



THE ROLE OF THE DIOCESAN BISHOP AS RELIGIOUS INSTITUTES COME TO COMPLETION



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Introduction

First of all, thank you for your kind invitation to share with you some reflections on the role of the diocesan bishop when Religious Institutes, be they diocesan or pontifical, make a decision to come to completion. To establish the desired framework for the relationship between Religious Institutes and the diocesan bishop will require a review of the following canonical norms:

1. Diocesan Bishops in General
2. Religious Institutes: Vocation and Place in a Changing World
3. Religious Institutes: Diocesan or Pontifical
4. Relationship Between Bishops and Religious: Mutual Rights and Duties
5. Reading the Signs of the Times
6. Assessing our Current Reality in Faith
7. Canonical Options
8. What Can Bishops Do?
9. Collaborative Governance Models
10. Necessary Canonical Processes
11. Closing Reflections

1.0 Diocesan Bishops in General

As noted in the Second Vatican Council Decree *Christus dominus*, “The Bishops..., assigned to the position by the Holy Spirit, take the place of the apostles as pastors of souls ... and together with the supreme pontiff and under his authority, carry on the never-ending work of

Christ, the eternal pastor.”¹ Kasper has noted that the Council Fathers of Vatican II were able to resurrect the early Church’s tradition of the role of the diocesan bishop, “balancing ... the doctrine of papal primacy with doctrine of the bishop’s office, together with collegiality in the bishop’s office.”² In his role, the Bishop is responsible for both the spiritual life of the Church as well as its temporal goods.³

If the diocesan bishop is charged with the responsibility of ensuring the mission handed down to the Church through Jesus and the apostles is realized, what is the place of Religious Institutes in assisting to realize this mission, and what is the relationship of the diocesan bishop to Religious Institutes in his diocese?

2.0 Religious Institutes: Vocation and Place in a Changing World

From the earliest days of Christian history, there have been those who experienced a special calling to give their lives in service to Jesus. We need only look to the apostles and disciples who followed Jesus as examples of the first “religious” communities committed to Jesus and His teachings.

¹ SECOND VATICAN COUNCIL, Decree Concerning the Pastoral Office of Bishops in the Church *Christus Dominus*, 28 October 1965, in *AAS*, 58 (1966), 673-701, English translation in Tanner II, 921-939 (= *CD*).

² K. MCDONNELL “Walter Kasper on the Theology and the Praxis of the Bishop’s Office,” in *Theological Studies*, 63 (2002), 716–723 (= MCDONNELL, “WALTER KASPER”).

³ See FRANCIS, Apostolic Letter *motu proprio Fidelis dispensator et prudens* for the constitution of a new structure of coordination of the economic and administrative affairs of the Holy See and the State of Vatican City, 24 February, 2014, English translation in *Origins*, (2013-2014), 649-650.

After Jesus' death and resurrection, being identified as Christian would often bring persecution and martyrdom. When Constantine embraced Christianity, elevating it to the status of the State Religion in 313 AD, those who called themselves "Christian" found themselves favoured in a world in which they had once been persecuted. From this place of favour, some withdrew from the world in order to focus their attention on prayer and their relationship with God. Desert Fathers and Mothers retreated to the outskirts of Egypt, Syria and Palestine to discern a different way of being in relationship to God, in but not of the world.⁴

New orders developed after the Desert Mothers and Fathers, and appeared to grow quickly in numbers. Rather than withdraw from the world, these new mendicant orders, marked by poverty practiced in common and a ministry-focused life (union of contemplation with work), remained closely aligned with the outside world, and aimed to do it service. Hospitaller orders devoted themselves to the relief of bodily infirmities (Brothers of St. John of God [1572]). These were followed by a category of vocations labelled Regular Clerks, who shared similar characteristics but would take a vow not to seek ecclesiastical dignities, and not even to accept them. The Society of Jesus is one of the most recognized of this group of vocations. In the mid-16th Century, up to and including the first half of the 20th Century, congregations who took simple vows would flourish as they worked to meet the new needs of the new world of North America and elsewhere.⁵

⁴ See T. MILLER, "Understanding Desert Monasticism," <https://www.northumbriacommunity.org/articles/understanding-desert-monasticism/> (26 July 2019).

⁵ See "Religious Orders – Historical Development," in *GlobalSecurity.org*, <https://www.globalsecurity.org/military/world/europe/va-orders-history.htm> (26 July 2019).

Prior to Vatican II, consecrated life was identified with the evangelical counsels.⁶ In shepherding the diocese and caring for the needs of the people whom he has been called to serve, diocesan bishops often brought together people of good will who had been blessed by the Holy Spirit by certain charisms or special grace,⁷ which could be used in the service of God's people for the common good.⁸ From these initial groupings, Bishops were able to ensure the needs of the poor and needy in their dioceses were met. Canon 579 states, "Diocesan Bishops, each in his own territory, can erect Institutes of consecrated life by formal decree, provided that the Apostolic See has been consulted." Having invited and in some instances conferred juridical status upon such groupings, what if any, could be considered both the rights and responsibilities, of both the diocesan bishop as well as Religious Institutes? Diocesan Bishops have the responsibility of both welcoming and distinguishing among the charisms of Religious Institutes serving in their dioceses.⁹ As we shall see, the responsibilities and rights of the diocesan bishop are contingent upon the type of juridic status conferred upon the Religious Institute, be they diocesan or pontifical

3.0 Religious Institutes: Diocesan or Pontifical

The Synod of Bishops General Secretariat reaffirmed the fundamental elements of consecrated life identified in the Code: (cc. 573-578)

- 1) Profession of the evangelical counsels;

⁶ See D. FLEMING, "Understanding a Theology of Religious Life," in G. ARBUCKLE and D. FLEMING (eds.), *Religious Life: Rebirth through Conversion*, Staten Island, NY, Alba, 1993, 23.

⁷ See CICLSAL, *Economy At The Service of Charism and Mission: Guidelines*, Rome, Libreria Editrice Vaticana, 2018, no. 1, 8 (= CICLSAL, *Economy*).

⁸ See CICLSAL, *Economy*, 9.

⁹ See SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), 5-75, English translation in N. Tanner II, no. 12, 858 (= *LG*).

- 2) A stable form of living;
- 3) Commitment to follow Christ more closely and to follow the inspirations of the Holy Spirit; and
- 4) Total dedication to God, who is loved more than all.¹⁰

While these elements might be essential to all Religious Institutes, what is the hierarchical place of Religious Institutes in the Church?

While the Council Fathers were able to identify the essential elements of consecrated life, they struggled with the place and role of consecrated life in the Church. During deliberations at Vatican II, the place of Religious Institutes in the hierarchical structure of the church was debated. “A majority of the bishops were opposed to including [in the documents of Vatican II], a special section on religious life because there was a belief ... that religious life was not a fundamental structure of the church but rather a beautiful decoration that had developed over the course of the centuries. They thought that while it beautified the church, it wasn’t essential to the church. You could dispense with it and the church would still stand.”¹¹

Due to the intervention of St. Paul VI, a commission was formed to develop a decree on the renewal of religious life.¹² For the first time in the church’s history, the Ecumenical Council

¹⁰ See SYNOD OF BISHOPS GENERAL SECRETARIAT, “The Consecrated Life and Its Role in the Church and in the World: ‘*Lineamenta*’ for the 1994 Synod of Bishops,” in *Origins*, 22 (1992-1993), no. 5, 436.

¹¹ J. TOBIN, “How Did We Get Here? The Renewal of Religious Life in the Church Since Vatican II,” in *A Future Built on Faith. Religious Life and the Legacy of Vatican II*, G. Simmonds, (ed.), Dublin, Columba, 2014, 20.

¹² See SECOND VATICAN COUNCIL, Decree on the Sensitive Renewal of Religious Life *Perfectae caritatis*, 28 October 1965, in AAS, 58 (1966), 702-712, English translation in Tanner II, 939-947 (= PC).

decided to treat religious life as a doctrinal question, not simply as an issue of internal discipline. Religious Institutes, who may have been viewed as a much-needed labour force in the Church, would be recognized as inherent to the life and sanctity of the Church (cc. 573-574).

Vatican II requested that consecrated life accommodate the “needs in our time.”¹³ While some would suggest that the renewal of Religious Institutes envisioned by Vatican II has not yet been realized,¹⁴ each Religious Institute was encouraged to reread and interpret the “original spirit of the Institute,”¹⁵ while faithfully guarding “the mind and designs of the founders,”¹⁶ establishing new initiatives with the same creativity and holiness of their founders/foundresses who responded to the times emerging in today’s world.¹⁷

Canonical Categories of Religious Institutes

For our purposes, we will limit the definition of Religious Institutes into the following categories: Religious Institutes of diocesan right and Religious Institutes of pontifical right; apostolic or contemplative; and lay or clerical. Institutes of Diocesan Right include those which have been canonically established by a diocesan bishop and have not subsequently obtained juridic recognition by the Apostolic See (cc. 579, 589, 594). Institutes of Pontifical Right have been

¹³ See *PC*, no. 1.

¹⁴ See E. McDONOUGH, “*De Accommodata Renovazione: Between the Idea and the Reality ...*”, Occasion and Intent and Consequences of Vatican Council II, in R. GRIBBLE (ed.), *Apostolic Religious Life in America Today: A Response to the Crisis*, Washington, The Catholic University of America Press, 2011, Kindle ed., 69 (= McDONOUGH, *De Accommodata Renovazione*).

¹⁵ See *PC*, no. 2.

¹⁶ See c. 578.

¹⁷ See ST. JOHN PAUL II, Post-synodal Apostolic Exhortation on Consecrated Life *Vita consecrata*, 25 March 1996, in *AAS*, 88 (1996), 377-486, English translation in *Origins*, 25 (1995-1996), no. 37 (= *VC*).

canonically established by the Apostolic See or originated as a diocesan institute but subsequently obtained a formal decree of approbation from the Apostolic See (cc. 589, 593).¹⁸

Apostolic Institutes are those dedicated to works of the apostolate in such a way that the apostolate is inherent to the nature of the institute itself (c. 675, §1) and part of its juridic patrimony (c. 578). Contemplative Institutes are those dedicated to contemplation and are described canonically in contrast to the apostolic activity of some Institutes (c. 674). This categorization is incomplete, because it fails to recognize those monastic Institutes that engage in apostolic activity as part of their heritage (e.g., Benedictines who may also own and operate monastic schools) as well as those Institutes who, by their nature, are both contemplative and apostolic (e.g., Dominicans have a long tradition of contemplation flowing into action).

Lay Institutes are those Institutes recognized by the Church whose purpose does not include the exercise of the sacrament of orders (c. 588, §3; 676). Clerical Institutes are those whose purpose includes the exercise of orders and which are governed by clerics (c. 588, §2). There is a canonical sub-category of contemplative/monastic Religious Institutes that is not defined in the Code, but which is consistently mentioned and treated differently from others already mentioned. This includes *sui iuris* monasteries of nuns and monks who are technically independent houses of monastic women and men who profess solemn vows and observe papal enclosure (c. 667, §3) and whose houses are subject to the special vigilance of the diocesan bishop (c. 615). The diocesan

¹⁸ See E. MCDONOUGH, "Relationship Between Bishops and Religious: Mutual Rights and Duties," in *Selected Issues in Religious Law*, P Cogan, (ed.), Washington, CLSA, 1997, 70. (= MCDONOUGH, "Relationship Between Bishops and Religious.")

bishop is responsible for any autonomous *Sui Iuris* Monastery in his diocese that does not have another major superior besides its own moderator and is not associated to a Religious Institute. The vigilance of the diocesan bishop is intended to protect the rights of the members and ensures the superior of the monastery is accountable for their actions. Although such monasteries enjoy a just autonomy of life and governance (c. 586), permission of the Apostolic See is required for erection, as well as for approval of changes to their constitution or dispensations.¹⁹

4.0 Relationship between Bishops and Religious Institutes: Mutual Right and Duties

Throughout history, Religious Institutes have been invited into dioceses or accepted by the diocesan Bishop, to carry out their mission in accordance with their unique mission and charism. Religious Institutes were often founded or at least canonically approved by diocesan bishops who sought partners to fulfill the Church's mission given by Jesus to the apostles to heal, teach,²⁰ and proclaim that the kingdom of God is among us.²¹ Through the profession of the evangelical counsels, although not part of the hierarchical structure of the church, religious life "undeniably belongs to its life and holiness."²² The role of the hierarchy is to recognize and guide consecrated life.²³ The complementarity of vocations in the church for the sake of the mission was identified

¹⁹ See c. 615; see also R. MCDERMOTT, "Norms Common to All Institutes of Consecrated Life (cc. 573-606), in J. BEAL, J. CORIDEN, and T. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the Canon Law Society of America, New York and Mahwah, NJ, Paulist Press, 2000, 777 (= MCDERMOTT, "Norms").

²⁰ See Matt. 10:8.

²¹ See Luke 17:21.

²² See *LG*, no. 44, 885.

²³ See *LG*, no. 45, 886.

in *Vita Consecrata*.²⁴ Through mutual relationship with diocesan bishop,²⁵ the diocesan Bishop is responsible to ensure the gifts or charism which consecrated life brings to the Church are carefully protected and shared for the common good.²⁶ Religious Institutes, when legitimately established as juridic persons, possess rightful autonomy to follow their own internal discipline and preserve and protect the Institute's "Patrimony," (nature, purpose, spirit, character, sound traditions (cc. 586, 578)).²⁷

When examining rights and duties between bishops and Religious Institutes, two canonical principles²⁸ will serve as the foundation for our discussion.

1. All diocesan bishops possess all the ordinary, proper, and immediate power required for the exercise of their pastoral ministry in the diocese entrusted to his care (c. 381, §1); and all diocesan bishops have general pastoral responsibility for and oversight of all the faithful, all teaching and preaching and all sacramental and liturgical celebrations (cc. 383, §1; 386, §1, 387). For example, diocesan bishops can conduct a visitation of all of all churches and oratories habitually attended by the faithful as well as a visitation of schools and other spiritual or temporal works of religion or charity entrusted to religious (c. 683, §1). While subject to the authority of the diocesan bishop

²⁴ See *VC*, no. 3.

²⁵ See SACRED CONGREGATION FOR RELIGIOUS AND SECULAR INSTITUTES, SACRED CONGREGATION FOR BISHOPS, Directive for the Mutual Relations Between Bishops and Religious in the Church *Mutuae relationes*, 14 May 1978, in *AAS*, 70 (1978), 473-506; English translation in *CLD*, vol. 9, 296-340 (= *MR*).

²⁶ See *CICLSAL*, *Economy*, 9.

²⁷ See E. McDONOUGH, "Relationship Between Bishops and Religious, 69.

²⁸ *Ibid.*

- in matters concerning the care of souls, public worship, and works of the apostolate in a particular diocese (c. 578, §1), all Religious Institutes also exist in relationship to the universal Church and particular dioceses (cc. 576; 590-591; 593-594).²⁹ As noted by Cafardi and Hite, the allocation of risks and responsibilities related to this relationship have been identified in both canon and civil laws.³⁰ As in most matters related to the law, interpretation of the law can offer clarity of understanding and divergence of opinions.
2. Religious Institutes pertain to the life and sanctity of the Church (cc. 573-574). As such, each Religious Institute has proper law which defines the fundamental elements of life and discipline for its member (c. 587) and each member is encouraged to order their life according to these norms (c. 598, §2). Whenever there is any doubt in relation to the interpretation of the universal law as it defines the relationship between bishop and religious, approved proper law of a particular institute (e.g., constitutions) generally take precedence over universal law if that proper law is not contrary to it.³¹

The authority exercised by both diocesan bishops and major superiors of Religious Institute usually focuses on resources for ministry, and requires cooperation and the establishment of a solid mutual relationship of trust between the superior and the bishop.³² This requirement, in and of

²⁹ See E. McDONOUGH, "Relationship Between Bishops and Religious, 69.

³⁰ See N. CAFARDI, and J. HITE, "Rights and Responsibilities Between Dioceses and Religious Communities," in *Catholic Lawyer*, 40 (2000), 59 (= CAFARDI & HITE).

³¹ See E. McDONOUGH, "Relationship Between Bishops and Religious," 69.

³² N. CAFARDI, and J. HITE.

itself, would necessitate more than casual conversations between bishops and the competent superiors of Religious Institutes serving in his diocese! Shared issues will focus on areas of personnel (assignment and removal; contractual issues related to ministry), and property issues (property owned by a Religious Institutes in a diocese is subject to both the proper law of the Institute as well as to canon law).³³ Finding and/or maintaining a proper balance in relationship between bishops and religious has often been a delicate and sometimes elusive goal!³⁴ Although a positive mutual relationship is desired between the diocesan bishop and the Religious Institutes who minister in his diocese, the Holy See can subject a Religious Institute to its supreme authority.³⁵

The Council encouraged bishops to support the renewal of religious life, not necessarily through direct involvement, but through mutual relationships of prayer and support.³⁶ In fact, the new Code of Canon Law developed norms to ensure that the proper autonomy of Religious Institutes would be preserved.³⁷ While the principle of subsidiarity is to be followed, it is noted that the autonomy of Religious Institutes is not absolute, since they are subject to ecclesiastical authority as noted in the universal law.

³³ See. 1257, §1: All temporal goods which belong to the universal Church, the Apostolic See, or other public juridic persons in the Church are ecclesiastical goods and are governed by the following canons and their own statutes.

³⁴ See E. McDONOUGH, "Relationship Between Bishops and Religious. 69.

³⁵ See c. 593.

³⁶ See *PC*.

³⁷ See c. 586.

The competent authority held independently by superiors of Religious Institutes and diocesan bishops, as well as their shared authority, is expressed in various norms in the Code.

Areas of episcopal responsibility fall into the following main categories:

- 1) Establishing an Institute
- 2) Relationship with an institute
- 3) Governance
- 4) Spiritual and Material Care of Institutes
- 5) Apostolates
- 6) Suppressing houses

Episcopal responsibilities in relationship to Religious Institutes, both diocesan and pontifical, were noted by McDonough³⁸ in the chart below.

Table 1 Episcopal Responsibilities

Responsibility	Related Canons	Pontifical	Diocesan	Monastery (c. 615)
Establishing an Institute	579, 589, 605	x		(x)
Respecting autonomy of Institutes	586	x	x	x
Approving constitutions	587, §1; 595		x	
Special care or vigilance	594; 615		x	x
Establishing houses	609, §1; 611	x	x	x
Altering apostolate of a house	612	x	x	
Suppressing houses	616, §1	x	x	x
Presiding at elections	625, §2		x	x
Visitation of Institutes	628, §2; 397, §2		x	x
Confessors for (lay) Institutes	630, §3	x	x	x
Finance of Institutes	637, 638, §4; 1266; 1291; 1292, §1; 1295	(x)	x	x
Admission of Clerics	644, 645	x	x	
Entrance into/exit from cloister	677, §4			x
Exercise of Apostolates	672; 678, §§ 1, 2	x	x	(x)
Coordination of apostolates	678, §3; 680	x	x	(x)
Works/contracts/ecc office	681, 682	x	x	(x)

³⁸ See E. MCDONOUGH, “Relationship Between Bishops and Religious, 72-73.

Responsibility	Related Canons	Pontifical	Diocesan	Monastery (c. 615)
Visitation of apostolates	683, §1; 397, §2	x	x	(x)
Penalties applied to religious	679; 683, §2; 1320	x	x	x
Indult of exclaustation	686, 687		x	
Indult of departure	688, §2; 691, §2; 693		x	x
Dismissal of religious	6992; 700; 701		x	x

The property of Religious Institutes of pontifical right fall under the jurisdiction and oversight of the Holy See. In some ways, the influence of the local Bishop is tempered, and primary responsibility belongs to the Religious Institute which is responsible to ensure universal norms related to temporal goods, the intent of donors, and the charism of the founders, are honoured. As noted previously, the authority exercised by a Religious Institute must support the charism, nature, and spirit of the founders. Religious Institutes are a gift from God to the Church and the world, and serve to meet the changing needs of the world in which they live. As such, they are called to read the signs of the time to determine new needs and new structures that can support the continuation of the Church’s mission in the modern world.³⁹

5.0 The Current Reality: Reading the Signs of the Times

There was a day, not so many years ago, that most of us sitting in this room would never have dreamt that the Religious Institutes that worked in collaboration with diocesan bishop, and founded ministries to care for the needs of immigrants flooding to Canada in the mid-18th and early 19th centuries in our dioceses, would one day be forced to come to a decision to shut their doors. Yet, this is exactly what was prophetically noted in *Perfectae caritatis* on the renewal and

³⁹ See Second Vatican Council, Apostolic Constitution on the Church in the Modern World *Gaudium et spes*, 7 December 1965, in *AAS*, 58 (1966), 1025-1115, English translation in Tanner II, 1069-1135 (= *GS*).

adaptation of religious which notes that if no “reasonable hope of further development” is evident within the institute, the Holy See should forbid the acceptance of novices, and that such Institutes should be “absorbed into already existing, more vigorous communities which have the same purpose and spirit.”⁴⁰ Institutes that share similar charisms, belong to the same religious family or share similar constitutions and apostolates, were encouraged to form federations or unions.⁴¹ In some instances when leadership within a Religious Institute is unable or unwilling to consider alternative configurations, the Holy See may choose to intervene in the internal governance of an institute and forbid acceptance of novices as well as mandating absorption of the members into another institute.⁴²

At the same time as Religious Institutes have responded to the Church’s call for renewal and adaptation, they have experienced a period of breakdown. Some of the signs of this breakdown include but are not limited to the following:

- dismantling of institutions and structure;
- abandonment of some belief systems that had served religious life historically;
- more requests from perpetually professed religious for dispensation from their vows;
- transition from shared apostolates to individualized ministries;
- polarization of theologies and beliefs into traditional or progressive definitions; and

⁴⁰ E. McDONOUGH, “Mergers, Unions, Federations and Confederations,” in *Review for Religious*, 63 (2004), 204 (= McDONOUGH, “Mergers”).

⁴¹ See *PC*, no. 22, 946.

⁴² See McDONOUGH, “Mergers,” 205.

- apostolates which had long been sponsored by Religious Institutes being transferred to new sponsorship models due to lack of resources and/or personnel.⁴³

Vocations to Religious Institutes have dwindled.⁴⁴ Some sociologists suggested that the growth of Religious Institutes, which peaked in the mid 20th century, was merely a sociological anomaly.⁴⁵ Others suggest that all organizations, be they religious or secular, enjoy a natural lifecycle,⁴⁶ with an average lifespan of 300 years.⁴⁷ Fully mature organizations do have the capacity for renewal, which usually includes realignment of key aspects of their identity and mission in response to internal and external organizational pressures.⁴⁸

The decline in vocations should not surprise us. Religion in the public sphere has seen a marked decline.⁴⁹ In 2013, Pew research noted the percentage of Canadians who identified as Catholic had dropped from 47% to 38% over the past four decades, while Protestant traditions saw

⁴³ See S. EUART, “The Year of Consecrated Life: Pilgrimage for Religious in the 21st Century,” in *Origins*, 45 (2015-2016), 287.

⁴⁴ See MCDONOUGH, “Mergers,” 205.

⁴⁵ See P. WITTBERG, *The rise and decline of Catholic Religious Orders: A Social Movement Perspective*, Albany, NY, State University of New York Press, 1994.

⁴⁶ See J. KIMBERLY and R. MILES, *The Organizational Life Cycle: Issues in the Creation, Transformation, and Decline of Organizations*, San Francisco, Jossey-Bass, 1980.

⁴⁷ See C. VAN DAM, C., T. SPONSELEE, and A. LEYS, “Explorations on the ‘Completion’ of Religious Institutes, in RCRI Bulletin, 8 (2012), 9-27, https://www.marianites.org/uploads/files/newsletters/2012_Fall_Bulletin.pdf (19 July 2019) (= VAN DAM et al).

⁴⁸ See A HEREFORD, *Navigating Change: The Role of Law in the Life-Cycle of a Religious Institute*, St. Louis, Religious Life Project, 2014, 102, Kindle ed.

⁴⁹ See B. ALLEN, “From sacred to secular: Canada set to lose 9,000 churches, warns national heritage group,” 10 March 2019, *CBC News*, <https://www.cbc.ca/news/canada/losing-churches-canada-1.5046812> (22 July, 2019).

an even more dramatic decline from 41% to 27%.⁵⁰ Twenty-nine percent of Canadians born between 1967 and 1986 claim no religious affiliation as of 2011. The decline in nuns in North America⁵¹ and the rise of the “nones”⁵² (no religious affiliation), reflects this drop in religious commitment in the Canadian public.

The Centre for Applied Research in the Apostolate (CARA) in the United States noted the decline in all vocations including the priesthood, diaconate, and religious life since Vatican II. In 1970, religious Sisters in the United States numbered 160,931. In 2018, that number decreased to 44,117, a decline of 73%.⁵³ The members of these Institutes are aging (age 60 and over).⁵⁴ Religious Institutes in Canada have seen similar declines in membership.⁵⁵ From 1975 to 2019, the decline in numbers of religious serving the Church decreased by 80%.⁵⁶

⁵⁰ See Pew Research Centre, “Canada’s Changing Religious Landscape,” 27 June 2013, <https://www.pewforum.org/2013/06/27/canadas-changing-religious-landscape/> (22 July 2019) (= Pew Research).

⁵¹ See I. PERITZ, “Quebec’s dwindling number of Catholic nuns spells end of era in province,” in *The Globe and Mail*, 25 July 2018, <https://www.theglobeandmail.com/canada/article-quebecs-dwindling-number-of-catholic-nuns-spells-end-of-era-in/> (8 July 2019).

⁵² See K. OAKES, “What can nuns and ‘nones’ learn from one another,” in *America*, (4 September 2018), <https://www.americamagazine.org/faith/2018/09/04/what-can-nuns-and-nones-learn-one-another> (22 July 2019).

⁵³ CENTER FOR APPLIED RESEARCH IN THE APOSTOLATE (CARA), Frequently Requested Church Statistics, <https://cara.georgetown.edu/frequently-requested-church-statistics/> (22 July 2019).

⁵⁴ See CARA, “Report on Recent Vocations to Religious Life in the U.S.: Executive Summary” in *Origins* 39 (2009-2010), 198 (= CARA).

⁵⁵ See M. KRAMAREK and M. GAUTIER, *Recent Vocations to Religious Life in Canada: A Report for the National Association of Vocation and Formation Directors*, Washington, CARA (2018) (= NAVFD Report).

⁵⁶ See CRC Statistics, <https://www.crc-canada.org/en/who-are-we/statistics/> (5 Aug 2019).

Year	Number of Religious Men and Women in Canada
1975	55,180
2004	22,471
2010	19,235
2013	16,626
2015	13,126
2018	12,220
2019	11,054

Congregational leaders have begun to shift their focus from much needed apostolates of service in the Church to care of their members as they age.⁵⁷ In 2018, CARA again surveyed members of Religious Institutes to assess attitudes, priorities, and needs in relation to mission, ministry, charism, prayer, spirituality, community life, vocation promotion, initial formation, ongoing formation and collaboration.⁵⁸ The statistics revealed some sobering realities. Eighty percent of those congregations surveyed had no professions of perpetual vows in religious life in 2018.⁵⁹

⁵⁷ See J. TOBIN, “What Are We Missing? What Should We Say?” in *Origins* (2010-2011), 201 (= TOBIN, “What Are We Missing?”).

⁵⁸ Centre for Applied Research in the Apostolate, “Religious Life Research,” <https://cara.georgetown.edu/services/religious-Institutes/>, 2019 (8 July 2019).

⁵⁹ T. DO and M. GAUTIER, “Women and Men professing Perpetual Vows in Religious Life: The Profession Class of 2018: Report to the Secretariat of Clergy, Consecrated Life and Vocations United States Conference of Catholic Bishops, CARA, <https://cara.georgetown.edu/ProfessionClass2018.pdf>, January 2019 (8 July 2019).

The reasons for these shifts are many and could include such things as Vatican II's emphasis on the universal call to holiness for all the faithful;⁶⁰ enhanced ministry options for young women who, in years gone past, may have considered consecrated life as the only option for service in the Church;⁶¹ and a general apathy related to religious practices of any nature, separating the public persona from faith, to name but a few.⁶² All of this then, has naturally resulted in the decline in the number of consecrated persons in North America. One internationally recognized canonist has noted approximately one Religious Institute/month is dissolved.⁶³ "Concerns about declining number of vocations, aging and overworked religious, ministerial burnout and loss of an authentic religious spiritual life were major issues for the Church's hierarchy in the first half of the 20th century. This was not simply a post-Vatican II phenomenon"⁶⁴

6.0 Assessing our Current Reality in Faith

The current reality which most Religious Institutes are facing, offers an opportunity for both Religious Institutes and societies of apostolic life to redesign their path, develop new rules, and identify new forms of involvement, focusing on positive experiences and rejecting negative

⁶⁰ See *LG*, no. 11, 858.

⁶¹ See P. BEDNARCZYK, "Address to LCWR on Vocations to Religious Life Study," in *Origins*, 39 (2009-2010), 205-207.

⁶² See Pew Research.

⁶³ Private conversation with Fr. Francis Morrisey, OMI.

⁶⁴ M. CONFOY, "Religious Life in the Vatican II Era. 'State of Perfection' or Living Charism?" in *50 Years On. Probing the Riches of Vatican II*, D. SCHULTENOVER (ed.), Collegeville, Liturgical Press, 2015, Kindle ed., 393.

ones. This is a time for discernment and new envisioning. Only from a stance of trust versus resignation, can the Religious Institutes better face the difficulty of the present moment.⁶⁵

6.1 God's Call to Newness

In 2014, Pope Francis proclaimed a year to recognize and celebrate the gift of consecrated life to the Church and the world.⁶⁶ This celebration was coincident with the 50th anniversary of the Dogmatic Constitution on the Church, *Lumen Gentium*,⁶⁷ which included a chapter entitled "Religious,"⁶⁸ and the decree *Perfectae caritatis*,⁶⁹ on the renewal of religious life. The aims of this year were initially proposed by St. John Paul II at the dawning of the third millennium and based on his postsynodal apostolic exhortation *Vita consecrata*:⁷⁰ "You have not only a glorious history to remember and to recount, but also a great history still to be accomplished! Look to the future, where the Spirit is sending you in order to do even greater things."⁷¹ Using human logic, if the future is based on the past, the role of Religious Institutes in the church into the future would appear to be less than robust. From the perspective of faith, all things are possible with God.⁷² As

⁶⁵ See BENEDICT XVI, Encyclical Letter, *Caritas in veritate*, 29 June 2009, English translation in *Origins*, (2009-2010), 129-160, no. 21, 136.

⁶⁶ See FRANCIS, Apostolic Letter To all consecrated People on the Occasion of the Year of Consecrated Life *Scrivo a voi: Ad personas consecrates occasione Anni Vitae Consecratae dictati*, 21 November 2014, *AAS*, 106 (5 December 2014), 935-947, English translation in *Origins*, 44 (2014-2015), 482-488.

⁶⁷ See *LG*.

⁶⁸ See *LG*, nos. 48-47, 884-887.

⁶⁹ See *PC*.

⁷⁰ See *VC*.

⁷¹ *VC*, no. 110.

⁷² See Matt. 19:23-30.

Yahweh promised to the Israelites, “I am making all things new.”⁷³ What is the newness to which God is inviting consecrated life to be expressed in new ways?

The Church in her wisdom, recognized it would not be easy to move from administration of well-known situations and apostolates towards “unknown destinations and ideals with a conviction that generates real trust.”⁷⁴ Accelerated change, both in the world in which we live as well as stark predictions of more and more congregations coming to completion, may tempt congregational leaders to focus on emergencies instead of horizons, managing the day-to-day or in merely surviving, which is in the end, detrimental to a life that is full of meaning and called to prophetic witness.⁷⁵

Despite these foreboding statistics, Religious Institutes have not sat by idly waiting to hear the death knell for their congregations. They have attempted to incorporate the invitation of St. John Paul II to have hope.

The various difficulties stemming from the decline in personnel and apostolates must in no way lead to a loss of confidence in the evangelical vitality of consecrated life, which will always be present and active in the church. ... New situations of difficulty are therefore to be faced with the serenity of those who know that what is required of each individual is not success but commitment to faithfulness. What must be avoided at all costs is the actual breakdown of consecrated life, a collapse that is not measured by a decrease in numbers but by a failure to cling steadfastly to the Lord and to one’s personal vocation and mission.”⁷⁶

⁷³ See Isaiah 43:18, 19; 65:17; Revelation 21:5; Eph. 4:24; Hebrews 8:13.

⁷⁴ See CICLSAL, *New Wine in New Wineskins: The Consecrated life and its Ongoing Challenges Since Vatican II: Guidelines*, Rome, *Libreria Editrice Vaticana*, 2017, 13 (= CICLSAL, *New Wine*).

⁷⁵ CICLSAL, *New Wine*, 13.

⁷⁶ See *VC*, no. 63.

Some have suggested that religious have been “hoodwinked into discouragement,” replacing a language of abundance with a vocabulary and mode of thinking that centres on diminishment.⁷⁷ “The future belongs to those who give the next generation reason to hope.”⁷⁸ Pope Francis’ invitation to “be bold and creative in this task of rethinking the goals, structures, style and methods,”⁷⁹ also applies to governing bodies and practices at all levels of the Church.⁸⁰ The mission of the Church belongs to the movement of God’s Spirit. No authority, not even a founder, can be the exclusive interpreter of the charism.⁸¹

If the climate of a particular church or Religious Institute has cooled to the point that it no longer invites women and men to consider a public and lifelong witness to Jesus Christ and the values of the kingdom, we can expect the Holy Spirit to raise up new forms of consecration.”⁸² Some new congregations that have formed since Vatican II, appear to have adopted more traditional practices of religious life including wearing a religious habit,⁸³ common prayer, daily Eucharist and the Liturgy of the Hours.⁸⁴ They seem to be experiencing growth in their

⁷⁷ D. COUTURIER, “Religious Life at the Crossroads,” in *Origins* (2006-2007), 181-188.

⁷⁸ P. TEILHARD-DE-CHARDIN, <https://quotefancy.com/quote/1130135/Pierre-Teilhard-de-Chardin-The-future-belongs-to-those-who-give-the-next-generation> (11 July 2019).

⁷⁹ FRANCIS, Apostolic Exhortation The Joy of the Gospel *Evangelii gaudium*, 26 November 2013, in *AAS* 105 (2013), 1020-1147, English translation in *Origins*, 43 (2013-2014), 421-466, no. 30 (= *EG*).

⁸⁰ See CICLSAL, *New Wine*, 24.

⁸¹ CICLSAL, *New Wine*, 24.

⁸² J. TOBIN, “A Great History Still to be Accomplished? Prospects for Consecrated Life in the Church – *Communio*,” in *Origins* (2014-2015), 257 (= TOBIN, “A Great History”).

⁸³ See S. LECK, “Rise of the Radical Nuns,” in *The National Post*, 27 Sept 2017, <https://nationalpost.com/feature/rise-of-the-radical-nuns> (8 July 2019) (= Radical Nuns).

⁸⁴ See BENDYNA, M., “Address to LCWR on Vocations to Religious Life Study, in *Origins*, 39 (2009-2010), 201 (= BENDYNA).

membership.⁸⁵ Entrants into these congregations noted their desire to enter a Religious Institute where members lived, worked and prayed with other members.⁸⁶ They were particularly attracted to the Institute's fidelity to the Church.⁸⁷ Others who have watched the growth of newer and more traditional forms of religious life suggested that they might offer young Catholics an opportunity to live out their faith in a way that is "real and that's robust ... they are looking to just totally lay down their lives in service of the church ... If they're going to make a sacrifice [which] is that counter-cultural and extreme, they're going to go all in."⁸⁸ From this statement, one might presume that the commitment, made by thousands of consecrated persons in North America over the years, may be perceived by some as having been less than "real or robust." As noted, these communities are newer, and have not withstood the test of time.

Our challenge will be to express the evangelical councils and charisms in cultural forms that can be "heard" within the culture without succumbing to the temptation to appropriate cultural values that are antithetical to the Gospel.⁸⁹ St. Paul VI invited the renewal of religious life in light of the call of Vatican II that is as relevant today as it was when it was first proclaimed.

"How can the message of the Gospel penetrate the world? What can be done at those levels in which a new type of culture is unfolding? ... Dear religious ... you must give your full attention to the needs of men, their problems and their searching; you must give witness in their midst, through prayer and action, to the

⁸⁵ See *CARA*, 196.

⁸⁶ See *CARA*, 198.

⁸⁷ See BENDYNA, 201.

⁸⁸ S. LECK, "Rise of the Radical Nuns," in *The National Post*, 27 Sept 2017, <https://nationalpost.com/feature/rise-of-the-radical-nuns> (8 July 2019).

⁸⁹ See TOBIN, "A Great History," 259.

good news of love, justice and peace. ... Such a mission, which is common to all the people of God, belongs to you in a special way.”⁹⁰

Religious life has continued to evolve, even as it has remained true to its fundamental nature,⁹¹ and continues to offer evidence of the power of God’s Spirit (rûah), sometimes called God’s “finger,”⁹² which blows where it wills, breathing new life into the Church.⁹³ Can Religious Institutes, identified as essential to the character and holiness of the church, identify or create coherence between changing structures, organisms, and roles as noted in Vatican II?⁹⁴ Doing this will require that we take a long and loving look at our current reality including a realistic assessment of congregational viability into the future.

6.2 Criteria to Determine Congregational Viability

As members of Religious Institutes age, the pool of human resources who are willing and able to serve in the ministry of leadership can quickly dry out. In such situations, a Religious Institute could appoint a religious from another institute, pending negotiation with another institute or entity. However, because many Religious Institutes in the northern hemisphere have experienced significant declines in vocations and an aging membership, these same Institutes that were able to share leadership personnel will, in the not too distant future, face comparable

⁹⁰ St. PAUL VI, Apostolic Exhortation On the Renewal of the Religious Life According to the Teaching of the Second Vatican Council, *Evangelica Testificatio*, 29 June 1971, in *AAS*, vol. 63, (31 July 1971), 497-527, English translation Libreria Editrice Vaticana, http://w2.vatican.va/content/paul-vi/en/apost_exhortations/documents/hf_p-vi_exh_19710629_evangelica-testificatio.html, (10 July 2019), no. 52.

⁹¹ See C. ZINN, “Presidential Address at LCWR Assembly,” in *Origins* (2014-2015), 250.

⁹² See CATECHISM OF THE CATHOLIC CHURCH, no. 700, “The hymn *Veni Creator Spiritus* invokes the Holy Spirit as the “finger of the Father’s right hand.”

⁹³ See TOBIN, “A Great History,” 260.

⁹⁴ See *PC*, nos. 204.

challenges as the institute they are assisting. While some Religious Institutes in Canada have sufficient financial resources (c. 114, §3), they lack the capacity to carry out the mission. All able-bodied members are occupied with internal responsibilities. It is then that Religious Institutes must take a long and loving look at the reality in which God's Spirit continues to move.

In Pope Francis apostolic letter marking the year of consecrated life, he invited consecrated persons to become “experts in communion,”⁹⁵ as has been evidenced by both canonically recognized intra and inter-congregational relationships. Den Bosch has developed a series of questions which Religious Institutes may wish to consider to obtain an overview of their present situation and begin plans for the future.⁹⁶ The questions have been divided into key areas of concern.

1. Purpose
 - a. What is the purpose of your institute as a religious community?
 - b. Are you able to achieve this purpose to a satisfactory extent?
2. Spirituality
 - a. How do you ensure a vibrant spiritual life among your members?
3. Pastoral Care
 - a. Is sufficient pastoral care available, also in the long term?
 - b. Do you have a priest specifically assigned to your community/communities, or a pastoral worker or someone like a hospital chaplain?
 - c. Do you celebrate the Eucharist on a daily basis? What happens if this is not possible due to, for example, lack of priests?
4. Management and Governance

⁹⁵ See FRANCIS, *Year of Consecrated Life*, no. 2, 483.

⁹⁶ See Secretariat of the Conference of Religious in the Netherlands (KNR), “Questionnaire to Assist Religious Institutes With Obtaining an Overview of Their Present Situation and Making Arrangements for the Future,” in VAN DAM, C., T. SPONSELEE, and A. LEYS, “Explorations on the ‘Completion’ of Religious Institutes, in RCRI Bulletin, 8 (2012), 23-29, https://www.marianites.org/uploads/files/newsletters/2012_Fall_Bulletin.pdf (19 July 2019) (= VAN DAM et al); See also A. LEYS, “Structuring ‘Completion’ of a Religious Institute: Some Canonical Provisions,” in *The Jurist*, 76 (2016), 447-487 (= LEYS, “Structuring ‘Completion’.”)

- a. Do you have a sufficient number of members who are suitable and able to fulfill the administrative and managerial positions? For how long will these people remain able to do so?
 - b. How old will these people be in eight or twelve years (another two terms of office)?
 - c. Do you have several people within your institute who are suitable and able to hold the position of Superior or Major Superior?
 - d. Is your institute governed from the US? Does your institute carry responsibility for houses abroad whilst not having a higher level of leadership abroad? What arrangement have been made for those houses in the future?
5. International Financial Relations
- a. Do you manage some parts of your institute abroad, for example the generalate or other provinces? Do you look after the interests of parts of your institute in mission areas? If so, who is responsible?
 - b. Do you expect any changes to this situation in the near future? If so, have you been sufficiently informed about the options and/or possible problems?
6. Novices
- a. Have you had any new entrants in the past ten years (i.e. persons who were interested in religious life and at least embarked on the novitiate)? How many people took perpetual vows and are these people still with the institute? What does mean for the future of your institute?
 - b. Do you cooperate with other communities for the purpose of education and formation of your novices?
7. Apostolate
- a. Does your institute have its own 'works' (for example spirituality centre, social service ministry, school, health care ministry, infirmary, etc.)?
 - b. Does your institute carry the responsibility for the management and governance of these apostolic works?
 - c. Do you have plans to pass on the management and governance responsibility? If so, what do the plans comprise?
8. Accommodation and Care
- a. Is the future care and accommodation of your members a topic of debate in your Religious Institute?
 - b. Have you made arrangements for the accommodation of your members, for instance in a religious care home (including specialized care in the case of members with for instance, dementia)? Do you have any such agreement in writing and is it regularly updated?
 - c. Do you expect to have to close or sell houses/buildings in the future? Whom would you ask for advice in case you wish to sell property? Do you know real estate agents specialized in selling monasteries?
 - d. Do you intend to keep ownership of your own house for as long as possible, or are you considering renting accommodation?
 - e. Are any of your buildings listed on the historical register or would any be eligible for this status? Which consequences does this have for you?

9. Finance

- a. Do you carry direct responsibility for the financial administration, or have you ‘outsourced’ this to for instance, the finance office of another, perhaps bigger Religious Institute?
- b. Do you use a budget? Do you feel that a budget is a useful administrative instrument?
- c. Does the Board find the financial reports user-friendly and clear, or should they be more transparent?
- d. Do you deploy an external accountant to audit the annual statement of accounts?

10. Investments

- a. Has part of your capital been invested?
- b. Which objectives/profile have you defined for your investments and have you concluded an agreement concerning risks, etc. with a bank or investment broker?
- c. Did you lay down in writing the general conditions for the investment portfolio?
- d. Who is your investment adviser? Why do you use just one person? Is this person subject to assessment/supervision/control?

11. Reserves

- a. Which amounts have been set aside in the annual accounts for reserves? These may include:
 - i. Reserves for living costs;
 - ii. Reserves for additional personnel in the future (caretakers, gardeners, secretaries for the leadership, bookkeepers, etc.);
 - iii. Reserves for building maintenance.
- b. Have these reserves been laid down in writing as decision from the Board and do you check regularly whether the provisions are still sufficient or whether adaptations are needed?

12. Archives, Art, Cemetery

- a. What is the situation regarding your archives? Have you developed plans for the archives? To whom should they go when your institute no longer exists? Have you considered moving them to a central archive?
- b. Does your institute possess works of art/ Do you have an inventory of the art works and do you know their historical and/or financial value?
- c. Do you own your own cemetery? What will happen to your cemetery in the future, for example when the adjacent house has to be sold? Who will take care of it when all the members of the order have passed away?

13. External Support

- a. Do you have plans for a future “merger” (or other form of close collaboration) with one or more neighbouring provinces? On which grounds was the decision taken not (yet) to do this?
- b. Do you expect support from your General Board or other provinces when the time has come that you will no longer be able to carry management and governance responsibility?
- c. Do you expect spiritual or management support from your “religious family” (for example the Franciscan, Carmelite, or Benedictine family)? Are these persons/Institutes aware of the fact that you are expecting such support?

- d. Do you hope to receive some form of external support, but do you not yet know from where or from whom? Have you made plans to, for example, set up a management foundation, outsource part of the work, or delegate managerial powers?
14. Relations with the diocese
 - a. Does the diocese carry formal responsibility for your institute?
 - b. Does the diocese show an active interest in your institute? Do you maintain contact with the person who is responsible for religious orders? Do you submit your annual accounts to the diocese (for diocesan Religious Institutes)?
 15. Position of Laity
 - a. Do you deploy lay persons as advisors to the leadership of your institute, or are you considering this option?
 - b. Do lay persons carry out “managerial tasks” in your community/communities?
 - c. How do you view your position as an “employer” of lay persons, in particular of those in “core positions” such as coordinator and pastoral worker? Do you foresee that fulfilling this duty may become difficult for you in the near future?
 16. Important documents
 - a. Does your institute have some form of document that outlines your wishes concerning what should happen with the assets after the dissolution of your institute (for instance the generalate, the diocese, and associated institute, or a particular project)? For example, it may be the purpose that part of the assets should be donated to a Religious Institute in an African or Asian country, yet should be managed in your country (for example for reasons of inflation): if so, have you made arrangements for this?
 - b. Are you prepared in due course to place copies of the Constitutions, the Regulations on Proprietary Rights, bylaws of companies and other documents that may be of importance in the final stage of an institute with the Conference of Religious/of Major Superior for safekeeping?
 17. General
 - a. Do you expect that you may need support in a particular area shortly? How can the Conference of Religious/of Major superiors be of help to you?

Institutes are able to do some internal restructuring without approval from the Holy See (c. 581). However, changes which require amendments to the Institute’s constitution or changes to the juridic character of the institute require approval from the competent authority (c. 587, §2).

When assessing congregational viability, the Holy See considers the following:

- 1) The congregation’s median age is 70’s or 80s;
- 2) There have been no professions for more than 25 years;
- 3) The community is not able to provide superiors or leaders for its works;

- 4) No diocesan bishop is requesting members to assist in apostolates.⁹⁷

At this point, Religious Institutes have options re the future including preparing for a holy death (dissolution, c. 584), or some other reconfigurations. These include the following options:

- 1) Personal Union: sharing board members with another Institute
- 2) Merger of Institutes;
- 3) Merger of Provinces;
- 4) Dissolution.
- 5) Separation of immaterial and material interests by establishing an ecclesiastical juridic person;
- 6) Transfer of administrative responsibilities to non-members.

7.0 Canonical Options

Canon law foresees four options for Religious Institutes, including union (c. 121), fusion or mergers, (cc. 582),⁹⁸ the creation of new provinces, changes to juridic status, and dissolution/extinction.⁹⁹ Reconfigurations which requires altering the status of any of the juridic persons involved, requires approbation of the Holy See (cc. 114-117). Federations and confederations create a new juridic relationship to already existing Institutes and also require approval of the Holy See.¹⁰⁰

⁹⁷ See ST. PAUL VI, Apostolic Letter issued motu proprio *Ecclesiae Sanctae*, II, Norms for the Implementation of the Decree *Perfectae caritatis* of the Second Vatican Council, 6 August 1966, in AAS, 58 (1966), 775-782, English translation in CLD, 6, 284-293, nos. 39-41, https://w2.vatican.va/content/paul-vi/en/motu_proprio/documents/hf_p-vi_motu-proprio_19660806_ecclesiae-sanctae.pdf (14 July 2019).

⁹⁸ See E. McDONOUGH, "Mergers, Unions, Federations and Confederations," in *Review for Religious*, 63 (2004), 204-210 (= McDONOUGH, Mergers).

⁹⁹ See F. MORRISEY, *Strategies for the Future: Restructuring Religious Institutes and Implications of the Decision to Proceed*, Legal Education for Leadership of Religious Institutes, Ottawa, Saint Paul University, 17 June 2015, 5-6 (= MORRISEY, *Strategies for the Future*).

¹⁰⁰ See McDONOUGH, "Mergers," 206.

7.1 Merger and Union

A merger (or fusion) usually describes the extinction of one institute through union with another.¹⁰¹ For example, Religious Institute (A) ceases to exist legally. Each of its members becomes a member of another already existing Religious Institute (Z) into which it is merging. Any number of Religious Institutes can merge into an existing institute.¹⁰²

Teilhard de Chardin has suggested that union is coded into the very fabric of the cosmos.¹⁰³ Congregational unions, which often reflect the congregation's desire to ensure the continuation of the mission and charism, are accomplished through the dissolution of several Religious Institutes and the creation of a new institute. Such an action requires a significant positive response by the members to implement the change. Usually, a non-binding member "straw vote" would require a majority of 60-70% noting their support for the union in order to continue reconfiguration planning. This is followed by a signed vote which requires a majority of 80% in favour of the union. Votes for reconfiguration that will require suppression of an institute are held at the General Chapter. Chapter confirmation of the resolution to unite, fuse or dissolve requires a 2/3 majority. No merger or union can occur without the direct, specific, and verifiable involvement at some stage by the general chapter and the members of the institute that will cease to exist legally as a final result of the process.¹⁰⁴

¹⁰¹ See R. McDERMOTT, "Norms Common to All Institutes of Consecrated Life (cc. 573-606), in in J. BEAL, J. CORIDEN, and T. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the Canon Law Society of America, New York and Mahwah, NJ, Paulist Press, 2000, 750 (= McDERMOTT, "Norms").

¹⁰² See McDONOUGH, "Mergers," 206.

¹⁰³ See K. Duffy, "The Power of Love in an Unfinished World," 22 August 2016, <https://omegacenter.info/the-power-of-love-in-an-unfinished-world/> (5 August 2019).

¹⁰⁴ McDONOUGH, "Mergers," 207.

Members of merged or united Institutes have limited options for participation (for which Rome seeks written record) which include incorporation into the new Religious Institute, transfer to another Religious Institute (cc. 684-685), or request for an indult of departure from religious life (c. 691). Perpetually professed members of the original institute which ceases to exist canonically, have a vested right to remain members of those structures and to have their legitimate needs met as long as they live, unless they depart or are legitimately dismissed (cc. 654, 670). The rights and responsibilities of the members automatically transfers to the new juridic entity. Members not wishing to be part of the merger or union may petition for a period of exclaustation (c. 686) to discern the option to transfer to another Religious Institute or leave the institute.¹⁰⁵ Members of Institutes who are being united or merged who do not indicate their choice of transfer, departure or exclaustation, automatically belong to the new or existing legal entity.¹⁰⁶ Neither merger nor union requires a new profession of vows, since the juridic status of the Institutes is a “paper transfer.”¹⁰⁷

7.1.1 The Experience of Merger/Fusion: Presentation Sisters, Newfoundland

The Newfoundland Presentation Sisters arrived in Canada from Galway, Ireland in 1833. On 1 November 2014, the Presentation Sisters of Newfoundland announced they had received a decree from the Holy authorizing the fusion of their congregation with the Union of Sisters of the

¹⁰⁵ See MCDONOUGH, “Mergers,” 209.

¹⁰⁶ MCDONOUGH, “Mergers,” 209.

¹⁰⁷ Ibid.

Presentation, effective 1 November 2014.¹⁰⁸ Through this fusion, the Presentation Sisters joined the International union of Sisters of the Presentation, whose Generalate Leadership team was based in Ireland.

7.1.2 The Experience of Union: The Sisters of St. Joseph in Canada

In the fall of 2007, the Federation of the Sisters of St. Joseph of Canada met to discuss the potential for merger of the Canadian CSJ family to form a new juridic Religious Institute. Over the course of the following two years, members of the individual congregations met and prayed to discern God's invitation to newness. In the fall of 2009, all Canadian CSJ congregations were asked to offer their vote re merger. In the final analysis, four CSJ congregations (Peterborough, London, Hamilton, and Pembroke) voted to merge to form the Sisters of St. Joseph in Canada. The Toronto and Sault Ste. Marie CSJ congregations voted to remain autonomous. Although a new juridic entity was created, the Federation of the Sisters of St. Joseph of Canada continued to exist. Revised Federation statutes were submitted to the Holy See and approved in 2016.

In 2013, the Sisters of Our Lady of the Cross merged with the Sisters of St. Joseph of Chambery.¹⁰⁹ As in all mergers, smaller congregations can feel they are being "taken over" by a larger Religious Institute. It behooves all congregational leaders engaging on similar relationships,

¹⁰⁸ See SISTERS OF THE PRESENTATION OF NEWFOUNDLAND Media Release, <https://www.presentationisters.ca/announcements/fusion14.pdf> (16 July 2019).

¹⁰⁹ See "Sisters of Our Lady of the Cross," 20 October 2013, <http://www.csjchambery.org/en/conselho/110/irmasdenotredamedelacroix>; see also <http://www.csjchambery.org/en/destaque/109/abrindonossasportascomalegria> (5 August 2019).

to consider the emotional effects of mergers of this nature, and to support all who are participating in this new venture.

At this point in our history, most Religious Institutes are facing the same demographic reality. Merged or united Institutes create larger cohorts of the same demographics. The membership has increased in number, and all are aging. This, in and of itself, rather than addressing the fundamental issues which initially led the Institute to consider alternate configurations, can magnify the problems of dealing with aging members who have increased health issues.

7.2 Merger of Provinces

For larger international congregations, smaller Provinces can be merged to create larger Provinces. This option can also be seen as a stopgap measure and offers only a “paper solution” to the problem that may provide incidental and short-lived solace to address declining membership, increasing median age, and associated health issues. While individual Provinces maintain significant degrees of autonomy, newly created international provinces will be forced to cope with problems unique to international realities of culture, language, etc.¹¹⁰

7.3 Dissolution (c. 584)

When an institute is no longer able to put forward candidates for the offices of General Superior and Council, some suggest the best option is to consider bringing the Religious Institute to its completion. However, if members remain, these members may choose to remain as members

¹¹⁰ See VAN DAM et al, 17.

of the Institute which continues to hold responsibility for their care and sustenance. A decision to dissolve the Institute prematurely could give rise to legal and tax-related complications.¹¹¹

7.3.1 The Experience of the Sisters of Providence of St. Vincent de Paul, Kingston

In a telephone interview, Sister Sandra Shannon, congregational leader of the Sisters of Providence of St. Vincent de Paul, Kingston, indicated the decision of her community to come to completion,¹¹² was precipitated by a number of factors. Prior to 2011, the Council recognized a number of foreboding signs on the horizon. The Motherhouse was large and provided housing for approximately 50 of their own members. The Religious Hospitallers of St. Joseph and the Congregation of Notre Dame entered into an accommodation agreement with the Sisters of Providence to offer both a residence and skilled nursing care for members of their congregation when needed. This would offer unused space to other congregations who were in need of care.

In 2011, the congregation still felt its future was viable, and efforts at vocation promotion continued. After three years of effort and engaging in multiple forms of advertising, no potential candidates made contact or expressed any interest in a vocation to the congregation.

In 2015, the congregation hired Mr. Dale Kenney as a planning consultant. Mr. Kenney, who had served as the CEO of Providence Care Kingston¹¹³ was seconded to review the actual and

¹¹¹ See VAN DAM et al, 17.

¹¹² S. SHANNON, Phone Interview with B. MacLellan, 19 July 2019. Notes available in the private archives of the General Superior, The Sisters of St. Joseph of Sault Ste. Marie, 2025 Main St. W., North Bay, ON.

¹¹³ See <https://www.providencecare.ca/providence-care-hospital/> (20 July, 2019).

projected demographics and future viability of the congregation, as well as options to continue the charism of the congregation, even if there would be no Sisters of Providence of St. Vincent de Paul. Mr. Kenney's study noted declining demographics and increasing costs. Sale of the Motherhouse would be difficult, and sale of the property would require a commitment on the part of the congregation to demolish the Motherhouse.

At the congregation's 2016 Assembly, Mr. Kenney's needs assessment of the city of Kingston as well as his actuarial report including possible options for congregational reconfiguration, were reviewed by the members. It was clear to the congregation that the congregation of the Sisters of Providence of St. Vincent de Paul was coming to its completion, and based on the needs assessment, the charism given to their founders to care for the most vulnerable in our midst, was certainly still needed.

A congregational committee was formed to develop long-range plans and option for the disposition of the Motherhouse and its properties. From these discussions, a vision for the creation of Providence Village was born. This option would see the Motherhouse continue to be used by the Sisters until the last Sisters living onsite were deceased. The Motherhouse and property would be transferred to the Catholic Congregational Legacy Corporation, a civil corporation whose purpose is to support the sustainability of Catholic works and to improve the well-being of those at the margins of society. This includes preserving and safeguarding assets such as land, building,

and investment funds.¹¹⁴ The Catholic Congregational Legacy Charity is sponsored by the Catholic Health Sponsors of Ontario, a Pontifical Public Juridic Person established in 1998, “to assume sponsorship of health organizations when religious orders and congregations are ready to move on to other missions.”¹¹⁵ An important ministry initiated by the Sisters of Providence of St. Vincent de Paul, Kingston, the Centre for Justice and Peace and the Integrity of Creation, would also be transferred to the Catholic Congregational Legacy Charity. This ministry would be funded through a legacy endowment provided by the congregation to the Catholic Health Sponsors of Ontario.

The Archbishop of Kingston, canon lawyers, as well as the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life were kept abreast of the congregation’s planning processes and decisions. The Sisters noted that, in their formal meetings with the Archbishop of Kingston, the tenor of the Archbishop’s comments seemed to suggest his surprise that the congregation would have sufficient insight to appreciate the need for these reforms. This may reflect the disconnect that has grown between many Religious Institutes and their Diocesan Bishops. Bishops and Religious Institutes might share responsibility for this unfortunate reality. As Religious Institutes transferred apostolates that were inherent to their identity due to ageing or dwindling personnel and resources, they may have moved to a place that could be defined as “persona non-grata.”¹¹⁶ The question for both Religious Institutes and diocesan bishops might be,

¹¹⁴ See CATHOLIC CONGREGATIONAL LEGACY CHARITY (CCLC), <https://chco.ca/en/cclc/> (20 July 2019).

¹¹⁵ See CATHOLIC HEALTH SPONSORS OF ONTARIO (CHSO), “Our Legacy of Caring for the Vulnerable,” <https://chco.ca/en/home/> (19 July 2019).

¹¹⁶ The Collins Dictionary defines “Persona non Grata” as someone who has become unwelcome or unacceptable because of something they have said or done.” <https://www.collinsdictionary.com/dictionary/english/persona-non-grata> (5 August 2019). While Religious Institutes may not be unwelcome or unacceptable to diocesan

“Given issues of limited personnel and financial resources that most bishops and leaders of Religious Institutes are facing, what is the new gift the charism of this particular congregation can bring to our diocese?”

In any significant organizational transformation, norms related to the transfer of ecclesiastical assets must be carefully followed.¹¹⁷ As noted previously, the archives of Religious Institutes are inherent to the congregation’s historical patrimony.¹¹⁸ In consultation with the Archdiocese, the Sisters of Providence of St. Vincent de Paul in Kingston’s archives will be included with diocesan archives, as well as the archives of the Religious Hospitallers of St. Joseph, hence becoming part of the faith legacy preserved by the Archdiocese of Kingston.

7.3.2 The Experience of the Ursuline Sisters of Chatham Union, Diocese of London, Ontario, Canada¹¹⁹

In the Spring of 2012, The Ursuline of Chatham leadership team began to research legacy options or as they would name it, “Blessing the Future.” A Committee (the Liaison Group) was invited to engage the members of the community in exploratory discussion regarding the

bishops, bishops may be at a loss to discern what added value, if any, these dwindling Religious Institutes might be to the work of a diocese.

¹¹⁷ CANADIAN CONFERENCE OF CATHOLIC BISHOPS (CCCB), Decree 38: Maximum Amount for Alienation of Church Property,” 26-27 March 2019, http://www.cccb.ca/site/images/stories/pdf/Alienation_of_church_property_-_2019.pdf (1 April 2019).

¹¹⁸ See VAN DAM et al, 26.

¹¹⁹ See Ursulines of Chatham, Decision-Making Process, E-mail communication to B. MacLellan from T Campeau, 22 July 2019, Available in the Private Archives of the General Superior, St. Joseph’s Motherhouse, 2025 Main St. W., North Bay, ON, P1B 2X6.

congregation's future. From 24 May to 2 June 2013, active members of the Ursuline Sisters gathered at their General Chapter and reflected on the future of the congregation, given aging members, diminishing numbers, and health needs of the members. The congregation indicated their desire to be proactive in planning for their future while they had the energy and time to plan without undue pressure. On 18 December 2013, the Leadership Circle appointed the "Blessing the Future" Committee.

The "Blessing the Future" Committee met monthly from 2014-2017. They also met with the Leadership Circle twice annually, and provided reports to the entire congregation during five day-long gatherings. The committee examined various canonical options of congregational reconfiguration, including union, merger, federation, and covenant relationships.

The wisdom of this process lay in taking as much time as was needed to ensure planning processes were clear and the community as a whole was offered an opportunity to participate. Large portions of the congregation's historical apostolates and associated real estate had already been transferred to other canonical sponsors. Options for the use of real estate holdings were examined, and included options to "do nothing," sell Villa Angela and relocate the congregation, or sell Villa Angela to a healthcare provider and lease back property and services to meet the needs of the members. The members determined that available canonical options of merger, union, federations, or covenant agreements with another Religious Institute were not appropriate at this time in their history. A decision was made that the congregation would stay together until its completion.

Ongoing governance of the congregation was a concern. Maintaining a Leadership Circle as long as possible was a congregational preference, even though the congregation was cognizant of the dwindling human resources who would be able/willing to perform this function into the future. A decision was made to develop an Administrative Council consisting of Sisters and lay collaborators that will be adjusted at the point when a juridic person needs to be appointed by the Sisters and the Administrative Council.

With canonical and civil legal consultation, a congregational “will” or directions for distribution of ecclesiastical goods was developed. In keeping with the Sisters’ mission and values, any financial assets remaining in the corporation when the last Sister dies, will be distributed to registered charitable organizations that support:

- 1) Justice, especially for women and girls;
- 2) Advocacy and Assistance for those most marginalized and vulnerable;
- 3) Environmental and ecological concerns.

At their 2018 Chapter, the Sisters entered into a Memorandum of Understanding to record their agreement relating to the future of the congregation, the continuing care of the Sisters and the distribution of assets, in particular the Motherhouse. In their agreement, the Sisters approved the actions required for “winding up the corporation and for the completion of the community.” “The community will remain as a Religious Institute until the last Sister has passed away. When this happens, the canonical juridical person selected to assist in the administration of the Corporation and of the Community will inform the Holy See. Contemporaneously, the Corporation’s assets remaining at the time of completion will be distributed in accordance with

civil law and in keeping with directives received from the congregation, and in compliance with any directives received from the Holy See. After distribution of the assets, the corporation will be dissolved and the Holy See will be informed.”¹²⁰ As noted in the ATRI presentation, the Memorandum of Understanding is an expression of the Sisters’ true intentions, but is in keeping with the congregation’s spirit of adapting to changing circumstances, and which may be adjusted by a future gathering of Sisters who are willing and able.¹²¹

As noted previously, Canadian Religious Institutes have not been sitting idly awaiting the death knell to peel, but have been carefully and practically planning their future. The question this raises is whether this planning has been completed, for the most part, in isolation, with diocesan bishops being informed only when support for a congregation’s decision-making process is required by CICLSAL. Would a more collaborative process between Religious Institutes and Diocesan Bishops offer Religious Institutes a sense of being supported, that their lives and contributions to the Church’s mission have mattered, and their lives and legacy will continue to matter into the future? When examined objectively, the realities Religious Institutes are dealing with are not that different from issues the diocesan bishop also faces on a daily basis: declining attendance at church, excessive real estate holding, lack of vocations, ageing clergy, and mounting costs. For both Religious Institutes and dioceses, the balance sheets seem to be tilted towards human and financial bankruptcy. The saving grace in this assessment is that we are not discussing

¹²⁰ See T. CAMPEAU, “Oh, The Places You’ll Go!!” Legacy Planning Presentation, ATRI Conference, Toronto, 2018, Slide 10, as received in a private email to Sister Bonnie MacLellan, 22 July 2019, available in the private archives of the General Superior, St. Joseph’s Motherhouse, 2025 Main St. W., North Bay, ON P1B 2X6 (= CAMPEAU, “Oh, the Places You’ll Go!”).

¹²¹ See CAMPEAU, “Oh, the Places You’ll Go!” Slide 11.

a purely human enterprise, but one that has survived turmoil and chaos through the grace of the Holy Spirit, for over 2000 years. It is on this grace and on this “rock,”¹²² that Jesus has built His Church will continue into the future. What can be done to be attentive to the movements of the Spirit in our midst?

8.0 What Can Bishops Do?

While the duties of diocesan bishops as they relate to Religious Institutes of both diocesan and pontifical right are noted in the law, it becomes more difficult to legislate the relationship between diocesan bishops and Religious Institutes serving in his diocese. Religious Institutes historically initiated and served in major diocesan apostolates of education, health care, and catholic charities. For the most part, many bishops welcomed Religious Institutes that could coordinate and manage these apostolates on behalf of the Church and in fulfillment of its mission on earth. However, as Religious Institutes have recognized their own limitations as they relate to human and fiscal resources, they have transferred sponsorship responsibilities for many, if not most of these apostolates, to other sponsorship models including Public Juridic Persons of either diocesan or pontifical right. This has left little or no mission connection between diocesan bishops and Religious Institutes, other than occasional invitations to attend congregational celebrations of jubilees or funeral liturgies. As an observer, it would seem that some diocesan bishops serving in North American dioceses might have lost the memory of the gift Religious Institutes have been in their dioceses. Many Bishops are overwhelmed with issues related to

¹²² See Matt. 16:18.

clergy sexual abuse,¹²³ clericalism,¹²⁴ lack of vocations to the priesthood,¹²⁵ shortages of personnel,¹²⁶ and bankruptcy challenges.¹²⁷ It is probably difficult, on a good day, to manage the daily crises the diocesan bishop must deal with, let alone consider the concerns of Religious Institutes in his diocese.

In his role, the Bishop is responsible for both the spiritual life of the Church as well as its temporal goods.¹²⁸ If the diocesan bishop is charged with the responsibility of ensuring the mission handed down to the Church through Jesus and the apostles is realized, what are his responsibilities to assist Religious Institutes to read the signs of the times and develop appropriate plans to continue to respond to God's grace and continue the congregation's charism in new ways? How might local chancery offices and episcopal conferences align themselves with Religious Institutes and walk hand-in-hand into the newness to which God is inviting us? Could bishops ensure the appointment of an episcopal vicar for consecrated life or some similar office, charged with the responsibility

¹²³ See J. GATEHOUSE, "Latest revelations hint at shocking global scope of Catholic Church sex abuse scandal," 21 February 2019, *The National*, <https://www.cbc.ca/news/thenational/national-today-newsletter-pope-abuse-summit-snc-lavalin-1.5024315> (5 August 2019).

¹²⁴ See T. ROSICA, "We'll only move forward when we name the evil of clericalism," in *BC Catholic*, 21 August 2018, <https://bccatholic.ca/voices/father-thomas-rosica-csb/we-ll-only-move-forward-when-we-name-the-evil-of-clericalism> (5 August 2019).

¹²⁵ See J. KO DIN, "National survey on vocations is the first of its kind," in *The Catholic Register*, 17 March 2017, <https://www.catholicregister.org/item/24613-national-survey-on-vocations-is-the-first-of-its-kind> (5 August 2019).

¹²⁶ See R. DE SOUZA, "Priests from abroad serve as fathers to Canadian Catholics," in *The Catholic Register*, 15 June 2011, <https://www.catholicregister.org/columns/item/5665-priests-from-abroad-serve-as-fathers-to-canadian-catholics> (5 August 2019).

¹²⁷ See CBS News, "Catholic diocese's bankruptcy filing sparks criticism about asset shifting," 5 December 2018, <https://www.cbsnews.com/news/catholic-dioceses-bankruptcy-filing-sparks-criticism-about-asset-shifting/> (5 August 2019).

¹²⁸ See FRANCIS, Apostolic Letter *motu proprio Fidelis dispensator et prudens* for the constitution of a new structure of coordination of the economic and administrative affairs of the Holy See and the State of Vatican City, 24 February, 2014, English translation in *Origins*, 43 (2013-2014), 649-650.

for ongoing dialogue between the diocese and Religious Institutes serving in the diocese?¹²⁹ Could the Canadian Conference of Catholic Bishops, in consultation with CRC, re-establish the standing committee on consecrated life to examine the current reality facing Religious Institutes in Canada as well as those dioceses in which they have served? As shepherds in their dioceses, how can bishops, individually and collectively, include in their mission support for Religious Institutes as they examine alternate configurations to support their continued presence in the Church's mission in new ways? The Church has begun to provide guidance on this front, and has developed some guidelines which could be considered a starting point for conversations with religious across the country, assisting them to be embraced by a Spirit of newness that will lead, not to slavery, but to a new freedom and renewed collaborative relationships of trust.

8.1 A Foundation for Dialogue

CICLSAL developed Guidelines for diocesan Institutes of consecrated life and societies of apostolic life when they can no longer find members able to fill governance positions because of reduced members or advanced age.¹³⁰ They note the important role of the diocesan bishop when this reality is faced by Religious Institutes in their diocese.

The role of the Diocesan Bishop then, becomes one of ensuring “the spiritual and material needs of the members, the management of the works and the administration of goods and the governance of the Institutes ...”¹³¹ While these guidelines were developed to deal with the needs

¹²⁹ See c. 476: Episcopal Vicars

¹³⁰ See LEYS, “Structuring ‘Completion’.”

¹³¹ *Ibid.*, 450.

of diocesan Religious Institutes and Societies of Apostolic Life in the Netherlands, they can, with appropriate adaptation, be equally as applicable to pontifical Religious Institutes throughout the world that may be experiencing comparable issues of declining membership and resources. Diocesan Bishops may wish to consider sharing these Guidelines when discussing the future of Religious Institutes in their diocese with the leaders of these Institutes. The Guidelines include the following norms:

1. Only the members can validly take part in the government of any Institute. Further conditions found in the Institute's proper law or other prescriptions of canon law must be fulfilled.¹³²
2. If a Religious Institute no longer has a member capable of fulfilling the responsibilities of the General Treasurer, as an exception, the Supreme Moderator, with the consent of her Council and in accordance with the requirements of proper law (cf. C. 636, §1) can entrust the duties of the Treasurer to a religious or lay expert who is not a member of the Institute, to administer the temporal goods of the Institute under the guidance and responsibility of the Supreme Moderator and the Council. If this exceptional provision is not already included in the Constitutions, it must be approved by the bishop of the provincial house (or CICLSAL for Institutes of Pontifical right), and if needed, inserted into the constitutional text.
3. If members of the Council are no longer able to carry out the Council's financial responsibilities, the Supreme Moderator and with the consent of the Council may appoint at least two experts who will carry out the duties of the Council regarding the administration of goods and material care of the members of the Institute. These duties must be outlined clearly by the competent ecclesiastical authority of the principal house in the letter of appointment, taking into consideration the provisions of the Institute's own law. The appointment is made for a specific term and can be renewed. The persons to be appointed must be Catholic, outstanding in the evidence of their faith, probity of life, honesty, prudent advice, knowledge of the Institute and with proven administrative skills.
4. If there are no longer members, or there are insufficient members who can participate in the Council, the General Chapter will notify the competent ecclesiastical authority of the principal house. In consultation with the Supreme Moderator and after consulting other Bishops involved, one or more religious assistants can be appointed, who will act as a Council in order to assist the Supreme Moderator.
5. When there is no longer any suitable member able to hold the office of Supreme Moderator, the General Chapter will inform the competent ecclesiastical authority of the principal house. After consulting the members and other Bishops involved, he will appoint a commissioner or General Administrator whose role is to govern the Institute.

¹³² Cf. c. 623).

- If there are well-founded doubts about the real possibility that any member of the Institute could take on the office of government, the competent ecclesiastical authority, after carrying out an appropriate canonical visitation (cf. c. 618, §2, 2°), carefully evaluating the whole matter, can proceed *ex officio* to appoint a Commissioner or General Administrator.
6. The Commissioner or General Administrator governs the Institute with the authority that the universal law and the Constitutions give to the Supreme Moderator and the Council of an Institute and in accordance with the decree of appointment. In particular, it will be their duty to provide for all the spiritual and material needs of the members, to protect the patrimony of the Institute as noted in c. 578, and to safeguard its temporal goods. The Commissioner or General Administrator will inform the members about the progress of the Institute and will listen to their opinions on matters of major importance.
 7. The Commissioner or General Administrator must be a religious man or woman, or a secular cleric with a good understanding of religious life, who has an affinity with the Institute as far as possible and who is endowed with proven governmental and administrative skills. For Institutes of women, it is preferable that a woman religious be appointed. The Commissioner or General Administrator is appointed for a fixed term of office. While assessing the functioning of the Commissioner or General Administrator at the end of the term, the competent authority of the principal house will involve the members of the Institute in an appropriate way. In financial administrative matters, the Commissioner can use the assistance of one or more competent experts with the prior written consent of the competent ecclesiastical authority. The Commissioner or General Administrator must keep the members informed and will listen to their opinions on the matters of major importance.
 8. When the competent ecclesiastical authority of the principal house has appointed financial experts (cf. no. 3 above) or a Commissioner/General Administrator, the annual financial statements and budget plans of the Institute must be presented for approval. Before approving them, the competent ecclesiastical authority will have them evaluated by a Finance Council of the diocese of the principal house.
 9. The Commissioner or General Administrator must obtain the prior written permission of the competent ecclesiastical authority of the primary house for the validity of acts which exceed the limit and manner of ordinary administration. Should the proper law of the Institute not contain such provisions, reference is to be made to the norms of cc. 638, §§2-4.
 10. When the competent ecclesiastical authority of the principal house has appointed financial experts (cf. no. 3) or a Commissioner or General Administrator, he will first establish norms requiring compliance with universal and proper law concerning the use and ecclesial objectives of the Institute's goods. The competent ecclesiastical authority of the principal house may establish a maximum limit for donations. It will be his duty to take care that donations given by the Institute are in accord with the proper purposes of ecclesiastical goods (cf. c. 1254, §2).
 11. Ordinarily, any non-member who has a role in the Curia of the Diocese of the principal house cannot concurrently be the Commissioner or General Administrator, or perform any other role of governance in an Institute (e.g., Treasurer, financial expert, or religious assistant).

12. Non-members with governance or administrative responsibilities in the Institute (Commissioner or General Administrator, Treasurer, financial expert, religious assistant) will terminate their service when they reach seventy-five years of age, notwithstanding the possibility of an extension which may be granted by the competent authority.
13. The goods of the Institute are ecclesiastical goods and are subject to the provisions of Book V of the Code of Canon Law, to the observance of cc. 634-640 and to the proper law of the Institute, in accordance with c. 635. These goods are reserved for the fulfillment of the Institute's charismatic purposes, for the appropriate support of the members and for its proper apostolic and charitable works (cf. c. 1254, §2).
14. To avoid any appearance of luxury, excessive gain and the accumulation of goods (cf. cc. 634, §2; 640) when real property is no longer needed or for another just reason (cf. c. 1292, §1, 1°), the Institute can alienate it or donate it only after receiving the permission of the competent authority, in accordance with the provisions of universal and proper law (cf. c. 638).
15. For pious purposes or Christian charity (cf. cc. 1254, §2; 1285) it is permitted to make donations of moveable goods which do not belong to the stable patrimony of the Institute, but only within the limits of ordinary administration. The proper law of the Institute must establish who is authorized to make donations within these limits.
16. Donations to individual persons and to non-ecclesiastical institutions with shared goals and which are also supported by ecclesiastical institutions must be limited in number and proportion. These non-ecclesiastical institutions must not have any purposes which might be contrary to the magisterium of the Church.
17. When a General Chapter approves resolutions regarding "the arrangements for the goods and patrimonial rights" of the Institute (cf. c. 123) which involve a change or extension of the constitutions, such resolutions require the approval of the competent ecclesiastical authority of the principal house (cf. c. 595, §1).
18. If the Institute extends to more than one diocese, the competent authority of the principal house must consult with the other diocesan Bishops where the institute has members serving in the Church, before proceeding to the appointment of persons who are not members of the Institute (General Treasurer, financial experts, religious assistants, Commissioner, or General Administrator) or otherwise dealing with matters of major importance concerning the whole institute.
19. The Commissioner or General Administrator will take care to settle all financial affairs and obligations of the Institute after the death of the last member of the Institute until the formal dissolution of the Institute or Society by the Holy See (cf. c. 584). The Commissioner or General Administrator will deliver, with a period of time determined by the competent authority, their final report to the competent ecclesiastical authority.

From this framework, diocesan bishops and Religious Institutes can begin to choose a future which is full of hope versus resign themselves to an imposed future.

8.2 Separation of Immaterial and Material Interests by Establishing an Ecclesiastical Juridic Person¹³³

This model which can allow gradual or complete transfer of canonical and/or civil administrative and apostolic responsibilities to the board of another Public Juridic Person (Religious Institute, independent board of a new Public Juridic Person, etc.). The board of the new Public Juridic Person could include members of the Institute for whom the PJP is assuming responsibility as well as lay members. The major superior and council would be responsible for the personal interests of the members including those matters relating to the vows, community life, psychological, pastoral and spiritual care. This model was developed in the Netherlands for diocesan Religious Institutes and societies of apostolic life on a five-year trial. The canonical status of this Public Juridic Person was automatically recognized under Dutch civil law. As in other models proposed, this becomes a temporary solution while the new PJP plans to assume full responsibility of the Religious Institute until the last member dies. The question of clarity between personal and material interests can be debated. Evaluation after the Netherlands model's initial period at *ad experimentum*, will offer important additional information to Religious Institutes as they continue on the journey of reconfiguration.

¹³³ See VAN DAM et al., 18.

8.3 Transfer of Administrative Responsibilities to Non-Members¹³⁴

Van Dam suggests that the option of delegating administrative responsibility to non-members “is the likely choice of most Religious Institutes in the relevant situation.”¹³⁵ The question for diocesan congregations will focus on particular juridic questions, including how Canon 586 and Canons 594 and 595 compare. These canons emphasize the just autonomy of Religious Institutes, but on the other hand, the diocesan bishop’s special duty of care for Religious Institutes of diocesan right. McDermott¹³⁶ clarifies that Religious Institutes of diocesan right are subject to the diocesan bishop in those matters that exceed the competence of internal authorities. The just autonomy of Religious Institutes can be preserved when members of the Institute are still able to participate on leadership boards identified by the diocesan bishop to fulfill administrative functions in the name of the Religious Institute.

8.3.1 Administrative Boards

For Religious Institutes of diocesan right, an administrative board can be appointed by the diocesan bishop and would report at least annually to him. The focus of the administrative body is to promote the wellbeing of the remaining members of the Religious Institute and implement the wishes of the last Chapter.

¹³⁴ See VAN DAM et al, 19.

¹³⁵ VAN DAM et al, 19.

¹³⁶ See McDermott, “Norms,” 760.

8.3.1.1 Canadian Religious Stewardship

Given demographic realities, Institutes of pontifical right will be also find themselves at some point, unable to elect General Superiors or Councilors from within the Institute. Mergers and unions do not seem to be a practical option. In Canada, smaller Religious Institutes must fulfill the following responsibilities:

- 1) Assure their members they will be protected;
- 2) Provide good stewardship of resources;
- 3) Ensure personnel are hired to care for the sick and are well organized;
- 4) Ensure labour laws are respected; and
- 5) Provide certain apostolic works to meet new needs.¹³⁷

One Canadian entity that may serve a significant benefit for Religious Institutes into the future is the Canadian Religious Stewardship (CRS). CRS is a collaborative ministry established as a not-for-profit civil corporation in 2008, and as a Public Juridic person of Pontifical Right in 2010. The purpose of CRS, as detailed in the canonical statutes and through its collaborative and administrative services is to assist, in various practical ways, those Institutes of Consecrated Life and Societies of Apostolic Life who request its services. Assistance is offered in the following ways:

- 1) Managing and safeguarding its ecclesiastical temporal goods and ensuring their proper administration in accordance with canon and civil law;
- 2) Providing personal care programs and services for the membership;
- 3) Accepting ownership of ecclesiastical temporal goods in those instances where the Institute wishes to divest itself of property, in accordance with the requirements of canon law;
- 4) When opportune, accepting governance responsibilities for any or all ministries other than health care ministries presently supported by the Institute;

¹³⁷ See MORRISEY, "Strategies for the Future," 29.

- 5) With the consent of the Diocesan Bishop, and if appropriate, accepting sponsorship of a ministry of an Institute.¹³⁸

CRS fulfills its mission through six pillars of service:

- 1) Consultation services;
- 2) Establishing and managing eldercare residences for religious;
- 3) Oversight of the management of investment portfolios for Religious Institutes;
- 4) Sponsoring the Foundation for Canadian Catholic Congregations, that owns, manages, and administers funds to further the apostolic ministries that religious in Canada have served;
- 5) Providing administrative services to Religious Institutes;
- 6) Canonical sponsorship of Catholic apostolates.¹³⁹

8.3.1.2 Catholic Congregational Legacy Charity¹⁴⁰

The Catholic Congregational Legacy Charity was created to support the future sponsorship needs of Catholic health care for generations to come. The role of the Catholic Congregational Legacy Charity is to support the sustainability of Catholic works and to improve the well-being of those at the margins of society. This includes preserving and safeguarding assets such as land, buildings, and investment funds. Given the synergistic missions of both the Canadian Religious Stewardship and Catholic Congregational Legacy Charity, further discussion to develop avenues of collaboration and support are planned.

8.3.2 Choosing a Future Full of Hope

Many Religious Institutes are diminishing in numbers and resources! Some will opt to petition for an indult to transfer administrative responsibility to a lay board until all the members

¹³⁸ See About CRS, <http://crs-src.org/about-crs/> (5 August 2019).

¹³⁹ See CRS Mission Pillars, <http://crs-src.org/our-services/> (5 August 2019).

¹⁴⁰ See CHCO, Catholic Congregational Legacy Charity, <https://chco.ca/en/cclc/> (5 August 2019).

of the Religious Institute have died. The congregation can give non-members administrative responsibilities for their Religious Institute. This can precipitate fear in the Religious Institute instituting this change that complete strangers will be put in charge, or that these administrative persons will not respect the institute's religious nature. Here too, the Religious Institute's just autonomy must be preserved. Clear contractual language that outlines and limits authority and competency must be established.

9.0 Collaborative Governance Models

In 2009, the Sisters of the Holy Family of Fremont, CA¹⁴¹ numbered 52 members. At this time, they made a decision not to accept new members but to maintain their separate identity as a Religious Institute versus merging with another Religious Institute. They demolished their Motherhouse and built aging-friendly cottages. They endowed a new non-profit trust to preserve historically significant properties and make them available for public use. To ensure appropriate canonical governance, they signed a covenant agreement with the Sisters of the Holy Names of Jesus and Mary. When the Sisters of the Holy Family are not able to elect a Leadership Team, they will petition the Vatican for a "commissary," or members of the Holy Name congregation who will provide care for the remaining Holy Family Sisters.

The Sisters of the Most Precious Blood of St. Louis, made a decision to stop pursuing new members because they had not had anyone make final profession in a number of years. They sold

¹⁴¹ See E. EISENSTADT EVANS, "As recruiting era slows, women religious reflect, then choose new course," in *Global Sisters Report*, 18 July 2019, https://www.globalsistersreport.org/news/ministry-trends/recruiting-era-slows-women-religious-reflect-then-choose-new-course-56350?utm_source=GSR%20digest%207-18-19&utm_campaign=cc&utm_medium=email (18 July 2019).

their Motherhouse and infirmary, which would be transformed into assisted living apartments and a skilled nursing home. Sisters living in the Motherhouse became tenants in the apartments and about half of the nursing home residents are Sisters.¹⁴² The Franciscan Sisters of Mary are located near the Sisters of the Most Precious Blood in O’Fallon, Missouri. Both congregations knew they could not solve their neighbour’s problems, but they knew that facing the shared problems of aging members and increasing costs would be to their advantage. Although a covenant relationship was proposed where both Religious Institutes would keep their separate identities in the eyes of the Church, they knew that was only a temporary solution.

These communities were referred to Fr. Francis Morrissey and Sister Kelly Connors, both canonists who were developing collaborative governance models which focused on the civil corporations of the congregations involved. Each congregation would have two identities: one entity recognized by the Church under canon law and a nonprofit corporation recognized in civil law. The civil corporations from the two communities create a third corporation which handles insurance, human resources, property management, legal issues, and other tasks the congregation requires as well as any management tasks needed for sponsored ministries. The congregation’s leadership is then free to focus on spiritual issues. The participating Religious Institutes appoint representatives to a new civil corporation’s shared board and pay the corporation for services provided. When no one from the community is able or willing to serve on the collaborative corporation’s board, they can appoint a vowed religious from outside the community as their

¹⁴² See STOCKMAN, D., “Religious communities face changes, plan to retain missions and preserve history,” in *Global Sisters Report*, 2 June 2016, <http://www.globalsistersreport.org/news/trends/religious-communities-face-changes-plan-retain-missions-and-preserve-history-40136> (18 July 2019).

representative. When there is no one from the Religious Institute who is able or willing to assume spiritual leadership of the congregation, a petition for appointment of a pontifical commissary as the leader, who could serve as the congregation's representative to the board or serve as board chair, would be made to CICLSAL. This model ensures care of the Sisters until the last Sister dies. Communities and their respective civil corporations continue to own all of their assets, such as land and buildings, while the governance of the corporation manages the assets. When it is required, the board then provides leadership and carries out the congregation's wishes until completion. Each community contributes to the expenses of the corporate services provided.

10.0 Necessary Canonical Processes for Restructuring of Religious Institutes

Any restructuring planning for Religious Institutes includes regular and transparent dialogue with the members, the diocesan bishop (even for Religious Institutes of pontifical right) and the Holy See. It is best to ensure the Holy See is aware of the realities the Religious Institutes is facing including dwindling and aging membership as well as finite resources.¹⁴³

When the Religious Institute has completed necessary plans for reconfiguration of the Institute, a formal request is sent to the Holy See (six copies) including a chancery fee of approximately \$500 Euros.¹⁴⁴ The petition must be sent by each participating Institute's General Superior, and include:

- 1) A brief history of the institute(s) including a description of the charism, spirituality, and apostolic activities; pertinent statistics including the number of perpetual and

¹⁴³ See MORRISEY, *Strategies for the Future*, 20.

¹⁴⁴ *Ibid.*

- temporary vowed members, novices, postulants, ages of perpetually professed;
academic qualification;
- 2) A list of congregational ministries;
 - 3) Local communities in which Sisters live;
 - 4) List of dioceses in which the Institute(s) are established.
- This data will build the story for the request for union or merger.

Also included in the petition for a Union are the following documents:

- 5) Acts of the General Chapter approving the union;
- 6) A letter from the General Superior and Council of the receiving Institutes noting their willingness to accept the union;
- 7) Results of pre-Chapter and Chapter votes and letters of intent;
- 8) An opinion letter from the diocesan bishop;
- 9) Arrangements that have been made for those who do not wish to join the reconfigured Institute.

For Religious Institutes who have chosen union with another Religious Institute, the following documents must be prepared:

- 1) Explanation of the process (the journey to union);
- 2) Preliminary agreement regarding the disposition of temporal goods;
- 3) Title, purpose, spirituality, and if applicable, the religious habit of the new Institute;
- 4) Place and diocese of the principal See of the new Institute;
- 5) Draft copies of the new constitution which will require approval of the General Chapter of the New Institute;
- 6) Name and contact information of the religious leading the group provisionally in the period leading up to the first General Chapter;
- 7) Granting of Indult by the Holy See.¹⁴⁵

10.1 Congregational “Wills”/Directions re Distribution of Ecclesiastical Goods¹⁴⁶

In order to ensure the needs of the members of Religious Institutes are met throughout their lifespan and the intention of founders and donors are recognized and supported, Religious

¹⁴⁵ See MORRISEY, *Strategies for the Future*, 21.

¹⁴⁶ A “Will” is defined in Black’s Law Dictionary as the legal expression of an individual’s wishes about the disposition of his or her property after death; a document by which a person directs his or her estate to be distributed upon death. While Religious Institutes are recognized as Public Juridic Persons in the Law (c. 634, §1), all assets are ecclesiastical and governed by specific norms (cc. 1255; 1276; 1281;1291;1295) that would permit

Institutes, be they diocesan or pontifical, may choose to develop a “testament.” Canon 123 assumes PJP (which Religious Institutes are) will include in their statutes, a clause that addresses the destination of its property and proprietary rights, as well as its obligations. In the absence of these directions noted in the statutes, goods, patrimonial rights and obligations are transferred to the juridic person immediately superior, without prejudice to the intentions of the founders and donors and acquired rights. Creation of a Congregational Will facilitates and ensures appropriate disposition of assets. Funds for future living costs should be segregated, with any remaining cash used for continuation of apostolates of the Church and the *caritas*, which reflects the charism of the institute.

10.2 Ensuring Economic Structures Continue to Serve as Instruments of the Church’s Missionary Action

To assist Religious Institutes in planning for the proper care and management of temporal goods, in 2014 the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life held two international Symposia.¹⁴⁷ Guidelines for the reconfiguration of Religious Institutes, continuation of the charisms (often identified as part of the patrimony of specific Religious Institutes), and asset management were developed to assist Religious Institutes to continue to respond “with renewed courage and prophecy to the challenges of our times, and to continue to be

Religious Institutes to indicate directives to be carried out with ecclesiastical goods that would be in keeping with the charism and mission of the Institute as well as the intention of donors.

¹⁴⁷ See Francis, *The Management of the Goods of the Institutes of Consecrated Life and Societies of Apostolic Life at the service of humanity and of the Mission of the Church. Acts of the International Symposium Rome, 8-9 March 2014*, https://w2.vatican.va/content/francesco/en/messages/pont-messages/2014/documents/papa-francesco_20140308_messaggio-vita-apostolica.html (19 July 2019).

a prophetic sign of God’s love.”¹⁴⁸ This information should assist both General Superiors and diocesan bishops in shared planning endeavours which would include the canonical responsibilities in relation to temporal goods of a Religious Institute. The Guidelines encourage Religious Institute to evaluate and rethink their economic realities in light of their charism to be “outposts of care for all the poor... examples in overcoming every form of egoism through the logic of the Gospel which teaches us to trust in the Providence of God.”¹⁴⁹

The economic structure and resources of any Religious Institute are intended to be instruments to serve, not to govern.¹⁵⁰ Religious Institutes will be called upon to make economic judgements in light of the congregation’s charism and mission, as well as the overt and covert social and ecclesial implications of their decisions.¹⁵¹ Profitability cannot be the only criterion to keep in mind.¹⁵² As the Holy Father suggested, “I would hope that structures can be streamlined, large religious houses repurposed for works which better respond to the present demands of evangelization and charity, and apostolates adjusted to new needs.”¹⁵³

¹⁴⁸ J. BRAZ DE AVIZ, Circular Letter, “Guidelines for the Administration of the Assets in Institutes of Consecrated Life and in Societies of Apostolic Life,” 2 Aug 2014, 6, <https://donboscosalesianportal.org/wp-content/uploads/Guidelines-for-the-Administration-of-Lay-Associations-1.pdf> (14 July 2019).

¹⁴⁹ FRANCIS, “Message to the participants at the International Symposium on the theme: ‘Management of ecclesial goods of Institutes of Consecrated Life and Societies of Apostolic Life at the service of humanity and the mission of the Church,’” Rome, 8 Mar 2014, https://w2.vatican.va/content/francesco/en/messages/pont-messages/2014/documents/papa-francesco_20140308_messaggio-vita-apostolica.html (16 July 2019) (= Francis, “Message to Participants, 2014).

¹⁵⁰ See *Economy*, 28.

¹⁵¹ See FRANCIS, “Message to Participants”.

¹⁵² See FRANCIS, Encyclical Letter On the Environment *Laudato si’*, 24 May 2015, in *AAS*, 107 (2015), 847-945, English translation in *Origins*, 45 (2015-2016), no. 187, 140 (= *LS*).

¹⁵³ FRANCIS, Year of Consecrated Life, 486.

11.0 Closing Reflections

Religious Institutes throughout the world are in the process of examining and evaluating their current vocation and financial realities. They have begun to develop new and creative models of charity through collaboration with experts and the creation of legal frameworks that would best protect and promote the effectiveness of their ministries. The Church encourages Religious Institutes to link with centres of excellence to monitor and ensure appropriate canonical and civil legal structures to support the mission and collaboration with other Religious Institutes who share their charism and commitment to the mission. In addition, Religious Institutes, even those of pontifical right, are to liaise with diocesan bishops and episcopal conferences as appropriate, to coordinate ministries (education, health, social assistance).¹⁵⁴

“Our future lies in God’s gaze. We need [those] who, owing to [their] greater familiarity with the wide expanses of God’s field than with the confines of [their] own narrow garden, [are] able to assure us that what our hearts aspire to is not a vain promise.”¹⁵⁵ Our vision for the future rests in our capacity to dialogue with reality, to fit into the history of humanity, and to wait patiently for this vision to become a reality over time.¹⁵⁶

¹⁵⁴ See CICLSAL, *Economy*, 40.

¹⁵⁵ FRANCIS, “Discourse at the Reunion of the Congregation for Bishops,” Rom 27 Feb 2014, https://w2.vatican.va/content/francesco/en/speeches/2014/february/documents/papa-francesco_20140227_riunione-congregazione-vescovi.html (14 July 2019); See also Francis, “Bishops Should Be Evangelists, Not CEOs,” in *Origins*, 43 (2014-2015), 665-669, no. 1, p. 666.

¹⁵⁶ See CICLSAL, *Economy*, 44.