November 20, 1982, art. 111, in AAS 80 (1988) 841-912.

² Cf. CONGREGATION FOR THE INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Note Dirett. *Mutuae relationes* (= MR), May 14, 1978, n. 51, in AAS 70 (1978) 473-506.

For all these reasons, and since each Institute of Consecrated Life concerns the universal Church, and is generally projected to obtain the approval of the Holy See, when a new Institute is being erected by the diocesan Bishop, according to can. 579, he must consult the Holy See, that is, the Congregation for the ICL-SAL. Recently, however, with a *Rescriptum ex audientia* "The Holy Father Francis... has established that the consultation of the Holy See in advance must be understood *ad validitatem* for the erection of a diocesan Institute of Consecrated Life; failing this, the decree of erection of the Institute is null"³. To my mind, the wording of the Rescript is not clear because if interpreted literally as formulated, it seems that the validity of the Decree of erection depends on whether the Holy See is consulted or not; however it says nothing about a Holy See's negative opinion. According to me this would make little sense; thus, the nullity of the Decree must be determined not only whenever the Holy See is not consulted in advance, but also whenever the answer is negative. Since this involves the nullity of an Act, I believe that this thing needs to be clarified with the Secretariat of State.

Once an Institute is founded, can. 594 establishes:

«Without prejudice to can. 586, an Institute of diocesan right remains under the special care of the diocesan bishop».

This canon must be read with can. 595, which states:

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

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

These two canons are expressly recalled in can. 732, which means that when I refer to ICL I include also the SAL.

While reading these two canons, we must keep in mind the Apostolic Exhortation *Pastores gregis*⁴, which, in n. 50, in a general way, invites the Bishop to «esteem and promote the specific vocation and mission of the consecrated life», which, in the particular Church, «fulfils its duty of exemplary presence and charismatic mission». The Bishop's care, therefore, «is expressed through encouragement and vigilance» and «Consecrated persons, for their part, will heartily welcome the pastoral directions of the Bishop and strive for full communion in the

³ Cf. SECRETARIAT OF STATE, Rescript *ex audientia* April 4, 2016

⁴ Cf. JOHN PAUL II, Post-Synod Ap. Const. *Pastores gregis*, October 16, 2003, in AAS 96 (2004) 825-927.

life and mission of the particular Church in which they live». In fact, it is the Bishop who is responsible for the pastoral ministry in his diocese.

At the beginning of an Institute's life, the diocesan Bishop must have a special pastoral care to help it develop not only numerically, but, above all, in its charismatic and spiritual dimensions, as well as in the appropriate institutional forms, according to the intentions of the founder or foundress. This care, although in certain cases it includes the exercise of jurisdiction, is not limited to it. Moreover, this care is not exclusive, but cumulative to that of the Holy See, which is always competent for all ICL⁵.

Normally, the Motherhouse⁶ is located in the diocese of the Bishop who approves the Constitutions and erects the Institute; however, if the Motherhouse has been transferred to another diocese, the duty of special care falls on the Bishop of this other diocese. According to can. 595, the special care is carried out in practice with the confirmation of changes in the Constitutions. It must be noted that if the Holy See, when consulted according to the norm in can. 579, had expressly suggested or approved elements contained in the Constitution, these elements may only be changed with the Holy See's approval (cf. can. 583).

It is not easy to determine which are the matters that concern the whole Institute, but which go beyond the remit of the internal authority. Certainly, these include first of all, those matters which go beyond what the Institute's Rules state; to these we need to add the Superior General's resignation, changes in the decisions taken by a General Chapter, decisions which, in some way, go against the Institute's charism and which would change its ministry in a diocese, etc.⁷

In such cases, if the Institute is present in other dioceses, the diocesan Bishop, before taking any action, must consult the other diocesan Bishops. It's not a matter of consensus. According to can. 494 §2 of the 1917 CCL, instead, the Institute with diocesan right was under the jurisdiction of all the Bishops of the dioceses in which it had spread.

Lastly, the diocesan Bishop under whose jurisdiction falls the Motherhouse may, "in special cases", grant exemptions from the Constitutions. Taking into account the legitimate autonomy (cf. can 586), the exemption cannot go against the will of the internal authority. Moreover, it is not acceptable to have a general exemption, unless in exceptional circumstances, like war or natural catastrophes.

⁵ Cf. V.DE PAOLIS, *La vita consacrata nella Chiesa*, Bologna 1992, 130.

⁶ For a Secular Institute, it would be the house where the Founder or Foundress resides.

⁷ Cf. J.BEYER, *Il diritto della vita consacrata*, 121.

2.2 The just autonomy of the Institutes

Closely linked to what we have said so far is the fact of the just autonomy of the Institutes of Consecrated Life, as sanctioned by can. 586 and referred to by can. 732 for Societies of Apostolic Life. This concerns all the Institutes and Societies, clerical or lay, male and female, with pontifical or diocesan right.

In order to safeguard the Institute's charism, can. 586 declares:

§ 1. A just autonomy of life, especially of governance, is acknowledged for individual institutes, by which they possess their own discipline in the Church and are able to preserve their own patrimony intact, as mentioned in can. 578.

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

The Apostolic Exhortation *Vita consecrata*⁸, in n. 48, dealing with the insertion of Consecrated Life in a particular Church, makes a direct reference to the just autonomy of the Institutes when speaking about their ministry⁹.

The Directory *Apostolorum successores*¹⁰ in n. 100, specifies that the Bishop cannot interfere in the life and the government of the Institutes and cannot pretend to interpret authoritatively their foundation charism. At the same time, however, it also sanctions that it is the

⁸ Cf. JOHN PAUL II, POST-SYNOD AP. EX. *Vita consecrata* (=VC), March 25, 1996, in AAS 88 (1996) 377-486.

⁹ It is useful to quote in its totality n. 48 of the Ap. Ex. *Vita consecrata*: «Again, a significant role is played by consecrated persons *within the particular Churches*. On the basis of the Council's teaching on the Church as communion and mystery, and on the particular Churches as portions of the People of God in which "the one, holy, catholic and apostolic Church of Christ is truly present and operative", this aspect of the consecrated life has been systematically explored and codified in various post-council documents. These texts bring out clearly the fundamental importance of cooperation between consecrated persons and Bishops for the organic development of diocesan pastoral life. The charisms of the consecrated life can greatly contribute to the building up of charity in the particular Churches.

The various ways of living the evangelical counsels are in fact the expression and fruit of spiritual gifts received by founders and foundresses. As such, they constitute an "*experience of the Spirit*, transmitted to their disciples to be lived, safeguarded, deepened and constantly developed by them, in harmony with the Body of Christ continually in the process of growth". The identity of each Institute is bound up with a particular spirituality and apostolate, which takes shape in a specific tradition marked by objective elements. For this reason the Church is concerned that Institutes should grow and develop in accordance with the spirit of their founders and foundresses, and their own sound traditions. Consequently, each Institute is recognized as having a *rightful autonomy*, enabling it to follow its own discipline and to keep intact its spiritual and apostolic patrimony. It is the responsibility of local Ordinaries to preserve and safeguard this autonomy. Thus, Bishops are asked to welcome and esteem the charisms of the consecrated life, and to give them a place in the pastoral plans of the Diocese. They should have a particular concern for Institutes of diocesan right, which are entrusted to the special care of the local Bishop. A Diocese which lacked the consecrated life would not only be deprived of many spiritual gifts, of suitable places for people to seek God, of specific apostolic activities and pastoral approaches, but it would also risk a great weakening of that missionary spirit which is characteristic of the majority of Institutes. There is a duty then to respond to the gift of the consecrated life which the Spirit awakens in the particular Churches, by welcoming it with generosity and thanksgiving».[?]

¹⁰ Cf. CONGREGATION FOR THE BISHOPS, Dir. *Apostolorum successores* (=ApS), February 22, 2004, Vatican City 2004.

Bishop's responsibility "to call to the attention of the Superiors any abuses he observes in the works performed by the institutes, or in the manner of life of a particular consecrated person".

In *Mutuae relationes*, n. 11, even if there is no explicit reference to the just autonomy of the Institutes, there is nevertheless the foundation for it:

«The very charism of the Founders (*Evang. nunt.* 11) appears as an "experience of the Spirit," transmitted to their disciples to be lived, safeguarded, deepened and constantly developed by them, in harmony with the Body of Christ continually in the process of growth. "It is for this reason that the distinctive character of various religious institutes is preserved and fostered by the Church" (*LG* 44; cf. *CD* 33; 35, 1; 35, 2; etc.). This *distinctive character* also involves a particular style of sanctification and of apostolate, which creates its particular tradition, with the result that one can readily perceive its objective elements».

Therefore, if the just autonomy of life, especially government, which an Institute or a Society enjoys, is meant to safeguard the charism, it cannot be understood solely in terms of internal life, because if it an Institute which performs ministry, it must also be understood with this in mind, otherwise the Institute cannot conserve its proper nature and carry out its mission and spirit. These always entail living a peculiar aspect of Christ's ministry, which is manifested in the concrete relationship the members of the Institute have with God and the other members of the Church, in the ministry which they fulfill. The Institute's autonomy, in all its dimensions, is protected by its own Rule which is in line with the common Law (*MR* 13). The Church recognizes the authenticity of the charism of an Institute and wants to safeguard it; she does this by approving the Constitutions which guarantee this on an institutionalized level, in such a way that the Institute's Laws become part of the global juridical system of the Church.

Every Institute has a right for its autonomy of life; this results, above all, from its charismatic origin, and therefore from the specific nature of the foundational charism and the degree of its development in the life of the Church. Moreover, considering the nature itself of Consecrated Life and its constitutive place in the Church, the Institutes of Consecrated Life and Societies of Apostolic Life, of any kind, are public juridical persons, who act in the name of the Church (cans. 675,§3; 116,§1); thus, the authority which their Superiors have is certainly a public one, received from God through the ministry of the Church; that is, the universal Law, which means from the Legislator himself, the Roman Pontiff, and from the fact that the Constitutions are approved by the competent ecclesial authority (cc. 617, 618; 734; *MR* 13)¹¹.

Exactly because the just autonomy is an inherent right of the Institutes, the local Bishops not only are expected to respect it, but, as can. 586 §2 states, they ought to conserve and safe-

¹¹ For this reason it is not defined anymore as 'dominant' as can.501,§1 of the 1917 CCL used to.

guard it, as a responsibility of their pastoral ministry for the good of the universal and particular Church.

Lastly, *Mutuae relationes* n. 13, concludes:

«Institutes then have an internal organization 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). 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»¹².

This text tells us that 'autonomy' and 'dependence' are two dimensions in which the Institutes of Consecrated Life act; after all, this is true to all members and institutions of the Church. These dimensions must not be seen as diagrammatically opposed; they ought to be harmonized in line with the Church Laws and carried out in charity, the soul of ecclesial communion. Such an autonomy and, correlatively, even the dependence on the diocesan Bishop, vary depending on the nature of the Institute, that is, if it enjoys diocesan recognition (cans. 594; 595), or pontifical recognition (can. 593) or is exempted (can. 591).

The just autonomy, which is true for all Institutes, takes up a specific character for the exempted Institutes.

Can 591 states:

«In order to provide better for the good of institutes and the needs of the apostolate, the Supreme Pontiff, by reason of his primacy in the universal Church and with a view to common advantage, can exempt institutes of consecrated life from the governance of local ordinaries and subject them to himself alone or to another ecclesiastical authority».

This takes up again the contents of LG 45b. *CD* 35.3 says that the exemption "mainly concerns (*potissimum*)" the internal order of the Institutes, and not "exclusively"; therefore, in the apostolic Institutes, this includes also the carrying out of their ministry, even though in this area they ought to be subject to the Bishop so that unity of ministry is maintained in the particular Church. On the other hand, precisely in virtue of their exemption, their being at the complete disposition of the Roman Pontiff concerns the ministry of such Institutes.

What the 1917 CCL stipulated for the exempted religious Institutes, the 1984 CCL extended to all Institutes with pontifical right. Nevertheless, this does not mean that the previously exempted Institutes are not so anymore. The exemption is specific for each Institute, depending on the privileges and faculties granted to it by the Roman Pontiff, according to its history

¹² Underlined in the text.

and the special bond with its original mission. This bond is expressed in the approval given by the Roman Pontiff himself, to entrust the Institute with a specific mission in relation to its charism and the needs of the Church. Therefore, the exemption is something that expresses the charism of an Institute and if its charism is still useful for the Church, so is its exemption.

In n. 49, *Vita consecrata* reaffirms that:

«It is helpful to recall that, in coordinating their service to the universal Church with their service to the particular Churches, Institutes may not invoke rightful autonomy, or even the 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 determined and 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».

Therefore, the principle that ought to guide the relationships between Bishops and consecrated persons is that of organic communion, which must be based on dialogue and mutual respect.

2.3 Constitution and erection of an Institute's house and its suppression

As a consequence of what we have said, one may understand why, according to can. 609 §1, the competent internal authority defined by the Constitutions for the erection of a house in a diocese must have the approval of the diocesan Bishop, and also, why, on the other hand, according to can. 616 §1, for the suppression of a house, the Supreme Superior needs only to simply consult the Bishop. Can. 733 §1 repeats synthetically what the above-quoted two canons state as well as can. 608 regarding the constitution of a house; therefore, what I here say regarding the religious Institutes applies also to the Societies of Apostolic Life. Evidently, cans. 608, 609 §1 and 616 §1 do not apply to the Secular Institutes which do not have common life.

Here we speak of the 'erection' of a religious house. This happens through a decree of the competent authority, by virtue of which the canonical status of the community, made up of at least three members (can. 115 §2), which lives there, is that of a public juridical persons, with duties and rights, under a true and proper superior who has the authority on the other members in virtue of his office. Therefore, this is ordinary authority. The 'erected' house differs from a legitimately 'constituted' house, as stated in can. 608. A house is simply 'constituted'

either when it cannot be the Institute's property or the community is less than three, or is there temporarily. In these cases, the Superior has delegated faculties¹³. Anyway, according to the canon, a legitimately constituted house must at least have an oratory where the Eucharist is celebrated and conserved; this the Bishop cannot prohibit because this is the community's duty - a right in relation to the Bishop. Indeed, the Bishop ought to make sure that this duty is being carried out by the religious. The religious who live in a community which is only constituted belong to another erected community. This happens especially in religious Institutes with many apostolic activities and few members¹⁴.

The fact that the diocesan Bishop's written approval is needed for the erection of a house shows the importance of this act because it indicates a development of the Institute and at the same time, a stable benefit for the particular Church, not only for the apostolic activities which the community carries out, but, above all, because of the witnessing of Consecrated Life which that Church receives. The Bishop, in giving his approval, must assure himself that the conditions stipulated in can. 610 exist: «the advantage to the Church and the institute and with suitable safeguards for those things which are required to carry out properly the religious life of the members according to the proper purposes and spirit of the institute». The importance of the act is also shown by the fact that the religious authority which erects a house needs to be determined in the Constitutions.

Lastly, for the simple constitution of a house, the expressed approval of the Bishop is not required, although he must at least be informed. Evidently, if he is against the constitution, the house should not be constituted.

According to can. 611, the legitimate erection of a house entails that the community living there has the right to live according to the charism of the Institute, and therefore, its mission. Here, the just autonomy (can. 586) comes into play. In relation to this, the religious community has the right to carry out its proper works, according to the conditions, if any, stipulated in the document of approval. If these conditions were to limit excessively the ministry of the religious community - like the closing of the church on Sundays and Feast Days, the exclusion of Associations linked to the Institute, etc. - perhaps it would be better if that house is not erected at all¹⁵. Lastly, for the clerical Institutes, the Bishop's approval entails also the right of the religious house to have a church and to carry out there the sacred ministry. This follows from the fact that the priestly ministry of the clerical Institutes is constitutive of their charism (can. 588). The practicing of this right, however, is subordinate to can.1215 §3, which requires the diocesan Bishop's permission for the construction of a church. This permission - which the Bishop gives after having consulted the Presbyteral Council and the Rectors of the

¹³ Cf. V.DE PAOLIS, *La vita consacrata nella Chiesa*, 168-169.

¹⁴ Cf. J.BEYER, *Il diritto della vita consacrata*, 209-210.

¹⁵ Cf. J.BEYER, *Il diritto della vita consacrata*, 211.

nearby churches - is conditioned by the location where the church is to be built, which may not be attached to the religious house (can. 1215 §2). In the case of a house of a lay Institute, which also includes priests, the Bishop may give the faculty to have its own church, but this is not in recognition of a right. If, in the future, the Church would recognize mixed institutes, the problem would arise whether this is a right or a faculty¹⁶.

According to can. 612, as a consequence of the needed initial approval given by the Bishop, the same approval is needed when a religious house changes the function it was constituted for, or, even more, if erected. This is understandable because it involves the pastoral commitment that the religious community made with the Bishop.

The position of the autonomous houses in a diocese is quite peculiar (can. 613 §1); these are those of regular canons and monks who are under the authority of a local Superior, who is a Major Superior. Their relationship with the Bishop is the same as that of the Institutes with pontifical right or exemption. In any case, their erection has to follow cans. 609 and 610.

Can. 614 deals with women's monasteries associated with a men's Institute. For their erection, besides the consent of the Bishop, they also need to permission of the Holy See (can. 609 §2). In giving his approval, the Bishop must take into account the conditions stipulated in can. 610 and gives consideration to the location where the monastery is to be erected, keeping in mind where the other monasteries in his diocese are situated.

The autonomous monasteries (can. 615), both those of men and of women, do not form part of any monastic or religious Family, and, in the case of women's monasteries, these do not depend on any men's Order, and never wanted to be associated¹⁷. Upon these, the Bishop keeps a watchful eye, but according to what Canon Law establishes. Moreover, to avoid abuses, the Constitutions ought to establish the type of intervention on the Bishop's part. Since the existence of such monasteries depends on the Holy See (can. 609 §2), it also approves their Constitutions and eventual changes¹⁸. Therefore, for their erection, besides the approval of the Bishop, there also needs to be the permission of the Holy See (c. 609 §2).

According to can. 616 §1, when it comes to close down a legitimately erected house, the Supreme Superior must consult with the diocesan Bishop. The Bishop's approval is not sought; otherwise, there could be the awkward situation in which the Bishop blocks the Institute's decision. It is only the Institute's internal authority that evaluates the possibility of keep-

¹⁶ Cf. V.DE PAOLIS, *La vita consacrata nella Chiesa*, 172-173.

¹⁷ Can. 615 states this: «An autonomous monastery which does not have another major superior besides its own moderator and is not associated to another institute of religious in such a way that the superior of the latter possesses true power over such a monastery as determined by the constitutions is entrusted to the special vigilance of the diocesan bishop according to the norm of law».

¹⁸ Cf. J.BEYER, *Il diritto della vita consacrata*, 216.

ing a house open, with its ministries, in a diocese or not. The Superiors General must consult the Bishop, because they need to have all the information for an evaluation whether to close down a house or not, and also to give time to the Bishop to seek alternative providers of the ministries which were carried out by those leaving his diocese. In any case, the Bishop has nothing to do with the way the material goods of the house are used.

If it is the closing down of the only house of an Institute, whether with diocesan or pontifical right, this has to be done by the Holy See, and not the diocesan Bishop, because in this case it entails the suppression of an Institute as such; the Holy See is also exclusively competent to dispose of the material goods (cans. 616 §2; 584).

The diocesan Bishop is not involved in any way in the suppression of an autonomous house (can. 613) because this competence belongs to the General Chapter (can. 616 §3), unless stipulated differently in the constitutions; the same holds for the suppression of a women's autonomous monastery because this competence lies with the Holy See (can. 616 §4).

3. The Institutes' internal life

Can. 628 §1, after affirming that the internal Superiors of an Institute should visit the houses and the religious entrusted to them at stated times according to the norms of this same proper law, the same canon, at §2 establishes:

«It is the right and duty of a diocesan bishop to visit even with respect to religious discipline: 1) the autonomous monasteries mentioned in (can. 615; 2) individual houses of an institute of diocesan right located in his own territory».

It is understandable that an autonomous monastery, even with pontifical right, having no other authority above the local one, should be under a more careful watch by the diocesan Bishop; therefore, his authority extends also to religious discipline, that is, to the internal life. If it enjoys pontifical right, the monastery depends in an immediate and exclusive manner on the Holy See; therefore the Bishop's supervision does not come from his office, but from a *a iure* delegation, that is, by the Code itself. In any case, this supervision must follow the norm of the Rule and respect the just autonomy of the Institute.

As per can. 594, an Institute of diocesan right is under the special care of the diocesan Bishop; the latter keeps a watchful eye upon the houses present in his diocese to support the Institute in its initial stages. It is evident that if an Institute which, in virtue of its charism, opts to remain diocesan, when it becomes strong one under many aspects, the Bishop's supervision will become less strict; however, his duty/right to visit remains.

In any case, based on can. 625 §2, the Bishop of the Motherhouse presides the election of the Superior of an autonomous monastery (can. 615) and of the Superior General of an Institute with diocesan right.

For the above given reasons, the autonomous monasteries and the religious Institutes with diocesan right, in the case of an affair which exceeds the amount defined by the Holy See for each region, or things given to the Church by vow, or things precious for artistic or historical reasons, besides the written consent of the diocesan Bishop of any other Ordinary of the diocese (the Vicar General or the Episcopal Vicar) the permission of the Holy See itself is also required. (cc. 638 §§3 e 4; cf. 1292 §§1 e 2). Moreover, according to can. 637, as far as Institutes of diocesan recognition are concerned, the Bishop has the right to enquire about their financial matters, whereas the autonomous monasteries (can. 615) are obliged to present their full accounts to the Ordinary of the place once a year. In the case of lay religious Institutes with diocesan right, the permission to administer the lay person's material goods, or to hold office which entails giving account (c. 285 §4) is given by the diocesan Bishop; if it is matter of giving a bank guaranty (c.672), one needs only to consult the Bishop.

To protect the physiognomy of monastic and cloistered life, it is only the diocesan Bishop who has the faculty, for a just cause, to enter the cloister of women's monasteries present in his diocese, and it is he who may allow, for a grave cause and after asking the Superior's permission, that others enter or that the nuns leave the cloister for the time that is strictly necessary (c. 667 §4).

The pastoral attention of the diocesan Bishop is shown by his approval of the ordinary confessors for women's monasteries and for the houses of formation and the most numerous religious communities of the lay Institutes (can. 630 §3). Regarding the appointment of a chaplain for a house of a lay religious Institute, whether with diocesan or pontifical right, male or female, the Ordinary of the place, and therefore also the diocesan Bishop, must do this after having consulted the Superiors, who, after consulting the community, have the right to suggest some names (can. 567 §1). However, the Code makes it clear that the chaplain cannot interfere in the internal government of the Institute (c.567 §2), not even, evidently, on behalf of the diocesan Bishop.

Cans. 617-633 apply to the Societies of Apostolic Life and are based on can. 734

In the case of religious Institutes with pontifical right, the Bishop's visits to the members and their houses, according to can. 397 §2, must follow what the Law explicitly establishes. Presently such cases are not established. In fact, can. 683 §1 states that on the occasion of the pastoral visit, or in cases of need, the diocesan Bishop *may* visit personally or through others, the churches and oratories frequented by the faithful, the schools and the other works of religion, and the spiritual or temporal charities entrusted to religious, whether of diocesan or pon-

tifical right, but not to those open exclusively to the pupils who belong to the Institute. If he comes to know of any abuses, and if the religious Superior fails to heed his worries and does nothing, the Bishop may take action. In the canon reference is made solely to the works and not to the religious who work there. We need to note that can. 683 §1, in stating "may visit" ("*visitare potest*"), does not bind the Bishop with a duty as in can. 628 in relation to his visits to the houses of the Institutes with diocesan right, and to the autonomous monasteries; therefore, if he sees that his visit is inopportune, he may not do it, or he may visit outside the pastoral visit, if he deems it necessary, for example, because he was informed of abuses. Moreover, we read works "entrusted to religious" ("*opera religiosis commissa*"). If these are diocesan works entrusted to religious, then in the case of can. 683 §1 one should amplify the concept of "entrusted works" to mean those works which were approved by the Bishop in his approval at the moment of the erection of a house¹⁹. Can. 683 is closely linked to can. 806, which affirms the right of the diocesan Bishop not only to visit the Catholic schools, but also to supervise upon them to see that their educational standard is equal to the other schools in the region, and to give guidelines regarding the general organization; however, in the case that these schools are run by the religious themselves, the autonomy of their internal management must be respected.

In the case of the Institutes with diocesan right, the diocesan Bishop can grant an indult of excommunication (can. 686 §1). In the case of clerics, the excommunicated person remains dependent on his religious Superiors as well as on the Ordinary of the place (can. 687). In the case of the Institutes with diocesan right and autonomous monasteries (can. 615), the indult for a temporarily professed to leave the Institute, to be valid, needs to be confirmed by the Bishop of the assigned house (can. 688). In the case of a perpetually professed, whether in a religious Institute with diocesan right or Secular, the indult must be given by the diocesan Bishop (can. 691 §2; 727). In any case, if the religious is a cleric, the indult cannot be given unless he has found a Bishop willing to incardinate him or at least receives him on trial, with the Bishop retaining the right not to incardinate him at the end of the five years trial period (can. 693). For the members of the religious as well as Secular Institutes with diocesan right, even the decree of dismissal must be confirmed by the diocesan Bishop; for a religious, it is the Bishop of the house where he resides (cans. 700; 721). In the case of dismissal, the religious, without the vows, is no longer a member of the Institute; therefore, he is no longer incardinated with it and thus cannot exercise his ministry unless he finds a Bishop who, after an appropriate period of trial in his diocese, welcomes him or at least allows him to exercise his ministry in his diocese (can. 701).

At present the Congregation's praxis is to wait for the religious to find a friendly Bishop before promulgating the decree of dismissal; this is to avoid having 'headless' clerics. Can.

¹⁹ Cf. J.BEYER, *Il diritto della vita consacrata*, 392.

746, regarding the dismissal of members of Societies of Apostolic Life refers to Cans. 694 - 704, whereas can. 693 is referred to by can. 743, regarding the indult to leave the Society.

4. The apostolic activity of the Institutes

First of all we need to underline the distinction which the Code makes between *apostolate* and *apostolic activity*.

'Apostolate', in the sense of giving a living witness, concerns all Institutes, whether completely ordered to contemplation or those dedicated to apostolic works, whereas 'apostolic activity' concerns solely the latter. In fact, according to can. 674, the former extend upon the People of God "a hidden apostolic fruitfulness" through their life of integral contemplation; the latter are dedicated to carry out apostolic activities which are intrinsic to their charism (ca. 675).

Can. 675 § 3 affirms:

«Apostolic action, to be exercised in the name and by the mandate of the Church, is to be carried out in the communion of the Church».

What this canon affirms is translated in specific norms which determine the relationship between religious and the diocesan Bishop in relation to their apostolic activity. In fact, although Consecrated Life is for the universal Church, nevertheless, the individual Institutes carry their apostolic activity in the particular Church.

Regarding the Societies of Apostolic Life we need to keep in mind cans. 679-683, which I will explain; these are referred to expressly in can. 738 §2 which basically reproduces can. 678 §1 about being subject to the power of Bishops whom the religious are bound to follow with devoted submission and reverence in those matters which regard the care of souls, the public exercise of divine worship, and other works of the apostolate. In the particular case where clerics who belong to a Society of Apostolic Life were incardinated in a diocese, their relationship with the Bishop must be defined by the Constitutions (can. 738 §3; cf. can. 266 §2).

Cans. 678 - 683, on the other hand, are not referred to by any canon regarding the Secular Institutes. This is understandable because as far as apostolic actions are concerned, the relationship with the Bishop is similar to that of the other diocesan priests and lay persons in the diocese, because the members of such Institutes who are clerics are generally incardinated in the diocese (can. 715 §1; cf. can. 266 §3) and the lay members are similar to all the other lay persons (cans. 711; 713). Only in the exceptional case where the Institute is incardinated, the members would depend on the Bishop in the same way as the religious (can. 715 §2), and therefore cans. 678 - 683 must be applied. Therefore, generally speaking, since the members

of Secular Institutes are consecrated persons, the Bishop is to provide a specific pastoral care for them.

We need to start by referring to can. 689:

«Among the various institutes and also between them and the secular clergy, there is to be fostered an ordered cooperation and a coordination under the direction of the diocesan bishop of all the works and apostolic activities, without prejudice to the character and purpose of individual institutes and the laws of the foundation».

Even though not specifically stated, this canon applies also to the Societies of Apostolic Life; it is important because it favors unity, under the guidance of the Bishop, between the various essential components of the pastoral life of the diocese: the diocesan clergy and the religious. So that it may be put into practice, the religious, on their part, ought to acknowledge the responsibility and authority of the Bishop, successor of the Apostles, regarding the pastoral action of the diocese, and, on his part, the Bishop ought to be conscious of the what Consecrated Life is all about, and not consider it simply as a structure *within* the Church, but one of the fundamental structures *of* the Church, which Christ wanted and which is kept alive through the continuous action of the Spirit; therefore, the Bishop must respect the nature and the mission of the individual Institutes. In fact, religious cannot be obliged to take up works which have no relation to their charism and mission. In exceptional situations, substitute works and ministries may be taken up only temporarily.

The principle stated in can. 677 § 1, that is, that the Institutes are to retain faithfully their proper mission and works, must be always respected, even by the diocesan Bishop (cf. can. 578). The Directory *Apostolorum successores*, in n. 101c, specifies that "the Bishop should avoid asking religious to undertake work that conflicts with the requirements of consecrated life". Moreover, the Bishop cannot impose a specific way to carry out apostolic actions, because these depend on the charism of the Institute.

In the light of this, we need to read can. 678:

« §1. Religious are subject to the power of bishops whom they are bound to follow with devoted submission and reverence in those matters which regard the care of souls, the public exercise of divine worship, and other works of the apostolate.

§2. In exercising an external apostolate, religious are also subject to their proper superiors and must remain faithful to the discipline of the institute. The bishops themselves are not to fail to urge this obligation if the case warrants it.

§3. In organizing the works of the apostolate of religious, diocesan bishops and religious superiors must proceed through mutual consultation.

In §1 the canon indicates three areas of submission by all religious, even those of Institutes with pontifical right and those exempted (CD 35.4; ApS 100)²⁰, to the diocesan Bishop, whom they must recognize as the pastor of the diocese: the care of souls, the public exercise of divine worship, and other works of the apostolate. This means that the religious must obey the indications and directives which the Bishop issues for his diocese, because he is the one responsible for all the pastoral life of the diocese.

The first two areas, although they form part of the general category of apostolic actions, are quite specific; whereas the third indicates all that is not included in the first two. The areas of the care of souls and of the public exercise of divine worship concern the clerical Institutes because they entail the exercise of the sacred ministry in all its expressions. The third area embraces all the activities carried out by any type of Institute in the areas of catechism, teaching, charitable works, etc.

The same canon, in §2, reaffirms that in exercising an external apostolate, (i.e. in the above mentioned areas), religious are also subject to their proper superiors and must remain faithful to the discipline of the institute. In fact, even if they carry out their action in a work of the diocese, they do so in the name of the Institute, and therefore under the obedience of their Superiors, who must see that they carry out their activity in line with the nature and mission of the Institute. Albeit with the necessary flexibility, an apostolic activity which results in a slackening of the religious discipline must not be accepted by the Institute. To this end the canon decrees that the Bishop, who as successor of the Apostles is responsible also of Consecrated Life in the Church, is duty bound to see that the religious fulfill their obligations of fidelity toward the discipline of their Institute.

In any case, in a general way §3 establishes that Bishops and religious Superiors must proceed through mutual consultation.

This gives rise to various consequences. The organization of the religious' apostolic actions must be based on mutual consultation between the diocesan Bishop and the religious Superiors (can.678 §3; ApS 101a), and this must already be done at the moment that a house is constituted in the diocese.

Can. 682 deals with the works which are under the Bishop's authority and direction (e.g. the seminary, a school, a hospital, etc) and which the Bishop entrusts to religious; in this case, a detailed written convention must be agreed upon by the Bishop and the competent religious superior (generally the major superior). This convention must be signed by the Bishop and the Chancellor and the religious Superior and his Secretary; it determines what must be done, and who are the religious assigned to do it, together with the financial aspect. The determination

²⁰ Cf. PAUL VI, M.p. *Ecclesiae sanctae*, 6 ag. 1966, I.25 §1, in AAS 58 (1966) 757-787.

of these three aspects ought to be carried out expressly and accurately (“*expresse et accurate*”, says the canon); this means that the convention must be drawn up after all the necessary information has been collected so that there is full awareness regarding the commitment of both parts, and their successors. Can. 680 referring explicitly to 678 §2, reminds that the religious remain always subject to their Superiors. The convention must also state who is responsible in relation to the Church and the State. Another element which ought to be taken into consideration is that the extension of buildings needed for the work must be financed by the Bishop. It is a good thing to have the convention valid for a fixed period of time and that it can be updated or ended at the time of its deadline; its annulment may only take place under the conditions stipulated in the convention itself (ApS 101b)²¹.

Similarly, appropriate conventions ought to be stipulated between the diocesan Bishop and the Superiors of Institutes (and Societies) which are ordered to the missionary activity so that their relationship results beneficial to the mission (can. 790 §2).

The diocesan Bishop's consent is needed for the foundation of schools by religious Institutes and the Societies (can. 801; ApS 101a).

In assigning to a religious a diocesan ecclesial office (e.g. parish priest), the appointment must be done after the competent Superior's presentation or consent (can. 682 §1). The religious, therefore, cannot invoke the promise of obedience done to the Bishop during the diaconate ordination to accept an office against the will of his Superior. This canon is closely linked to can. 520, which establishes that the diocesan Bishop, with the consent of the competent Superior, may entrust a parish to a clerical Institute or a Society of Apostolic Life, even establishing the parish in one of their churches, with the condition that only one priest may be nominated as the parish priest of the parish²².

The removal from the office, however, can be done, on one side, by the authority which conferred it after informing the religious Superior, and, on the other, by the religious Superior himself, after informing the conferring authority. Both parts are free to go ahead without the consent of the other part. In fact, the Bishop who is responsible for the diocesan pastoral action, may remove a religious, in line with the law, who does not satisfy the needs of the diocese; and a religious Superior must be free to remove a religious for the personal reasons of the religious concerned or internal ones, and the Bishop cannot prevent this.

Lastly, we need to remember the faculty which can. 679 gives to the diocesan Bishop to prohibit, for very grave and urgent reasons, a religious to reside in his diocese if the major

²¹ Cf. J.BEYER, *Il diritto della vita consacrata*, 387-389.

²² remember that, according to can. 452 of the 1917 CCL, the religious Institute was considered to be the parish priest, whereas according to can. 471 §1, a religious was a parish vicar.

Superior, once informed, takes no action; in such a case the Holy See must be informed immediately. In fact, it is the Holy See, which, being above both parts, must judge whether there are grave and urgent reasons which justify the Bishop's action, e.g. if the way a religious behaves causes a grave scandal in the diocesan community and expulsion is the only way to stop it.

This canon may be considered as a specific explanation of can. 1320 which says that "The local ordinary can coerce religious with penalties in all those matters in which they are subject to him" and of can. 1337 which states: "A prohibition against residing in a certain place or territory can affect both clerics and religious; however, the order to reside in a certain place or territory can affect secular clerics and, within the limits of the constitutions, religious".

5. The individual forms of consecration

The 1983 CCL envisages two forms of personal consecration: hermits and virgins.

After blooming again, can. 603 gives institutional recognition of the hermit / anchorite life, as a form of a stable Consecrated Life in the Church. This is a most ancient form of Consecrated Life, which preceded coenobitic life, but which was institutionally absent from the 1917 CCL.

The hermit is recognized as a person dedicated to God in Consecrated Life (*"Deo deditus in vita consecrata"*) if that person professes publicly, within a liturgical act, the evangelical counsels with a vow, or another bond, in the hands of a Bishop, who normally is the one where the hermit will eventually live. The sacred bond, besides the vows, may be a promise, an oath or even, as for virgins, a holy resolution. The hermit, with a public profession, changes state of life and enters in Consecrated Life. The observance of the evangelical counsels, the timetable, the fundamental duties, the income (e.g. from a work which must not take away too much time from solitude and prayer): all these must be established with an own "rule of life" (*"propriam vivendi rationem"*). This "rule of life" may also be revised by the hermit himself, but must always be approved by the diocesan Bishop and lived-out under his guidance; this means that the Bishop may use his authority to intervene whenever he deems fit. The approval may be given for a fixed period of time, so that it may easily be updated or eventually even revoked. Evidently, if for valid reasons a hermit moves to another place, he will pass under the authority of the Bishop of the new place. It is only the diocesan Bishop who may accept this form of consecration and also has the right to confirm it. It is he who, according to can. 597 §2, must set the formation course which must be followed for acceptance; this will give him time to evaluate the candidate regarding the required qualities listed in can. 642. Moreover, the Bishop must ask for the documents which can. 645 §1 demands and also take into account what can. 643 decrees.

Can. 604 §1 deals with virgins: it reinstates this very ancient form of Consecrated Life, and which now constitutes an "*Order*", that is, a number of women united by the same consecration, but without forming an Institute or an Association. The virgins take up the explicit obligation of virginity in a public manner with a liturgical rite, by a *sanctum propositum*. The choice of virginity, as an act of total consecration to God to follow Christ more closely, entails also the implicit choice of the counsels of poverty and obedience. The holy resolution, which is by its nature perpetual and therefore gives rise to a stable form of life, is not a vow, but a public declaration made in the hands of the Bishop. The canon speaks about dedication to the service of the Church. If this is a service of a certain importance in the diocesan Church, it must be accepted by the Bishop and carried out under his guidance; otherwise it is the virgin herself, aided by her spiritual director or the parish priest, who decides what service to offer. It is only the Bishop who may accept women for the consecration of virginity, and only he has the right to confer it. The diocesan Bishop, according to can. 597 §2, must establish a formation course which the virgin must follow for her admission; this will give him time to evaluate the candidate regarding the required qualities listed in can. 642. . Moreover, the Bishop must ask for the documents which can. 645 §1 demands and also take into account what can. 643 decrees. The Bishop may appoint more than one priest as spiritual directors of the virgins in his diocese, thus respecting the freedom of choice of the virgins

Can. 604 §2 allows the virgins to associate together for a mutual help. The Bishop is not obliged to set up such an association, and, anyway, he cannot oblige the virgins to be part of it if he sets one up. Surprisingly the Pontifical Yearbook, while making reference to can. 604 §2, lists the '*Servidoras*', an association of consecrated virgins, under the title "Other Institutes of Consecrated Life"²³. An association is not an Institute.

We might ask: how about having also a public consecration for virgin men?

Another form of Consecrated Life, which dates back to the Apostolic era, is that of widows, which was not included in the 1983 CCL, whereas we find it in can. 570 of CCOC.

After the experiences which came about in the Church after World War II, the widows have found their first institutional expression in the Diocese of Paris, which in 1984 obtained the Holy See's approval for a proper rite of blessing for widows who formed an association (*Rituel de Bénédiction des Veuve, Fraternité N.D. de la Résurrection*). This ritual became the model for other rituals written by other Bishops for their dioceses.

The Apostolic Exhortation *Vita consecrata*, in n. 7, affirms that: «Again being practiced today is the consecration of *widows*, known since apostolic times (cf. *1 Tim* 5:5, 9-10; *1 Cor*

²³ Cf. *Pontifical Yearbook 2016*, Vatican City 2016, 1683.

7:8), as well as the consecration of widowers. These women and men, through a vow of perpetual chastity as a sign of the Kingdom of God, consecrate their state of life in order to devote themselves to prayer and the service of the Church». This affirmation is found at the beginning of the Exhortation where the various forms of Consecrated Life are described - the individual as well as the collective ones. This is the consecration of the condition of widowhood.

Note that the Exhortation does not refer solely to (female) widows but also to (male) widowers.

The sense of this consecration is that of being a sign in the Church that widowhood is not only a condition - a fact - to be accepted because the partner is dead, but also to be welcomed in its dimension of vocation, a calling from God, to witness the eschatological dimension of human marital love, since its source is divine love.

Both *Vita consecrata* as well as the Paris Ritual refer solely to the vow of chastity; however, a consecration entails always a radical following of Christ, which needs to be expressed also in poverty and obedience.

In the perspective of an eventual reinstatement of this form of consecration even in the Latin Church, we need to refer to can. 570 of the CCOC, which says explicitly that, besides the virgins, even the consecrated widows may be constituted (“*constitui possunt*”) to profess in the world, each on his/her own (“*seorsim*”) chastity with a public profession. Even in this case, it is a public profession with a liturgical act, and which, therefore, entails a change in the state of life. The “*seorsim*”, which refers also to virgins, intends excluding both the virgins and the widows from being an Institute of Consecrated Life; this, however, does not deny that, for mutual support, even the widows may form an association, The profession is made in the hands of the Bishop.

Evidently, the Holy See must intervene with an Apostolic Constitution because this involves the establishment anew of a form of Consecrated Life, which, even if very ancient in the Church, nevertheless, at present, this looks like being something new because it has disappeared many centuries ago. This Apostolic Constitution, besides indicating the essence of such a consecration, its personal spiritual value and witness for and in the Church, should outline also the fundamental canonical elements which are relevant. All these aspects ought to be determined in practice by the diocesan Bishop.

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