

Erection and Suppression of a House of a Religious Institute; The Apostolates of Religious Institutes and Their Contracts

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Introduction

The Second Vatican Council has highlighted the ecclesial meaning of the consecrated life, that is, its belongingness to the Church's mystery and mission¹. Religious life is truly a tree planted near a river, the Church, and is rooted in her heart, because religious life draws 'its *raison d'etre* and its richness'² from what is most intimate in the Church, that is to say, the union binding her to Christ as her spouse.³ They participate in "a special way in the sacramental nature of the people of God"⁴. *Lumen Gentium* states: "By the charity to which they lead, the evangelical counsels join their followers to the Church and her mystery in a special way. Since this is so, the spiritual life of these followers should be devoted to the welfare of the whole Church. This gives rise to the duty of working to implant and strengthen the kingdom of Christ in souls and to extend that kingdom to every land. ... It is for this reason that the Church preserves and fosters the special character of her various religious communities."⁵

The Decree *Perfectae Caritatis* has often emphasized the duty of the institutes to participate in the life of the Church. This consciousness of being part of the communion of the Church and of being at the service of the Church ought to characterize the vocation, formation and the entire life of all consecrated persons, in the variety of their contemplative and apostolic services, as the decree itself specifies⁶. The ecclesial character of consecrated life and its implications arising from Church communion has been amply treated in *Mutuae Relationes*.

Since consecrated life is dedicated to the building up of the Church and is in the Church a sign of the Kingdom of God (CIC c. 573 §1), it is subject to the authority of the Church. The law identifies how the hierarchy exercises authority over institutes: by erecting them (CIC cc. 573 §2, 579, 589); by generally interpreting the evangelical counsels, establishing stable forms of living by them, regulating their practice through laws, and caring for the growth of the institutes (CIC c. 576); by preserving and safeguarding an institute's rightful autonomy (CIC cc. 578, 586 §2); and by approving constitutions and consenting to changes in them (CIC c. 587 §2). These general

¹ *LG.*, 44; Correco, "Theological Justifications of the Codification of the Latin Canon Law," *The New Code of Canon Law*, vol. 1., Ottawa, 1986, 87ff.

² Gambari, *For Me To Live is the Church*, Boston, 1970, 33.

³ *LG.*, 44.

⁴ *MR.*, 10.

⁵ *LG.*, 44.

⁶ *PC.*, 2c; 7-11.

principles of hierarchical oversight do not specifically mention the apostolate of institutes. Certainly, the apostolic works to which an institute is committed belong to its patrimony and should be reflected in its constitutions. In approving the constitutions, ecclesiastical authority judges an institute's apostolic vision as sound as part of the gift of the Spirit to the Church, a gift to be preserved, fostered, and promoted.⁷

1.1. How CIC and CCEO Differ in Erecting and Suppressing a House of a Religious Institute

The hierarchical setup of the Latin Church and of the Oriental Catholic Churches is not same. Accordingly, the religious institutes also express their dependency on their hierarchy and their rightful autonomy in a measured way. This hierarchical difference brings also the difference in the erection and suppression of religious institutes of both CIC and CCEO. The typological pattern of religious institutes also differs in both Codes. Thus we have pontifical, patriarchal (major archiepiscopal), and the diocesan or eparchial religious institutes.

The style that is followed in CIC in describing the religious institutes and the other institutes of consecrated life is based on a principle of abstraction. The principle of connectivity in this abstraction process is based on the style of their consecration through public profession of religious vows, bonds, oaths and promises. The methodology that is used in CCEO is chronological in presenting the same realities of the religious institutes and the other institutes of consecrated life. Thus CCEO brings monasteries, orders, congregations and other institutes of consecrated life as they originated in the historical marching of the pilgrim Church and it originated first in the East and then they spread to the West (UR 15).

The fundamental characteristic notes of religious institutes are the following (CIC c. 607): i) public profession of evangelical counsels; ii) community life; and iii) separation from the world. All these specificities can be found only on the following typologies of consecrated life, namely, monasteries, orders, and congregations. Thus, they are called religious institutes. CCEO respects and deals each unit separately. CIC, on the other hand, presents them collectively under the title of institutes of consecrated life (CIC Book II, Part III, Section I), but with specificity of religious institutes distinct from other institutes of consecrated life (CIC Book II, Part III, Section I, Title II). This study focuses mainly on religious institutes and that too, according to the hierarchical setup of both CIC and CCEO. Therefore, we may cite parallel canons from both Codes for showing their status in the Church: pontifical, patriarchal (major archiepiscopal) and diocesan or eparchial.

⁷ James J. Conn, "Bishops and the Apostolates of Religious," Canon Law Society of America, *Proceedings of the Sixty-Third Annual Convention*, Washington, 2001, 52-53.

1.2. What Is a Monastery, Order, and a Congregation?

In comparison with CCEO, CIC does not define a monastery, order and a congregation. CCEO defines each typology and clarifies it. Accordingly, a monastery is a religious community in which the members strive for evangelical perfection by the observance of the rules and traditions of monastic life (CCEO c. 433). The word monastery derives from a semantic ideological constellation which was matured and developed from the word ‘*monos*’ meaning alone; ‘*monasterion*’ properly means the cell of the one who is living in solitude.⁸ A monastery which is not dependent on another one, is autonomous (*sui iuris*), and is governed by a *typicon* approved by lawful authority as well as by common law (CCEO c. 433). The autonomous monasteries can have filial monasteries which are preparing to become independent ones and subsidiary monasteries which are to assist the autonomous monastery in its apostolic work (CCEO c. 436).⁹ A monastery is of pontifical right if it was erected by the Apostolic See or recognized as such by its decree; or of patriarchal right if it is a stauropegial¹⁰ one; of eparchial right if it was erected by the bishop but has not obtained a decree of recognition from the Apostolic See (CCEO c. 434). To break their isolation as independent institutes, monasteries can form with others of the same kind a confederation, which makes it possible for them to share services and opportunities, such as to support a common preparatory school for future members, etc., on the eparchial level, stauropegial and in other instances with the permission of Apostolic See (CCEO c. 439).¹¹

An Order is a society in which the members though not monks, make a profession which is equivalent to monastic profession (CCEO c. 504 §1). An order can be erected by the Apostolic See or by the Patriarch. If an order is established by the Apostolic See or recognized as such by a decree of the same, it is called of pontifical right. If an order has not obtained a decree of recognition from the Apostolic See it is called of patriarchal right (CCEO c. 505 §1).

A Congregation is a society in which the members make the three public vows of obedience, chastity and poverty, which however, are not equivalent to monastic profession, but have their own force according to the law (CCEO c. 504 §2). A congregation can be of pontifical

⁸ Vallesi, *Encyclopedia delle Religioni*, vol. 4, Firenze, 1970, col. 576; Rocci, *Vocabulario Greco-Italiano*, Genova, 1939, 1249-1250; Lampe, *Patristic Greek Lexicon*, 878.

⁹ Pospishil, *Eastern Catholic Church Law*, New York, 1993, 245-246.

¹⁰ A monastery is of patriarchal right if it was erected by the patriarch or recognized as such by his decree as a stauropegial one (CCEO c. 434). Etymologically it comes from two Greek words: *stauros*, meaning ‘cross’ and *pegnitai*, meaning ‘placing’. Thus, at the foundation of a monastery by a patriarch when he places the ‘cross’ on the foundation stone, the monastery, its members, and the belongings of it comes directly under his jurisdiction. For further details refer Varghese Koluthara, *Rightful Autonomy of Religious Institutes*, Bangalore, 2014, 148-153.

¹¹ The number of true Eastern Catholic monasteries is very small, even taking together all the Churches, with communities with few members. Only the Studite Monks and Nuns of the Ukrainian Church could hope to expand again into their former monasteries in Western Ukraine, in Rome and Canada. However, while some discussions were held between some Ukrainian monasteries for the formation of a confederation, nothing came of it as yet; it would have to follow the norms of cc. 439-440. Pospishil, *Eastern Catholic Church Law*, 247.

right, of patriarchal right or of eparchial right according to its establishment and recognition (CCEO c. 505 §2).

An order or congregation is called clerical when, on account of the object or purpose intended by the founder or in virtue of lawful custom, under the direction of presbyters, it exercises the ministry proper to sacred orders, and is recognized as such by ecclesiastical authority (CCEO c. 505 §3)

1.3. Erection of Monastery *Sui iuris*, Orders and Congregations

In CCEO the eparchial bishop can erect monasteries *sui iuris*, and congregations (CCEO cc. 435, 506). In order to erect a monastery, within the territorial boundaries of the patriarchal Church, the eparchial bishop has to consult the patriarch, in other cases, the eparchial bishop should consult the Apostolic See (CCEO c. 435 §1). On the other hand, in case of erecting a congregation, even if being within the territorial boundaries of the patriarchal Church, he has to consult the Apostolic See and in addition he has to consult the patriarch also in cases within the territorial boundary (CCEO c. 506 §1). According to CCEO, there is no order in eparchial right (CCEO c. 505). Reading the canons 505 and 506, it is clear that in CCEO, the eparchial bishop cannot erect orders.

CIC, on the other hand, clearly states that diocesan bishops, each in his own territory, can erect institutes of consecrated life by formal decree, provided that the Apostolic See has been consulted (CIC c. 579). That means a diocesan bishop can erect monasteries, orders, and congregations.

1.4. The Opening, Closing and Conversion of a Monastery and a House of a Religious Institute

All religious institutes whether they are pontifical (exempt or not), patriarchal, or diocesan/eparchial, have important areas of dependence on the diocesan bishop. The written consent of a diocesan/eparchial bishop precedes the erection of a monastery and a house of a religious institute (CCEO cc. 436 §2, 509 §1; CIC c. 609 §1).

CIC c. 609 §1: Houses of religious institutes are erected by the authority competent according to the constitutions, with the previous written consent of the diocesan bishop.¹²

CCEO c. 509 §1: An order or congregation cannot validly erect a house without the written consent of the eparchial bishop. If it is a question of erecting the first house of house of an order or

¹² According to CIC c. 619 §2, the permission of the Apostolic See in addition to the permission of the diocesan bishop is required to erect a monastery of nuns.

congregation of patriarchal right in some eparchy, the consent of the patriarch is required within the territorial boundaries of the patriarchal Church or, in other cases, the Apostolic See.

According to CIC c. 611, such consent, of course, includes with it: (1) the right to lead the life proper to the institute, (2) to do the works proper to their calling, (3) and for clerical religious institutes to have a church, subject to the provisions of canon 1215 §3, and to conduct the sacred ministries with due observance of the law (CIC c. 611). CIC c. 1215 §3 reminds the religious institutes that even though they have received the diocesan Bishop's consent to establish a new house in a diocese or city, religious institutes must obtain the same Bishop's permission before they may build a church in 'a specific and determined place'.

CCEO, on the other hand, underlines that the permission to erect a monastery, even a dependent one, entails the right to have a church and to perform sacred ministries as well as exercise pious works proper to the monastery in accordance with the norm of the *typicon*. or statute (CCEO c. 437 §1). Whatever is stated here regarding monasteries is also valid and applicable regarding houses of orders and congregations (CCEO c. 509 §2). For the construction of a church, CCEO c. 870 says that the expressed written consent of the eparchial bishop is required unless common law disposes otherwise. In fact, his permission to erect a monastery or a religious house contains also the consent required by this canon (CCEO cc. 437 §1, 509 §2, 556, 566). The norm for the Latin religious is different: they must get a separate permission from the diocesan bishop involving details of the church, like its exact location (CIC c. 1215 §3).¹³

It shows a fundamental difference between CIC and CCEO. CIC does not make it a right to have a church when the diocesan bishop gives the permission to have a house for a religious institute even of a clerical one. It needs additional written permission because it is a church 'in a specific and determined place', different from that of a religious house. At the same time CIC c. 608 says that each religious house is to have at least an oratory in which the Eucharist is celebrated and reserved, so that it may truly be the centre of the community. It means that when permission is given by the diocesan bishop to establish a religious house it also entails to have an oratory or a chapel in which the Eucharist is celebrated and reserved. It does not mean a church apart from a religious house in 'a specific and determined place'.

CCEO avoids the distinction between 'churches' and 'oratories' or 'chapels' as being proper to the Latin Church (CIC cc. 1214-1234) and is not common to Eastern tradition.¹⁴ Dimitrios Salachas in his commentary on CCEO cc. 867-895 makes the following comment: In CCEO churches are

¹³ Dimitrios Salachas, "Sacramentals, Sacred Times and Places, Veneration of the Saints," in George Nedungatt, ed., *A Guide to the Eastern Code*, Kanonika, 10, Rome, 2002, 587.

¹⁴ In the preface of the Schema on Divine Worship and Especially the Sacraments (1980), we read: "There is nothing in the Schema regarding private oratories, chapel and altars, if the immemorial custom of each of the Churches, is not enough to regulate these matters, they are left, by the very silence of the Schema, to particular law." *Nuntia* 10 (1980) 15-16. The silence of the Code is not suppression (except in penal matters) but often a way of applying the principle of subsidiarity, as was stated expressly: "With the silence of the Code, provisions can be made in the particular law of the Sui Iuris Churches, or even of the eparchies." *Nuntia* 28 (1989), 120.

divided into four categories: 1) cathedral churches; 2) parish churches; 3) the church of a monastery or attached to the house of an institute of consecrated life; 4) other churches entrusted to the care of a presbyter serving as rector (CCEO cc. 304-310). Whether cathedrals or chapels, canonically, all of them are churches, in as much as, they are sacred buildings: most churches or chapels of religious institutes form part of a larger building and it does not stand out as a separate building.¹⁵

1.5. Suppression, Closing and Conversion of a House of a Religious Institute

In the 1917 CIC, the authority to suppress a house of diocesan right belonged to the diocesan bishop in consultation with the head of the institute (CIC 1917 c. 498). Canon 616 of the 1983 CIC holds to the principle that whoever is the competent authority to establish a house (CIC c. 609) is also the competent authority to suppress it. Therefore, it is the supreme moderator and not the local bishop who decides, whether or not to suppress a lawfully established religious house. The supreme moderator has to consult the local bishop before deciding the suppression of a house and has to follow the norms given in Constitutions of the institutes regarding the procedure to suppress a house (CIC c. 616 §1).

In case of the suppression of a house of an order or congregation, CCEO has the same norms as of CIC. It is stated that a house of an order or congregation cannot be suppressed validly except after being consulted the eparchial bishop (CCEO c. 510).

On the matter of the suppression of Monasteries, there seems difference between CIC and CCEO. In CIC, an autonomous house of canons regular or an autonomous monastery of monks can be suppressed by its general chapter, unless its constitutions enacts other provisions (CIC c. 616 §3). The suppression of an autonomous monastery of nuns pertains to the Apostolic See (CIC c. 616 §4).

According to CCEO, it is for the patriarch to suppress within the territorial boundaries of the Church over which he presides, a monastery *sui iuris*, or a filial one of eparchial right or patriarchal right (stauropegial monastery) (CCEO c. 438 §1). The patriarch can suppress such monastery only with the consent of the permanent synod and at the request of, or after having consulted, the eparchial bishop if the monastery is of eparchial right, and after having consulted the superior of the monastery, and the president of the confederation if the monastery be confederated, save for the right of suspensive recourse to the Roman Pontiff (CCEO c. 438 §1). Other monastery *sui iuris* or filial monasteries are suppressed only by the Apostolic See (CCEO c. 438 §2). The superior of the monastery can suppress only the subsidiary monasteries. The superior has to follow the specifications of the institute's *typicon* and should get the consent of the eparchial bishop (CCEO c. 438 §3).

¹⁵ Dimitrios Salachas, "Sacramentals, Sacred Times and Places," 587.

In CIC, the Apostolic See reserves the right to suppress the sole house of an order or congregation (CIC c. 616 §2). In CCEO besides the Apostolic See, the patriarch can suppress the sole house of a congregation of patriarchal or eparchial right within the territorial boundaries of the Church over which he presides but with the consent of the permanent synod and of the Apostolic See (CCEO cc. 507 §2, 510).

CIC c. 612 makes it clear that if a religious house is to be used for apostolic works other than those for which it was constituted the consent of the diocesan bishop is required. This permission is not required for a change which, while observing the laws of the foundation, concerns only internal governance and discipline. The ‘internal governance and discipline’ of a religious institute pertains to its rightful autonomy and it is meant to preserve their patrimony and charism. It does not enter into pastoral works and other external apostolates. The rightful autonomy empowers them to recruit their own candidates, give formation to them, elect their own superiors, govern their own institutes and lead a prayer life tuning to their own patrimony or charism (CIC cc. 586, 578).

According to CCEO, in order to convert a monastery, or a house of an order or congregation, to other uses, the same formalities are required as for erecting it, except when a conversion pertains only to the internal governance and discipline (CCEO cc. 437 §3, 509 §2).

2. Apostolates of Religious Institutes and Contracts

Religious Institutes and their apostolates in an eparchy¹⁶/diocese have always been a long-standing struggle for canonists in establishing the precise role of religious institutes in a diocese/eparchy and their relationship to diocesan/eparchial Bishops. The history of the Church 'provides ample witness to the fact that finding and/or maintaining a proper balance in the relationship between bishops and religious have often been delicate and elusive tasks, as well as not entirely successful ones'.¹⁷ Second Vatican Council desired that religious, both as individuals and as groups, should move from a position of isolation to integration with respect to the local church (CD 34). The Decree *Christus Dominus*, and the motu proprio *Ecclesiae Sanctae* treated the concerns of this relationship and a greater reconciliation would come with the document *Mutuae Relationes* of 1978.

Etymologically, the adjective ‘apostolic’ comes from the Greek ‘*apostellein*’ meaning ‘to send’. The Greek ‘*apostellein*’ implies the sending of a messenger on a special mission, with

¹⁶ The word *eparchy* derives from the Greek word 'eparchia'. CCEO makes use this word eparchy to designate a diocese. Originally, the terms 'diocese' and 'eparchy' were made use of by emperors Constantine and Diocletian to show the internal divisions of their vast Roman empire. Later, in ecclesiastical usage to designate a ecclesiastical jurisdiction entrusted to a bishop the Western Church adopted the term diocese and the Oriental Churches, the term eparchy. Dimitrios Salachas, "EPARCHIA", in E.G. Farrugia,S.J.,ed., *Dizionario Enciclopedico Dell'Oriente Cristiano*, Roma, 2000, 269.

¹⁷ Elizabeth McDonough, "Relationship between Bishops and Religious: Mutual Rights and Duties", in Patrick J. Cogen (ed.), *Selected Issues in Religious Law*, Washington, 1997, 69.

emphasis on the relationship between the messenger and the sender. The word ‘apostolate’ originates from the Latin ‘*apostolatus*’. The Latin ‘*Missio*’ means mission. In our common parlance both mission and apostolate mean the same, the former emphasizing the ‘being sent’ and the latter referring to the activity of those who are sent into the world to transform it with the power of the Gospel.

The birth, the development, the existence and the work of communities of consecrated life are nothing else than particular manifestations of the life of the Church. An institute of consecrated life, as a separate entity from the Church, has no life. The legal formalities of receiving the approval for new institutes of consecrated life have a deep theological significance. For, once having sought and been granted official recognition and approval, an institute of consecrated life takes upon itself an added identity. Then it becomes an ecclesial institute and is linked to the hierarchy in a special manner. Official Church recognition identifies the institute as a Church institution and it identifies its members, as church people involved in a life of public dedication and service in the name of the Catholic Church¹⁸.

Charism is fundamental and precious for the members of the institutes, but it is also important for the local Church. There has to be on the part of the bishop an appreciation and recognition of the charism.¹⁹ In the case of the apostolic activities, all religious are more related to the eparchial bishop as they exist and operate in the Church through their presence and activities in a diocese/eparchy. The relationship between bishops and institutes of consecrated life, particularly an institute of pontifical right, needs a preamble, i.e., “Interest and Communication”. The bishop has to have an interest in the institutes of consecrated life and the consecrated persons in his diocese. Conversely, the members of consecrated life within the diocese/eparchy must have an interest in the diocese/eparchy.

2.1. Apostolates of Religious in a Diocese/Eparchy

The bishop being the chief pastor of the local Church naturally has the responsibility of coordinating the whole pastoral activity in the diocese. On the other hand, the religious have a prophetic role and often a wider responsibility. Respect due to the Bishop and the Bishop's duty to foster the charism of religious are reciprocal.²⁰

There is a good deal of confusion in practice regarding the ministry or apostolate of work of many religious today. There are two basic contributors to this confusion. First, in theory any apostolate of a religious institute which is proper to that institute or part of its institutional

¹⁸ D. F. O'Connor, S.T., *Witness and Service*, New York/Mahwah, 1990, 5.

¹⁹J. A Galante, "The Relationship of the Diocesan Bishop and the institutes of Pontifical Right," in *CLSA Proceedings*, 56 (1994), 90.

²⁰ George Lobo, *New Canon Law for Religious*, Bombay, 1986, 42.

patrimony should be appropriately specified in its fundamental documents (CIC cc. 578, 587 §1, 675 §1) and then there should be little question as to whether a member is exercising a ministry or function proper to the institute. The work which religious are asked to undertake should be in keeping with the charism and proper character of their institute. So, for example, if education is an apostolate proper to a particular religious institute, a member might engage in this apostolate within the institute in an educational facility belonging to one's own religious community or entrusted by the diocese/eparchy to that religious community or even in an educational facility owned or entrusted to another religious community, and he or she would still be exercising an apostolate proper to the institute. Second, in order to engage in ministries or offices outside of those proper to the institute, specific permission of one's legitimate superior is technically required (CIC c. 672; CCEO c. 427).

According to the spirit of CIC c. 584 §2, the work which religious are asked to undertake in a diocese should be in keeping with the charism and proper character of their institute. (Lobo, 42).

However, it is often difficult to ascertain clearly what precisely 'the works proper to a particular institute' are because these are often expressed in the fundamental documents in very general terms, such as: "Our purpose is to carry the works of mercy to the needy of our society." Consequently, it is often quite unclear as to what actually constitutes works which are not proper to the institute and the question then becomes: What in fact might a religious do in a diocese/eparchy - in the line of apostolic activity - that would not fit into the above description?²¹ In addition, there is often not a clear delineation in institutes or in dioceses of what functions and positions actually constitute (ecclesiastical) offices in the technical sense (CIC c. 145; CCEO c. 936).

In 'a work proper to the religious institute', such stipulation should be spelt out in whatever details seems appropriate to either party in the proposal made by the institute and agreed to by the bishop, that is, in the written consent (CIC cc. 609 §1, 611, 2°; CCEO cc. 436 §2, 509 §1, 437 §1, 509 §2). If these agreements are properly developed, the reciprocal rights and duties of the diocesan bishop and the religious superiors will be clearly understood, and disagreements and friction should thereby be minimized.

Religious participate in the apostolate of a diocese/eparchy either corporately or individually. Corporate apostolate here means that the religious institute as such undertakes to provide, on at least a relatively permanent basis, a specific service in the pastoral mission of a diocese. They do this in two ways: (i) by accepting an invitation to establish a specific apostolic enterprise of their own, for example, a school, hospital, residence for the aged; or (ii) by accepting a request to provide staffing for a diocesan work, for example, a parish, a diocesan high school, a retreat centre.

²¹ Elizabeth McDonough, O.P., "Relationship between Bishops and Religious," 75.

In either case a contract should be entered into and the parties to the contract are the two juridic persons, the diocese/eparchy and the religious institute, acting through their canonical representatives, the bishop or his delegate and the appropriate religious superior. In the case of a diocesan/eparchial work confided to a religious community, the Codes require a formal contract (CIC c. 681, §2; CCEO c. 282 §2). In the case of religious institutes establishing a work of their own, the written consent of the bishop, required (CIC c. 609, 1; CCEO cc. 436 §2, 509 §1) constitutes the formal agreement between the parties (cf. CIC cc. 611, 2°, 437 §1, 509 §2). These documents should carefully spell out the respective competencies of the bishop or other diocesan/eparchial official and of the religious superiors.

The bishop, however, cannot bargain away the responsibility²² that it is his right to oversee and coordinate all apostolic undertakings in his diocese (CIC c. 394 §1; CCEO c. 203 §1). The religious superior, on the other hand, cannot administer the institute in a manner that is controlled exclusively by its own law or policies. The parties must arrive at a mutual agreement before signing a contract between them. This is the meaning of *collatis consiliis* in CIC c. 678 §3, a significantly stronger expression²³ than "mutual consultation".

2.2. Why an Agreement Is Necessary Between a Diocese/Eparchy and a Religious Institute for Entrusted Apostolates?

Certain works are *entrusted* to institutes of consecrated life such as a parish, school, retirement home, etc., in which the bishop employs the institutes of consecrated life for a certain work. In those instances a certain written agreement is to be drawn up between the diocesan bishop and the competent superior of the institute. Thus, works *entrusted* to them are to be carried out based on contracts (CIC c. 681; CCEO cc. 543, 282 §2). For ensuring a healthy ministry in the diocese/eparchy, it is good that the institutes of consecrated life do the apostolate in the eparchy with clear notions of their rights and obligations articulated in a contract signed by a bishop and a major superior. This contract or agreement is of great importance and should never be neglected.

What should such contracts or covenants include? Both Codes indicate in a general way that, in the case of diocesan/eparchial work to be confided to religious, the written agreement should include, among other things, whatever pertains to the work itself, which implies that it is clearly defined; the members to be engaged in it and financial matters (CIC c. 681 §2; CCEO c. 282 §2;). The phrase, "among other things," suggests that the parties to the contract should agree upon any other stipulations which either or both sides deem necessary or appropriate. Such matters could be the duration and the periodic review of the agreement itself, the mission and goals of the

²² Richard A. Hill, S. J., "Complementary Competencies," 39.

²³ Richard A. Hill, S. J., "Complementary Competencies," 39.

enterprise, the lines and the scope of authority and accountability, procedures for the appointment and termination of personnel and their qualifications, and similar issues.²⁴

Therefore, the major superiors have to take the initiative: (i) It must be signed by the appropriate persons representing the diocese/eparchy and the institutes of consecrated life. (ii) It must deal with at least three subjects in detail: a) a description of the work and how it is to be carried out, b) assignment procedures of the personnel, and c) financial arrangements. (iii) These contracts are to be renewed in appropriate time intervals. Let me clarify some of the elements on the contents of the agreement mentioned above:

1) A description of the work and how it is to be carried out: It is necessary that both parties fully agree about the nature of the pastoral work to be carried out, the conditions to respect, etc. The document *Mutuae Relationes* dealt with this topic in clear terms. It could concern the matter of entrusting to a religious institute or a consecrated person, a parish, a school, a health care structure, or any other pastoral or missionary office in the diocese or eparchy. What is important and necessary is that the nature of the pastoral and missionary commitment in question must be clear for both the parties.²⁵

2) Assignment procedures of the personnel: The religious who must be assigned to the work, i.e., their number, preparation, and skills, etc. It is not a matter of deciding who should be assigned to a certain job, but of defining the qualifications and the professional preparation required in those assigned. The religious superior must respect these initial agreements for the success of the work entrusted. As far as the designation of a religious to a diocesan/eparchial job is concerned, the procedure is established in CIC c. 682 §§1,2 and CCEO cc. 284 §2, 303, 431 §1, 1391 §2. An office should normally be entrusted to a religious for a determined period of time, including the clause of a possible transfer or removal during his mandate, at the discretion of the diocesan or eparchial bishop or the religious superior.²⁶

3) Financial arrangements: Although the financial aspect is not the most important in the agreement, it plays a key role. The institute commits itself to ensuring a sufficient number of religious persons for a specific pastoral work in the diocese or eparchy, and it is expected that the diocese or eparchy, in turn, commits itself to providing a reasonable sustenance for the personal involved. One must admit often it is the financial aspect that would lead to divergences between dioceses or eparchies and religious personnel, in the matter of pastoral collaboration.²⁷

²⁴ Richard A. Hill, S. J., "Complementary Competencies," 39; Elizabeth McDonough, O. P., "Relationship between Bishops and Religious," 75.

²⁵ Joseph Koonamparambil, "Consecrated Life in the Missionary Church," *Commentarium Pro Religiosis et Missionariis*, vol. 26, fasc. III-IV (2014), 227.

²⁶ Joseph Koonamparambil, "Consecrated Life in the Missionary Church," 227.

²⁷ Joseph Koonamparambil, "Consecrated Life in the Missionary Church," 228-229.

Conclusion

1. Coordination: The authority of the bishop and that of the major superior of an institute of consecrated life in the exercise of the apostolate must be harmoniously coordinated (CD 35. 5). The apostolate of institutes of consecrated life is an area that needs special attention. The difference existing between the *distinctive* works of an institute (*according to their charism*) and of works *entrusted* to an institute should be kept in mind by the Local Ordinary. In fact, the former depend on the superiors of the institutes of consecrated life according to their constitutions, even though in pastoral practice, they are subject to the jurisdiction of the local ordinary according to law (MR 57a, LG 45 CD 34-35, PC 6, ES I 23-26; 35-36, MR 28, 33-36).

2. As an epilogue or appendix, may I make an appeal to the Lawgiver, as CIC and CCEO are twin born from the same Lawgiver: The Model of CIC on the Description on Apostolates of Religious Should Inspire CCEO to revise it.

On 18th October 1990 CCEO was promulgated. This year we remember the silver jubilee of the promulgation of CCEO. In the years after the promulgation of CCEO the more serious defects of the legislation contained in the canons of its title XII, "Monks and Other Religious as well as Members of Other Institutes of Consecrated Life," came to be noticed in practice. In particular it has been found from experience that the norms of this Code regarding the formation and apostolate of religious who are not called to the monastic life ("*ceteri religiosi*") are very defective. These religious serve the Church dedicating themselves to various kinds of apostolate according to their Constitutions. They have reported meeting with two difficulties. First, too short a period has been allowed by CCEO for formation in specialized fields of modern apostolates, which is often the only form of evangelization practicable today in several countries like India. However, whereas can. 657 § 2 of CIC allows a maximum period of nine years of formation between the first profession and the final profession, the corresponding can. 526 § 2 in CCEO limits this formation to a maximum of six years, the same as allowed for monks called principally to "divine praises" (*laudes divinae*, "choir"), not for apostolates. The frequent and high number of requests for dispensation from the provision of this canon that have been submitted to the Congregation for the Oriental Churches is indirect proof that the law has been badly made and is in need of revision.

A second serious defect of CCEO Title XII is the almost total lack of proper norms regarding the exercise of apostolates by these religious ("*ceteri religiosi*"). This defect has been brought to the attention of all, including the ecclesiastical hierarchy and the religious themselves, particularly through certain regrettable conflicts arising chiefly because of the lacunose legislation of the Eastern code. While CIC has codified the conciliar and post-conciliar norms on the apostolate of religious both Latin and Eastern, CCEO on the contrary has overlooked them with its focus on monastic life regarded effectively as the *analogatum princeps* of religious life. It is necessary that CCEO, too, contain adequate norms regarding both due submission of religious to the local

hierarch on the one hand and the “*iusta autonomia*” ("rightful autonomy") of religious institutes on the other. This can easily be done by including the relevant norms of CIC in CCEO, without disturbing the order and the number of the canons of this latter Code. It is an open appeal to the Lawgiver through our deliberations.
