

VULTUM DEI QUAERERE

JURIDICAL PREMISES

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INTRODUCTION

In November 2008, the Congregation for the Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL) held a Plenary Congregation on the theme *Monastic life and its significance in today's Church and world*.

With this Plenary, the Dicastery wanted to re-affirm the value of the experience of consecration in the monastery, recognizing that such a vocation constitutes a unique richness for the life of the Church and the entire Consecrated Life, and asked for a renewed vital commitment so that the witnessing of the *sequela Christi* in monasteries may shine in the Church, above all through the transparency of God's primacy, fraternal communion and the efficacious reminder of the future goods. Included in these general aims, the CICLSAL, in light of its experience and in today's context, wanted to focus in a special on the reality of women in cloistered life.

Pope Francis, to mark the fiftieth anniversary of the Decree *Perfectae Caritatis* (Vatican II, October 28, 1965) instituted the Year of Consecrated Life, which ended on February 2, 2016, World Day of Consecrated Life.

The Apostolic Constitution *Vultum Dei Quaerere* was published in the wake of the Year of Consecrated Life; this Constitution asked the CICLSAL to publish an Instruction to regulate the different modalities of implementing the different constitutive norms which resulted from the Dicastery's Plenary Congregation on women's cloistered life.

In fact, even today, the legislation on women's cloistered monasteries is still based on Pope Pius XII's Apostolic Constitution *Sponsa Christi* (November 21, 1950). The delay in the publication of the conclusions of the Dicastery's Plenary Congregation - which deal mainly with the issue of autonomy of the monastery and the modalities to manage the situation of monasteries which lack the means to be autonomous - is due to the fact that to be integrated there had to be a pontifical pronouncement - something that goes beyond the Dicastery's remit.

When still a cardinal, Pope Francis was a member of the Dicastery. After becoming Pope, in a meeting with the CICLSAL's Superiors, he said that he accepted the Dicastery's idea to revise the Apostolic Constitution *Sponsa Christi*, thus giving the green light so that the work started by the Dicastery regarding cloistered life may now continue and an Apostolic Constitution be published.

I will leave to others the description of the contents of the pontifical document, both the theological-spiritual perspective as well as the normative one. Since the participants of this meeting are Episcopal vicars and delegates for Consecrated Life, the theme of my contribution is a brief recapitulation of the juridical premises that introduce the Apostolic Constitution. This will regard four areas: the autonomous monastery and its topologies; the federations of autonomous monasteries; the vigilance and control of monasteries; and the relation between women's monasteries and the diocesan Bishop.

1. THE AUTONOMOUS MONASTERY

The monastery *sui juris* is a fundamental structure of monastic life; it is an expression of a difficult translation taken from the Roman Law regarding autonomy.

The monastery is a special religious house in that it enjoys juridical autonomy and a juridical personality; it is where initial and continuous formation takes place; the Superior is a Major Superior; the community is constituted in a stable manner; and the goods of the monastery belong to the Church.

To have juridical autonomy there must be a real vital autonomy, that is, the capacity to manage the life of the monastery in all its dimensions (vocations, formation, government, finances, etc.); such a vital autonomy must be always constant for the juridical autonomy to be retained. In other words, we must distinguish between a monastery *de jure* erected as an autonomous house and a monastery, which, *de jure et de facto*, enjoys a real vital autonomy.

As in all religious houses, a monastery is erected after considering the advantages for the Church and the Institute. Please note that the Legislator, in his indication (cfr. CCL can. 610, §1) puts the advantages of the Church in the first place.

One of the requirements for the foundation of a monastery is the number of members of the community, which also enjoys stability due to the same autonomy. Tradition and Benedictine monastic law have insisted on a minimum number for the erection of an autonomous monastery; this number is that of the Apostles + Christ, that is, twelve monks and an Abbot, who, according to the Rule of St Benedict, represents Christ in the monastery.

This numerical requisite is present, although the numbers vary, in the Dicastery's praxis and in all expressions of Constitutions and Statutes.

In the past, monasteries were autonomous from their birth; today, the greater part of monasteries are born as a small group of nuns who, while continuing to have juridical bonds with the Mother House (i.e. the founding monastery) they gradually reach the requisites for full autonomy after passing through intermediate stages of partial independence, or because they are given a concession by the Major Superior or because the rule stipulates thus.

What I want to underline here is that in the foundation of a new monastery, efforts are done in order to reach the required number to obtain autonomy, and sometimes this takes place to the detriment of vocational discernment. One must keep in mind that originally, the number needed for a *sui juris* monastery was the starting minimum, whereas today it seems to be the ultimate number to be reached.

Moreover, many a time, given that the *sui juris* monastery as a religious house is peculiar, the required number, on its own, is not sufficient. Together with the required number, we need to keep in mind that a monastery is truly autonomous when the community manages to express itself and find the right persons for the service of authority and formation. Even when a community is made up of large numbers of nuns, if they cannot find someone to be the Superior, the formator or the administrator (and others who may be a valid alternative for government and other tasks), that monastery cannot be considered as having the requirements for autonomy.

The foundation of new women's monasteries must be well thought-out, and never the fruit of improvisation. Today many cloistered communities, besides the desire to live faithfully their vocation, experience various structural difficulties which originate - mainly, although not exclusively - either from the foundation of monasteries done without the appropriate preparation or from the lack of vocational discernment and formation.

Typology of monasteries

The Code of Canon Law, simplifying the previous norms, indicates three possible kinds of monasteries, that is:

1. they are either *congregated* among themselves;
2. or are *associated* to a men's Institute of the same Rule and/or spirituality;
3. or remain *isolated* on their own.

This three-fold distinguish is found in CCL can. 615 and entails a different relation with the Church authority. Therefore, when an autonomous monastery:

- does not have, besides its own moderator, another Major Superior (as in the case of a congregated monastery);
- and is not recognized by a men's Institute in such a way that the latter's Superior would have a true authority on that monastery as defined by the Constitutions (as is the case of the associated monasteries);
- that monastery is entrusted to the special care of the diocesan Bishop, as stipulated by Canon Law (this is the case of the isolated monastery).

In every kind of juridical status (congregated, associated and isolated monastery), the CCL safeguards the autonomy of the monasteries which are men's *sui juris* houses (cfr CCL can. 613 §1) and of women (cfr. CCL can. 613 §1 e can. 606).

a. Congregated monasteries

By the term 'congregated monasteries' - that is, united in a monastic Congregation - we mean the union of several autonomous monasteries - at least three - under the authority of an Abbott president (this is according to

the 1917 Code because in the current one, as decided by the Legislator, there are no definitions).

The monastic Congregation - which may be made up of men or women - is, for all effects and purposes, a religious Institute: if made up of men, it is a clerical Institute with pontifical recognition, with its own General Chapter and Superior General, who is the supreme moderator of the Congregation.

The Abbott president of a monastic Congregation is a Major Superior (cfr. CCL can. 620); similarly for the Abbess president (cfr. CCL can. 620 together with CCL can. 606): these are distinct from the local superiors of the individual monasteries, who are also Major Superiors (cfr. CCL can. 613 §2); the Presidents have the required authority to govern the Congregation according to the Constitutions of the same Congregation.

It is the Holy See that has the authority to erect Monastic Congregations and to approve their Constitutions.

Today men's monasteries are, except a few, all congregated: the women's monastic Congregations are still few.

b. Associated Monasteries

The *consociatio*, a term used in CCL can 614 and can. 615 (both new in the way they are expressed and also for their content), in a restricted sense means the juridical union of one or more women's monasteries to a men's Institute; therefore, the Constitutions must determine the authority that the Superior of the men's Institute has in relation to the women's monastery.

Depending on the Institute to which the women's monastery belongs, the latter may be associated to the men's religious Institute (which, one assumes, must have the same Rule or, at least, the same spirituality), or to one of its Province or a men's Monastic Congregation.

The juridical Association differs in that it is less that the juridical bond of a Congregation; on the other hand, it is more that the simple aggregation referred to in CCL can 580, which is a very loose relationship with another Institute, which is, above all, of a moral and spiritual nature.

A natural consociation comes into being when there is a common belonging to the same Order, or the so-called Second Order, even in those cases where there is no juridical dependence of the women's monasteries on the religious authority of the men's Order. Therefore, the terms 'association' 'belonging' and 'dependence' do not have the same meaning.

One must keep in mind that even the term *consociatio* may be ambiguous and that there are different kinds of *consociatio*, with the relative differences regarding the relation of a women's associated monastery to the religious Superior on the consociated Institute:

a. *voluntary spiritual association* of some women's monasteries which do not have a male branch to a men's Institute for spiritual help and support;

b. *voluntary spiritual association* of some women's monasteries of an Order which has various male branches, with one of these, or with a particular men's monastery;

The juridical element is not excluded as in cases a) and b), but may have a different content depending on the cases.

c. *a spiritual-juridical association* of women's monasteries with men's monasteries or Institutes belonging to the same religious Family;

d. *a juridical association* with the men's Order, which respects the autonomy of the individual women's monasteries as *sui juris* houses; in this case the diocesan Bishop's vigilance is excluded. For such cases, the Monastic Rule inspired by Benedict uses the term 'incorporation'.

With this premise, it is easier to read the content of *consociatio* as found in CCL can. 614.

The women's monasteries which are consociated with a men's Institute, maintain their rules (they remain *sui juris* monasteries, that is, autonomous) and their own government (the Superior is a Major Superior *ad normam juris*) according to the Constitutions (approved by the Holy See).

The reciprocal rights and obligations (of the associated women's monastery and of the consociating Institute) need to be determined in such a way that the association may provide spiritual benefits. In this way, the associated women's monastery has its right vital autonomy safeguarded, especially their government, and which is recognized by the Legislator (cfr. CCL can. 586), with more possibilities to safeguard their own identity due to a common legacy (cfr. CCL can. 578) shared by the associated monastery and the consociating Institute.

The juridical meaning of the *consociatio* comes for CCL can. 615 which, although speaking about isolated monasteries, specifies in a privative sense what the association entails, that is, that "the superior of the latter (that is, of the consociating Institute) possesses true power over such a monastery (the associated one) as determined by the constitutions"

This leads us to deduce that, since the *consociatio* is for the spiritual benefit, there should be reciprocal rights and duties - which, however, are not the same in number and degree - since the Superiors of the consociating Institute exercises on the associated monastery true power as determined by the Constitution.

c. Isolated monasteries

Women's and men's monasteries are defined as 'isolated' when they are not organically grouped in a congregational autonomous form, and, as far as the women's monasteries are concerned, are not associated in any way to a men's Institute (cfr. CCL can. 614). Therefore, besides the local Superior, who is always a Major Superior, these monasteries have no other Major Superior.

In the Church, the majority of women's monasteries are termed 'isolated' as just explained. Based on CCL can. 615, the isolated monastery - since it has no other Superior except its own - is entrusted to the special vigilance of the diocesan Bishop, who carries it out on the community according to the universal Law and keeping in mind the Constitutions of the isolated monastery, approved by the Holy See, which may give the diocesan Bishop further and special responsibilities and/or faculties.

If a monastery, in virtue of it being an isolated monastery, is entrusted to the special vigilance of the diocesan Bishop, who is authorized to carry out a control almost identical to the "special care" he must have for Institutes with diocesan recognition (cfr. CCL can. 594), he must not consider the isolated monastery as a diocesan one.

In fact, the juridical role with which a diocesan Bishop carries out his special vigilance on an isolated monastery is different for the special care he must have for a diocesan Institute of Consecrated Life.

II. THE FEDERATION OF MONASTERIES

After the Apostolic Constitution *Sponsa Christi* the Federations of women's monasteries multiplied; their formation was also encouraged by the Vatican II Decree *Perfectae Caritatis*: "*Independent institutes and monasteries should, when opportune and the Holy See permits, form federations if they can be considered as belonging to the same religious family. Others who have practically identical constitutions and rules and a common spirit should unite, particularly when they have too few members. Finally, those who share the same or a very similar active apostolate should become associated, one to the other*".(n. 22).

The Federations are different from women's monastic Congregations mainly for these motives:

1. the Federations are different from women's monastic Congregations in that they are not religious Institutes;
2. the Federations are different from women's monastic Congregations in that they are not structures of government but structures of communion between autonomous monasteries;
3. the Federations are different from women's monastic Congregations in that they do not have a President who would be, as such, the Supreme Moderator or Major Superior of the Federation;
4. the Federations are different from women's monastic Congregations in that they do not have a General Chapter as the supreme collegial authority of the Institute (cfr. CJC can. 631 §1), but only a federal Assembly.

The erection of the Federations of women's monasteries, the approval of their Statutes, the joining of individual monasteries in the Federation as well

as leaving a Federation by a monastery all fall under the responsibilities of the Holy See.

Autonomous women's monasteries may join a Federation - whether these monasteries are Congregated, Associated or Isolated - without losing their proper status once they join a Federation; therefore, they maintain their juridical relation with the President of the Congregation, the religious Superior of the consociating Institute and the diocesan Bishop respectively.

III. VIGILANCE AND CONTROL OF MONASTERIES

In each of the three possible status of women's monasteries - Congregated, Associated and Isolated - the necessary and just vigilance is guaranteed mainly, but not exclusively, by regular visits from an authority outside the monastery.

According to the universal and their own Law, those entrusted with the service of vigilance are:

1. the President of the women's monastic Congregation for the communities of Congregated monasteries;
2. the Major Superior of the men's consociating Institute for the community of the associated women's monastery;
3. the diocesan Bishop for the communities of isolated monasteries in his diocese.

Each women's monastery is entrusted to the vigilance of only one authority; the CCL says that there is no more the possibility of a simultaneous and cumulative "double dependence", that is, that of the Bishop and the Superior, as was stated in various canons of the 1917 CCL.

In the case of the Congregated women's monasteries, the practical ways how such a service of vigilance is to be done are taken from the Constitutions of the women's monastic Congregation.

In the case of the Associated women's monasteries, the practical ways how such a service of vigilance is to be carried out are taken from their own Constitutions, which should determine the mutual rights and obligations of the consociating Superior and of the Associated women's monastery, even in the matter of vigilance.

In the case of the Isolated women's monasteries, the special vigilance of the community of the monastery by the diocesan Bishop is carried out mainly in the cases established by universal Law, since it is the diocesan Bishop who:

- a) presides the Conventual Chapter which elects the Major Superior (cfr. CJC can. 625 §2)
- b) pays regular visits to the monastery, even concerning himself with internal discipline (cfr. CJC can. 628 §2 n.1);
- c) being the Ordinary of the place, he examines the yearly financial accounts of the monastery (cfr. CJC can. 637);
- d) being the Ordinary of the place, gives written permissions for particular administrative acts (cfr. CJC can. 638 §4);
- e) confirms the indult of definite departure from the monastery given to a temporarily-professed nun by the Major Superior with the approval of her council (cfr. CJC can. 688 §2);
- f) issues the decree of dismissal of a nun, even with temporary vows (cfr. CJC can.699 §2).

These cases, listed to outline the modalities of the special vigilance which a diocesan Bishop should carry out, constitute the bases for the vigilance done by the Superior of a consociating Institute on an Associated women's monastery and should be included in the Constitutions of the Associated monastery.

IV. RELATIONS BETWEEN WOMEN'S MONASTERIES AND DIOCESAN BISHOP

All the women's monasteries (Congregated, Associated and Isolated) - while their internal autonomy is safeguarded (cfr. CCL can. 586) [can. 615 of the 1917 CCL considered women's monasteries to be exempted only if they were under the jurisdiction of a regular superior] and may eventually enjoy an external exemption (cfr. CCL can. 591), are subject to the diocesan Bishop, who should exercise his pastoral care in the following cases:

- a) As CCL can. 678 §1 states, women 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. (cfr. CCL can. 392; can. 680) and other works of the apostolate (cfr. CCL can. 394; can. 673; can. 674; can. 612);
- b) As CCL can. 683 §2 states, the diocesan Bishop, during his pastoral or other paternal visits and also in case of necessity, may take appropriate decisions (cfr. CJC can. 1320) when he has discovered abuses and the religious superior has been warned in vain, he himself can make provision on his own authority;
- c) As CCL can. 609 states, the diocesan Bishop intervenes with a written approval whenever there is an erection of a monastery, and this is to precede asking permission from the Holy See;
- d) As CCL can. 567 states, the diocesan Bishop, being the Ordinary of the place, decides who should be chaplain and, as CCL can. 630 §3 states, again he being the Ordinary of the place, approves who the ordinary confessors should be;
- e) As CCL can. 616 §1 states, the diocesan Bishop intervenes in the closing down of a monastery by expressing his opinion;
- f) As CCL can. 687 states, an exclaustated nun remains under the dependence and the care of her superiors and the Ordinary of the place;
- g) As CCL can. 667 §4 states, the diocesan Bishop has, for a just cause, the faculty to enter the cloister and to permit, for grave reasons and with the approval of the Major Superior, other persons to enter also, and to the nuns to leave for the time strictly necessary.

In the case of the Congregated and Associated monasteries the points of pastoral care just listed are the only possible forms for the diocesan Bishop, since the rights/obligations of the President of the Congregation (in the case of the Congregated monasteries) and the rights/obligations of the Superior of the consociating Institute (in the case of the Associated monastery) must be safeguarded.

In the case of the Isolated monasteries, the points of pastoral care just listed need to be added to those which the CCL presents as special vigilance by the diocesan Bishop, to whom the Isolated monastery is entrusted as stated in CCL can. 615.

IV. FINAL CONSIDERATIONS

The Constitution *Vultum Dei Quaerere* presupposes the autonomous monastery as the fundamental institute of monastic law, and, as we know, juridical autonomy of monasteries could be an instrument of strength in the case of vital and lively communities.

We all easily understand the distinction between a monastery erected as an autonomous house and a monastery which enjoys real autonomy of life. However, when the point comes to declare that a monastery does not have anymore the requirements to continue as an autonomous house, especially due to small numbers, autonomy becomes a source of problems and also an obstacle to the needed help, if the community of a *sui juris* monastery does not ask for it.

The factor which aggravates the situation is that, although in the foundation of a monastery, the Dicastery's praxis and the Institute's constitutions are quite careful and precise, the same cannot be said regarding what needs to be done when the need arises to evaluate whether a monastery loses its ability to live an autonomous life in all dimensions (vocational, formation, government, finances, etc.), either temporarily or irreversibly.

In fact, if the competent authority does to intervene to downgrade an autonomous monastery to a house which is dependent on another *sui juris* monastery, or is suppressed, the monastery which has been erected as a *sui juris* house, as long as it has the minimum number of three perpetually/solemnly professed members (that is, the minimum number to form a *collegium*), it maintains *de jure* all its peculiarities of an autonomous house which the Church's Law bestows, that is, it remains a house of formation, with the right of a novitiate, and the superior is still a Major Superior, etc.

The perspectives of the Constitution *Vultum Dei Quaerere* move on two fronts: one is the promotion of cloistered life in areas of New Evangelization, where such a reality is either not present or growing: the former refers to the places which had been reached by the ancient evangelization and where cloistered life, albeit with some praiseworthy exceptions, is finding difficulties.

In both situations the competent authorities - the President of monastic Congregations, the Superiors of consociating Institutes, the diocesan Bishops - have the right/duty to keep an eye on and provide pastoral attention.

Lastly, regarding the existing monasteries which have small communities, we need to reaffirm that the concept of an autonomous monastery cannot be applied to all forms of monastic presence. By recalling what Vatican II said in the Decree *Perfectae Caritatis*, we eliminate all confusion: *"There may be communities and monasteries which the Holy See, after consulting the interested local Ordinaries, will judge not to possess reasonable hope for further development. These should be forbidden to receive novices in the future. If it is possible, these should be combined with other more flourishing communities and monasteries whose scope and spirit is similar"* (n. 21) as well as what has been established by the *motu proprio Ecclesiae Sanctae*: *"Among the criteria that can contribute to forming a judgment on the suppression of an institute or monastery, taking all the circumstances into account, the following especially are to be considered together: the small number of Religious in proportion to the age of the institute or the monastery, the lack of candidates over a period of several years, the advanced age of the majority of its members. If a decision for suppression is reached, provision should be made that the institute be joined "if it is possible, with another more vigorous institute or monastery not much different in purpose and spirit" (No 21 of the Decree Perfectae Caritatis). The individual Religious, however, should be consulted beforehand and all should be done with charity"* (VIII, 41).

These above juridical premises will facilitate the reading of the Apostolic Constitution. Its contents will be presented later, both the theological-spiritual perspective as well as the more substantial juridical aspects.