

## NEW STYLES OF GOVERNANCE IN RELIGIOUS INSTITUTES

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Perhaps "new styles" is not an accurate title, "current styles" might be more appropriate. Historically, in the Church, religious are innovators. New forms of religious life have continually emerged throughout the history of the Church, even when the Church repeatedly forbade it. New forms of religious life are continuing to emerge – recently we have had an extended look at the various new Catholic movements and associations throughout the world<sup>1</sup>, many of them might eventually fall into the classification of new forms of religious life. But even in the traditional forms of religious life innovation continues. We are seldom satisfied with the status quo. There must be a better, more efficient way to function – a more enlightened, collaborative, and inclusive way, one that does not place the burden of leadership on a few, but shares the responsibilities with all who are able. This is all valid, good, growth-filled, and mature. For the past 40 years, since the shake-up of the Second Vatican Council, many religious have been innovating not just in the areas of ministry or apostolate and lifestyle, but also with regard to the structures of governance – the ordering of the life of the institute "in a way which facilitates movement toward the goal for which it exists"<sup>2</sup>. For some, structural changes were natural and came out of the period of renewal; for others, an effective model was created after much dialogue and experimentation; and others yet still struggle to find a governance structure that is suitable for a Church entity that is part of a hierarchical church while not being a part of the hierarchy (*LG 44*)<sup>3</sup>. Some of the models that we will discuss would be old or passé for some groups, tried and abandoned 30 years ago, and that same model may be new and innovative for another group.

The constant realigning of governance structures of religious institutes is healthy and merited in most cases. The demographics of the group have changed and the former operative model can no longer be efficiently maintained or no longer provide the service for which it was created. Reassessment and change is necessary. This paper will not be an evaluation of whether the newer styles of governance are good or bad, since so much depends upon the needs of the group. We will be looking at the canonical and the non-canonical aspects; those styles that exist within the boundaries and expectations of the law and the Holy See and those that might not, and what puts them outside these parameters.

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<sup>1</sup> See PONTIFICAL COUNCIL FOR THE LAITY, *International Associations of the Faithful Directory*, Vatican City, Libreria Editrice Vaticana, 2006.

<sup>2</sup> S. HOLLAND, "Internal Governance in Consecrated Life," in *CLSAP*, 45 (1983), p. 37.

<sup>3</sup> See SECOND VATICAN COUNCIL, Dogmatic Constitution on the Church *Lumen gentium*, 21 November 1964, in *AAS*, 57 (1965), pp. 5-75, English translation in *FLANNERY*1, pp. 1-96.

First we will survey what the Code of Canon Law says about the governance of religious institutes and elaborate on key points. Then we will delineate various models of governance that are in use by religious institutes and how they may meet the expectations of the law and the Holy See or not. Finally we will take a cursory look at the current demographics of religious in North America, what canonical options are available for institutes as they seek to respond to their changing situation (beyond changes in internal governance structures), and what new innovations might be evolving.

## **1.1 CANONICAL STRUCTURES**

The structures outlined in the Code for Religious Institutes are as follows:

- **Constitutions** and those things that are to be included in them (cc. 581, 587, 595, 596, 598 §1, 601, 609 §1, 614, 615, 616, 623, 624 §1, 625 §§1 and 3, 627 §1, 631 §§ 1-2, 634, 648 §2, 662, 670)
- An Institute's **Proper Law** and what is to be included in it (cc. 597, 598 §2, 600, 607 §2, 608, 622, 624 §§ 2-3, 626, 627 §2, 628 §1, 629, 630 §2, 631 §§2-3, 632, 633, 635 §2, 636, 638, 641, 643 §2, 645 §3, 650 §1, 653 §2, 655, 657 §2, 658, 659 §§ 2-3, 663 §3, 667 §1, 668 §§2-5, 669 §1, 684 §4)
- **Chapters** (cc. 596 §1; 631-633);
- **Superiors**: their nature, constitution, and those things to be carried out or seen to by them (cc. 592, 596, 608-609, 616, 617-620, 622-630, 636, 638, 639, 641-642, 644, 645, 647, 650, 653, 661, 665, 668, 671, 672, 677, 678, 679, 681, 682, 684, 686-691, 694-699, 703);
- **Councils** and those things for which their advice or consent must be sought (cc. 627, 638 §3, 647 §§1-2, 656 3°, 665 §1, 684 §1, 686, 688 §2, 689 §1, 690, 691 §1, 694 §2, 696, 699, 703);
- Financial Administrators (cc. 636, 638, and the obligations of Book V);
- Director of Novices (cc. 651-652);
- Provinces (c. 621);
- Novitiates (c. 646-650);
- Temporary Profession (cc. 654-657);
- Perpetual Profession (c. 658);
- Public Vows [to observe the evangelical counsels] (cc. 598-601, 654);
- Religious Houses (cc. 665, 667; constituted, c. 608; established, cc. 609-611, 616).

Of primary importance regarding the governance of religious is Canon 586<sup>4</sup>:

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

§2, It is for local ordinaries to preserve and safeguard this autonomy.<sup>5</sup>

In other words, each institute enjoys a rightful autonomy of life, particularly with regard to governance through which it orders its life and ensures the proper discipline of its members. The preceding thirteen canons, the initial canons for the section on Consecrated life and the norms common to all institutes of consecrated life, discuss the essentials of consecrated life – profession of the evangelical counsels and their meaning and gift in the Church, the freedom of the state of life, its purpose and spirit, the defining patrimony, how these institutes may be in relation with the Church either as pontifical or diocesan institutes, and who the competent authority is to divide, fuse, aggregate, or suppress parts or the whole of these institutes. This canon (586), the first real structural reference, must always be kept in mind when assessing the governance structure of a religious institute. The primacy is for autonomy.

## **1.2 THE SUPERIOR**

We do not see the word "superior" until canon 596 §1<sup>6</sup>, which says "Superiors and Chapters of institutes possess that power over the members which is defined in universal law and the constitutions." But in canon 592<sup>7</sup> we were exposed to a "supreme Moderator" who is accountable to the Holy See (§1) and has members entrusted to her/him (§2). Structurally speaking, we now have a supreme moderator, superiors, chapters, and constitutions. Chapters and constitutions will not be within the scope of this paper, but with the focus on styles of governance, we will spend more time with the concept and roles of superiors in general, as well as the role of the council.

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<sup>4</sup> The comparable canon in the CCEO [*Codex canonum Ecclesiarum orientalium auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctus*, Libreria editrice Vaticana, 1995, English translation *Code of Canons of the Eastern Churches: Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, Canon Law Society of America, 2001] might be canon 557, "Governance is to be determined by the statutes of the society but, in all matters, the norms that have been established in cc. 422 and 511-515 are to be applied, unless the nature of the matter prevents it;" there is no explicit reference to autonomy.

<sup>5</sup> *Codex iuris canonici auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione et indice analytico-alphabetico auctus*, Libreria editrice Vaticana, 1989, English translation *Code of Canon Law: Latin-English Edition, New English Translation*, prepared under the auspices of the CANON LAW SOCIETY OF AMERICA, Washington, Canon Law Society of America, 1999. This translation is used for all subsequent citations of the canons of the 1983 Code unless otherwise noted.

<sup>6</sup> The corresponding canon in the CCEO is canon 511 §1.

<sup>7</sup> The corresponding canon in the CCEO is canon 419.

So far, we have a superior with authority over members, namely a supreme moderator, who is also to liaise with the Holy See. The next thing we learn is in canon 608, that a "religious community is to live in a lawfully constituted house, under the authority of a Superior designated according to the norms of law." It is important to note what the canon does not say; it does not say that there is to be a superior "in" every community, but that each community has a superior designated according to the norms of law – i.e. proper law. The autonomy of governance is still operable.

Beginning with canon 617, the office of superior is defined: "Superiors are to fulfill their office and exercise their power according to the norm of universal law and proper law." "The *superiors* are the intended subjects of the norm. Here they have been taken in the strict sense, as physical persons who, by virtue of their office, in their own name or in another's, fulfill for the benefit and in the service of their communities the functions of *magisterium*, governance, and sanctification, and exercise their religious power pursuant to the law."<sup>8</sup> Of primary importance in this canon is the explicit reference to the personal power or authority of the superior. We will see this as we move into the next canons on the superior, but this is a critical point to note and has been consistently and continually affirmed by the Holy See.

Canon 618, Superiors are to exercise their power, received from God through the ministry of the Church, in a spirit of service. Therefore, docile to the will of God in fulfilling their function, they are to govern their subjects as sons or daughters of God and, promoting the voluntary obedience of their subjects with reverence for the human person, they are to listen to them willingly and foster their common endeavor for the good of the institute and the Church, but without prejudice to the authority of superiors to decide and prescribe what must be done.<sup>9</sup>

Without getting into the debate of what kind of power is expressed in this and the preceding canon – jurisdiction, dominative, ecclesiastical – and the lay power of governance<sup>10</sup>, we shall leave it as the Code is clear in using the term *potestas* in this case.<sup>11</sup> Also, it is important to note that *all Superiors*, relative to their office, have the power referred to in c. 131 as articulated in c. 596 §1.

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<sup>8</sup> D.J. ANDRÉS, Commentary, in Á. MARZO, J. MIRAS, and R. RODRÍGUEZ-OCAÑA (eds.), *Exegetical Commentary on the Code of Canon Law*, prepared under the responsibility of the MARTÍN DE AZPILCUETA INSTITUTE, English language ed., E. CAPARROS (ed.), Montréal, Canada, Wilson & Lafleur, 2004, vol. II/2, p. 1617.

<sup>9</sup> Emphasis mine.

<sup>10</sup> As always, the reference to J.P. BEAL, "The Exercise of the Power of Governance by Lay People: State of the Question," in *J*, 55 (1995), pp. 1-92, cannot go unmentioned, as well as the J.M. HUELS, "The Power of Governance and its Exercise by Lay Persons: A Juridical Approach," in *StC*, 35 (2001), pp. 59-96, article which seems to resolve the question in favour of the lay exercise of governance.

<sup>11</sup> It is interesting to note that in the CLSGB & I translation of the Code, *potestas* is consistently translated as "authority" in this section. Perhaps this is to avoid the whole questions or controversy over the lay exercise of power.

Both "power" (*potestas*) and "authority" (*auctoritas*) are used in this canon; therefore a distinction needs to be made. "Power is the ability or capacity to act. All power, whether natural, physical, intellectual, or spiritual, has its source in God"<sup>12</sup> – as noted in the canon. Authority, Smith continues, "connotes the possession or use of a power whose exercise is grounded in some moral or legal right. Superiors possess power by virtue or their office, and they are to exercise their authority in accord with its purpose."<sup>13</sup> Although not contrasting the definition of authority with power, Linscott suggests that authority also derives from a divine source, for service and the sake of the mission, "conferred for the achievement of the goals of the congregation."<sup>14</sup> Essential for the exercise of authority is that it also derives from the approved constitutions of the institute.<sup>15</sup> Both Smith and Linscott attribute the authority of religious superiors directly to the vow of obedience, they are innately connected, neither can be taken in isolation. "Whether one has authority in an institute or not, one cannot either command or obey without reference to mission" (*PI 15*)<sup>16</sup>. The interrelatedness of these two elements [authority and obedience] has received much thought and ink in the past year and will not be revisited here.<sup>17</sup> Let it be enough to say that each depends completely upon the mission of the institute and finds its source there; authority is at the service of mission and obedience is at the service of mission, they are not at the service of one for the sake of other.

To continue with c. 618, the disposition of how religious superiors are to exercise this power is clear. First, it is a ministry of service. This is taken directly from *Perfectae caritatis* 14, which states that superiors "should exercise authority [*auctoritas*] in a spirit of service of their sisters or brothers, thus reflecting God's love for them."<sup>18</sup> The relationship of the superior with the members is likened to that of God's representative toward Children of God, and members are as brothers and sisters.<sup>19</sup>

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<sup>12</sup> R. SMITH, "Exercise of Authority," in J.P. BEAL, J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CANON LAW SOCIETY OF AMERICA, New York/Mahwah, NJ, Paulist Press, 2000, p. 781.

<sup>13</sup> Ibid.

<sup>14</sup> M. LINSOTT, "Leadership, Authority, and Religious Government," in *RfR*, 52 (1993), p. 168.

<sup>15</sup> See *ibid.*

<sup>16</sup> CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Directives on Formation in Religious Institutes *Potissimum institutioni*, 2 February 1990, in AAS 82 (1990), pp. 472-532, English translation in *Origins*, 19 (1989-1990), pp. 677, 679-699.

<sup>17</sup> See CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, The Service of Authority and Obedience *Faciem tuam*, 11 May 2008, in *Origins*, 38 (2008-2009), pp. 65-83 – and the various commentaries following its publication. The March/April 2009 issue of *Vita consacrata* is completely dedicated to articles commenting on *Faciem tuam*.

<sup>18</sup> SECOND VATICAN COUNCIL, Decree on the Up-to-Date Renewal of Religious Life *Perfectae caritatis*, 28 October 1965, in AAS, 58 (1966), pp. 702-712, English translation in FLANNERY I, pp. 385-401.

<sup>19</sup> The term *subject*, used only in this canon, is reminiscent of the 1917 Code (see CIC/17, c. 501, §1), and reflects a hierarchical relationship which was affirmed with the image of a parent-child relationship used to define that of superior-subject. It is unfortunate that "subject" is used in this canon, which is clearly inconsistent with the disposition evoked throughout its remainder. Following canons abandon the term *subjects*, to be replaced with *members*.

"The authority of the religious superiors comes from the Spirit of the Lord in connection with the Sacred Hierarchy, which has canonically established the Institute and has genuinely approved its specific mission" (*MR 13*)<sup>20</sup>. The canon and reiteration of the 1978 document, *Mutuae relationes*, is significant in rooting the power of the religious superior as coming from God, and affirming and acknowledging this by the hierarchical authority of the Church. Also fundamental in this canon is the reference to this power, or authority, as it is repeatedly referred to in various documents, as a service. Not only must it be exercised in a "spirit of service," but it is indeed an office truly at the service of the institute, its members and mission, the Church, and the people of God.

This exercise of authority received from God, is at the service of discernment and communion (*VC 92*)<sup>21</sup>, rendered for the good of the institute, its members and its mission, and is to be exercised through the personal authority of the superior. As previously mentioned, this can be seen through a number of ecclesial documents and instructions. These various documents will be cited throughout this paper and help to inform us of the disposition of the Holy See with regard to the structures of governance for religious institutes. Considering the nature of the superior we can note the following interventions.

- The importance which the role of authority plays for the benefit of all "must be reaffirmed as essential for strengthening fraternal communion ... While authority must be above all fraternal and spiritual, and while those entrusted with it must know how to involve their brothers and sisters in the decision-making process, it should still be remembered that *the final word belongs to authority* and, consequently, that authority has the right to see that decisions taken are respected" (*VC 43*).
- "An authority conducive to unity is one concerned to create a climate favorable to sharing and co-responsibility; to encourage all to contribute to the affairs of all; to encourage members to assume and to respect responsibility; to promote, by their respect for the human person, voluntary obedience; to listen willingly to the members, promoting their harmonious collaboration for the good of the institute and the church; to engage in dialogue and offer timely opportunities for encounter; to give courage and hope in times of difficulty; to look ahead and point to new horizons for mission" (*FL 50*)<sup>22</sup>.

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<sup>20</sup> CONGREGATION FOR BISHOPS AND CONGREGATION FOR RELIGIOUS AND FOR SECULAR INSTITUTES, Directives for Mutual Relations Between Religious and Bishops *Mutuae relationes*, 14 May 1978, in AAS, 70 (1978), pp. 473-506, English translation in FLANNERY2, pp. 209-243.

<sup>21</sup> See JOHN PAUL II, Post-synodal Apostolic Exhortation on Consecrated Life *Vita consecrata*, 25 March 1996, in AAS, 88 (1996), pp. 378-486, English translation in *Origins*, 25 (1995-1996), pp. 681-719.

<sup>22</sup> CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Instruction on Fraternal Life in Community *Congregavit nos*, 2 February 1994, no. 2, in *Enchiridion Vaticanum*, vol. 14, pp. 220-283, English translation in *Origins*, 23 (1993-1994), pp. 693, 695-712.

Canon 619<sup>23</sup>, Superiors are to devote themselves diligently to their office and together with the members entrusted to them are to strive to build a community of brothers or sisters in Christ, in which God is sought and loved before all things. Therefore, they are to nourish the members regularly with the food of the word of God and are to draw them to the celebration of the sacred liturgy. They are to be an example to them in cultivating virtues and in the observance of the laws and traditions of their own institute; they are to meet the personal needs of the members appropriately, solicitously to care for and visit the sick, to correct the restless, to console the faint of heart, and to be patient toward all.

Within these canons we can see the incorporation of the conciliar teaching which promotes a greater participation of the members in internal governance (*PC* 4 and 14). "Superiors are to be open to the insights and opinions of the members, and are to foster the good of the institute and the Church. ... Although superiors have a personal responsibility to each member, they need not always exercise this responsibility personally. Superiors themselves, or the institute's proper law, may designate other persons or structures at various levels of the institute to assist the superior in serving the members."<sup>24</sup>

The foundation of the office of superior consists in the duties or rights fundamental to all members. And while all in the institute share many of these responsibilities by virtue of membership, the superior has a particular responsibility by virtue of the office. "These obligations are placed on superiors precisely because of the experiential knowledge that, although each member of any institute should *theoretically* be afforded these considerations by other members of the institute, such is *practically* not always the case."<sup>25</sup>

In canon 619 we see the intention of linking the office of superior more closely to its evangelical roots and therefore to the service of the spiritual progress of members and the building up of fraternal life in community (*FL* 49). The canon clearly illustrates that the "superior's main task will be the spiritual, community and apostolic animation of his or her community" (*FL* 50). At the same time, the obligation of the superior to "meet the personal needs of the members appropriately," corresponds to the obligation of the institute and right of the member expressed in canon 670.<sup>26</sup>

The Instruction on consecrated life in the third millennium *Starting Afresh From Christ*, articulates the primary role of the service of authority with relation to the mission of the institute. Just as it is the duty and prerogative of "the competent authority of the

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<sup>23</sup> The corresponding canon in the CCEO is canon 421, with the last sentence being almost identical.

<sup>24</sup> R. SMITH, "Exercise of Authority," in J.P. BEAL, J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CANON LAW SOCIETY OF AMERICA, New York/Mahwah, NJ, Paulist Press, 2000, p. 781.

<sup>25</sup> E. McDONOUGH, "Juridical Deconstruction of Religious Institutes," in *StC*, 26 (1992), pp. 312-313.

<sup>26</sup> Canon 670, An institute must supply the members with all those things which are necessary to achieve the purpose of their vocation, according to the norm of the constitutions.

Church ...to take care that the institutes grow and flourish according to the spirit of the founders and sound traditions,"<sup>27</sup> this is ensured through a proper understanding of the role of the superior as elaborated by the Holy See.

In rediscovering the meaning and quality of consecrated life a fundamental task is that of superiors, to whom the service of authority has been entrusted, a demanding and at times disputed task. It requires a constant presence which is able to animate and propose, to recall the *raison d'être* of consecrated life, and to help those entrusted to them to live in a constantly renewed fidelity to the call of the Spirit. A superior cannot renounce the mission of animation, of brotherly/sisterly support, of proposing, of listening and of dialogue. Only in this way can the entire community find itself united in full communion and in apostolic and ministerial service. (14)<sup>28</sup>

There are some other points that are important to note about the nature and constitution of superiors, informing us of values therein. First, according to canon 624<sup>29</sup>, superiors are to be constituted for a certain period of time – and the duration of that period is left to the proper law of the institute. This norm is not limited to supreme moderators<sup>30</sup> or major superiors, but for all who serve in the office of superior. There are several values relayed here. It is not the nature of any institute to maintain itself, and while the service of internal governance is necessary and good, members must be free and available for the mission of the institute. This canon supports the mobility of persons who serve the needs of the institute through the ministry of governance and seeks to "free the superiors from the possible difficulties implied by an excessive time in office that could dull their own spirit."<sup>31</sup> We know that when there is circulation as opposed to stagnation in governance it benefits the health of the superiors, all of the members, and the institution as a whole. Stemming from this is the value that extends the responsibility of participating in the tasks of governance to all of the members, "without attachment and in the spirit of service and generosity."<sup>32</sup>

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<sup>27</sup> Canon 576.

<sup>28</sup> CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE, Instruction on consecrated life in the third millennium *Starting Afresh From Christ*, 19 May 2002, Vatican City, Libreria editrice Vaticana, 2002, English translation in *Origins*, 32 (2002-2003), pp. 129, 131-148.

<sup>29</sup> The corresponding canon in the CCEO is canon 514, which, other than changing the order of the paragraphs, contains the same requirements.

<sup>30</sup> According to §1 of the canon, the constitutions of an institute, because of its nature, could constitute that the supreme moderator would hold office "for life" or for an indefinite time. The ideal of the canon is honored because the one elected knows this when entering the office – a certain, or previously determined, period of time; and the autonomy of the internal governance of the institute is preserved based on the nature of the institute.

<sup>31</sup> D.J. ANDRÉS, Commentary, p. 1641.

<sup>32</sup> Ibid.

Canon 625<sup>33</sup> directs the designation of superiors. For the office of supreme moderator (§1), canonical election – according to the norm of the constitutions – is the manner established. "All other possible methods are rejected and the need for confirmation by the Holy See is suppressed."<sup>34</sup> The issue must be regulated in the constitutions. But this is all of the direction that is given in the canon: canonical election, defined by the constitutions. Autonomy of governance is respected (c. 586), and the predominant phrase in the canon is "according to the norm of the constitutions." The manner for constituting other superiors is left to the norms of the constitutions (§3) – merely articulating that in the case of an election, confirmation by the competent major superior would be required, and in the case of appointment, a suitable preceding consultation would be required. The values of mutual accountability and unity of the whole are expressed in this simple and seemingly regulatory norm.

### **1.3 THE COUNCIL**

**Canon 627<sup>35</sup>** §1, According to the norm of the constitutions, superiors are to have their own council, whose assistance they must use in carrying out their function.

§2, In addition to the cases prescribed in universal law, proper law is to determine the cases which require consent or counsel to act validly; such consent or counsel must be obtained according to the norm of c. 127.

The Code leaves the composition of the council to the constitutions of each institute, as well as the manner of operating and the qualifications for the role of councillor. In cases prescribed by law, superiors will be aided by their respective councils, but the presence of the councils still leaves intact the personal power of the superiors in governance. The actions taken after receiving the necessary advice or consent are actions of the superior and not of the council. "The requirements of advice and consent are intended to serve the good of the community by bringing to the decision-making process a wider range of knowledge and experience, thereby preventing ill-advised or arbitrary actions regarding the members and the goods of the institute."<sup>36</sup> This concept of a council is not a means to take over the governance of the institute, "but to condition and collegially amplify the personal power of the superior, and to be a guarantee of objectivity, impartiality, collaboration, and prudence in religious governance, especially when it is a matter of special importance, gravity, or of general interest."<sup>37</sup>

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<sup>33</sup> The corresponding canon in the CCEO is canon 515. The canon does not cite the use of a "canonical election" for the superior general, but includes an additional paragraph directing the canons to be observed in elections.

<sup>34</sup> D.J. ANDRÉS, Commentary, p. 1645.

<sup>35</sup> The corresponding canon in the CCEO is canon 422 §1.

<sup>36</sup> R. SMITH, "The Governance of Institutes," in J.P. BEAL, J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CANON LAW SOCIETY OF AMERICA, New York/Mahwah, NJ, Paulist Press, 2000, p. 790.

<sup>37</sup> D.J. ANDRÉS, Commentary, p. 1651.

"Indirectly, in view of its structure, the legislator invalidates the unfounded claim of turning the community into a council, in every case, and for every issue. He has revalidated the traditional council."<sup>38</sup> Having a "community council" would surely be unwieldy at the least and paralyzing at the most. And of great relevance today, the protection of each member's right to privacy could be compromised with such a structure. At the same time, no individual who functions in the office of superior can "be expected to possess all the broad experience, the relational skills, the intellectual knowledge, the native intuition and the practical reasoning necessary for prudential and effective governance. ... Councils provide a frequent and advisory "balance" to their exercise of authority in the regular governance of the institute."<sup>39</sup>

Although they work in concert, there are two distinct elements of the structure of governance in operation: the superior and the council. Shortly we will be discussing the "team" approach to governance, but it is important to note that in the canonical structure the superior is not a councillor – she does not advise herself or give herself juridic consent. But the superior is obliged to have and use a council according to proper and universal law.

Two relevant questions and their answers inform our understanding of the parameters of the superior and the council. The first, a 1972 decree of the Congregation for Religious and for Secular Institutes responded to the question: Whether, contrary to canon 516<sup>40</sup>, an exclusive and collegial form of ordinary government can be rightfully admitted for a total religious institute, or for a province, or for individual houses in such wise that the superior, if one is had, is merely an executor? The response was negative. "According to the mind of the Second Vatican Ecumenical Council (*Perfectae caritatis*, 14) and the papal exhortation, *Evangelica testificatio* n. 25,<sup>41</sup> superiors must possess personal authority with consideration had of legitimate consultation and the limitations placed by both common and particular law."<sup>42</sup> The second was posed to the Pontifical Commission for the Authentic Interpretation of the Code of Canon Law regarding canon 127: When the law requires that the superior must have the consent of the council or of a body of persons in order to act, in keeping with canon 127 §1, does the superior have the

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<sup>38</sup> Ibid., p. 1650.

<sup>39</sup> E. McDONOUGH, "Juridical Deconstruction of Religious Institutes," p. 313.

<sup>40</sup> CIC/17, c. 516 §1, "The Supreme Moderator of a religious [institute] or monastic Congregation, the provincial or local Superior, or at least [the Superior] of a house of formation, shall have counselors, whose consent or advice is necessary according to the norm of the constitutions and the sacred canons." *Codex iuris canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus*, Typis polyglottis Vaticanis, 1917, English translation E.N. PETERS (ed.), *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001.

<sup>41</sup> PAUL VI, Apostolic Exhortation on the Renewal of the Religious Life *Evangelica testificatio*, 29 June 1971, in AAS, 63 (1971), pp. 497-526, English translation in *CLD*, 7, pp. 425-449.

<sup>42</sup> CONGREGATION FOR RELIGIOUS AND FOR SECULAR INSTITUTES, Decree on the form of ordinary government *Experimenta circa*, 2 February 1972, in AAS, 64 (1972), pp. 393-394, English translation in *CLD*, 7, pp. 484-485.

right of voting with the others, at least to break a tie? The response was negative.<sup>43</sup> In these two replies we see that the personal authority of the superior is not negotiable or dispensable, and neither is the effectiveness of the council, which cannot be mitigated by the vote of the superior.

Just as the Code leaves the composition of the council up to the institute and its proper law, the Code also leaves quite a bit of room for autonomy in the structural use of the council. The proper law could require that the council needs to give consent for some or every case where the universal law requires at least the advice of the council, therefore enhancing the "team" approach to governance. Also left to the discretion of the institute is the possibility of adding cases of collegial execution by the superior and council.<sup>44</sup> There are two main cautions, 1) some decisions must be made quickly, if the structure requires a gathering of three to seven people for every action, it could be very cumbersome, and 2) some matters are highly confidential and personal, the privacy of the individual religious must take precedence over "group leadership," the individual must have the right to confide in and settle the matter (insofar as reasonable) with the superior alone.

Although not elaborated upon in this paper, we cannot forget that canon 627 §2, obliges compliance with canon 127 in the use of the council's advice or consent: they must be assembled (unless proper law states otherwise for cases of advice only); for consent, an absolute majority of those present must give consent; "all whose consent or counsel is required are obliged to offer their opinions sincerely"; and where necessary, the canon provides for the requirement of secrecy. The converse of this, particularly of the third point, is that those being consulted need to be given enough information to participate intelligently in the decision-making process.

As the use of the council is essential in exercising authority in governance, it cannot replace a broader consultation with the members of the institute.

A personal and confident participation in the community's life and mission is required of all its members. Even if, in the end, according to proper law, it is the task of authority to make choices and decisions, daily living in community requires a participation which allows for the exercise of dialogue and discernment. Each individual, then, and the whole community can work out their own life with the plan of God, together carrying out God's will. Co-responsibility and participation are also exercised even in various types of councils at various levels, in order to ensure the constant presence of the Lord who enlightens and guides. (*Starting Afresh from Christ*, 14)

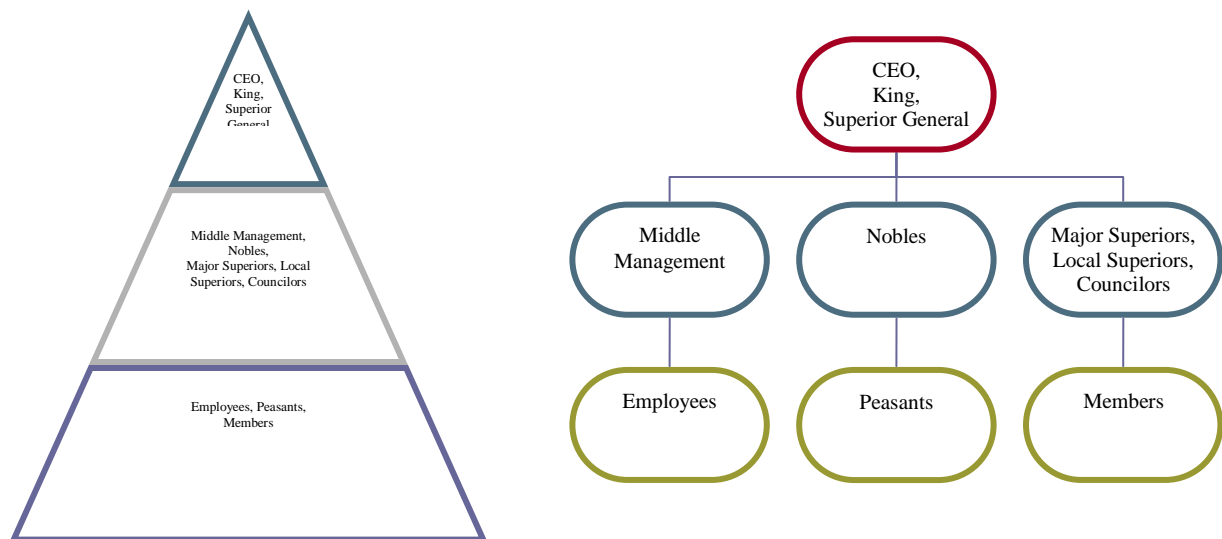
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<sup>43</sup> PONTIFICAL COMMISSION FOR THE AUTHENTIC INTERPRETATION OF THE CODE OF CANON LAW, Replies, in AAS 77 (1985), p. 771, English translation in RR 1986, p. 91.

<sup>44</sup> There is only one instance (outside of a Chapter), c. 699 §1, where a collegial vote of the supreme Moderator and council is required, as well as a minimum number of councilors.

## 2.1 THE HIERARCHICAL MODEL

Originally, "hierarchy" meant "rule by priests." Since hierarchical churches such as the Roman Catholic and Eastern Orthodox churches had tables of organization that were "hierarchical" in the modern sense of the word, the term came to refer to similarly organized models in more general settings. Currently, a hierarchy is used to denote any body of individuals arranged or classified according to capacity, authority, position, or rank. Officers in government, for example, form a series of ranks increasing in degrees of power, and each rank is subject to the authority of the one on the next level above. In a majority of hierarchical arrangements, there are a larger number of people at the bottom than at the top. This being the case, the hierarchical model can be often illustrated by the pyramid, and some would even call it a "pyramid of power." It is an organizational chart often found in businesses, schools, governments, the church, and even the family.



Because of a history where there might have been an abuse of power, the use of the term 'hierarchy' can bring with it many images and much baggage. Some assumptions that come with the hierarchical model are: there is a limited amount of power and therefore needs to be concentrated into a small group to be effectively administered – an elitist model at its core; the leaders believe they will use this limited power for the good of the whole in "trickle-down" fashion; there are layers of "insulation" between the leader and the members; only the leaders make the decisions and are truly responsible; "middle management" has no real authority, but exercises delegated authority over a certain portion of the whole; there is an increase in disorder because of managerial attempts to control; the members are responsible to the leaders, but the leaders are not necessarily accountable to the members; any freedom the members have is granted by the leaders and can be taken away – they are not individual rights. With the pyramid, the movement is up; those at the bottom are presumably trying to move up; and those in positions of authority want to continue to "climb the corporate ladder," because it is good at the top. Therefore, internal competition can emerge through a perceived limited room for advancement. In my reading

I have seen an almost visceral hatred for hierarchy in any form, not only from church entities and religious institutions, but from academic settings and business environments alike.

The presumption is that any structure that functions within the hierarchical church must be a form of hierarchy. The repulsion from oppression and abuse of power as experienced in the church by many women and religious has led religious to move as far away as possible from anything and everything that looks and functions like the basic hierarchical model. This did not go unnoticed, nor was the motivation brought into question.

The desire for deeper communion among the members and an understandable reaction against structures felt as being too rigid and authoritarian have contributed to a lack of understanding of the full scope of the role of authority; indeed, some consider it to be altogether unnecessary to community life, and others have reduced it to the simple role of coordinating the initiatives of the members. As a result, a certain number of communities have been led to live with no one in charge while other communities make all decisions collegially. All of this brings with it the danger, not merely hypothetical, of a complete breakdown of community life; it tends to give priority to individual paths, and simultaneously to blur the function of authority – a function which is both necessary for the growth of fraternal life in community and for the spiritual journey of the consecrated person. (*FL 48*)

## **2.2 THE ORGANIC MODEL**

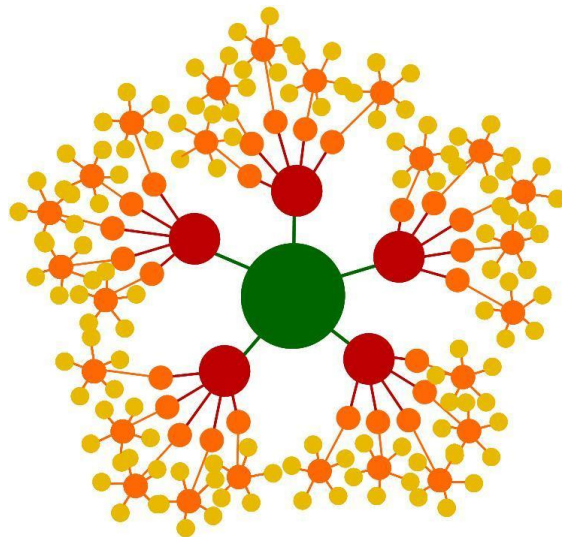
The organic model, which has also been called the natural hierarchy, can best be expressed with the image of the circle because it symbolizes inclusivity, as opposed to the pyramid "which represents exclusivity."<sup>45</sup> The circle becomes the antithesis of the pyramid, as this and the next two models are founded on the circular image. In the organic model, authority comes from the group, and the group has the power to create. The group chooses the leaders to take on certain functions on behalf of the group. The members are invited to identify leaders and call them forth for service for the whole. Fundamentally, in the organic model, authority is closely tied to service. Presumptions in this model are: responsibility is shared by all – an adult community model; participation is an obligation, according to one's ability, and certain responsibilities are delegated to leaders; leaders are accountable for their exercise of delegated power and authority, and members are accountable for their exercise of participation; interdependence is highly operative and all need to be aware of the effects of their decisions and actions upon the other members and the whole; individuals possess certain freedoms as rights that cannot be taken away, but can give up the exercise of those rights for the greater good.

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<sup>45</sup> C. M. HARMER, "Governance in Religious Congregations," in *HD*, vol. 16, no. 1 (1995), p. 26.

The principal role of leaders is as conduits of information and resources. Leaders and members must learn how to operate with group intelligence instead of relying only upon leadership for functional decision-making, thereby enhancing cooperation. By encouraging everyone to participate, the theory guarantees that no rocks will be left unturned in the quest for the best solutions and most innovative ideas. Leaders are now in the middle instead of on top, as their roles have shifted to maintaining the gravitational pull that binds their organization. These leaders receive information from the edges of the organization, collate the ideas, and then allocate resources as coherently as possible. They stay focused on the big picture and are the core leaders and mentors, sharing their wisdom and knowledge, and most importantly, their generosity of time.

Next-level leaders are the mentors and guides for the representatives from the team clusters or local communities. These team leaders then sponsor the growth and development of their members, extending a culture of self-leadership. Continuous improvement and evolution is the domain of these self-managed teams at the edge of chaos. And the thread of leadership to the center supports frontline initiatives and enables flexible allocation of resources according to evolutionary demands. Because humans will always utilize hierarchy to measure personal growth and capabilities, just as nature has hierarchies of plant and animal systems, the fractal organization of the organic model provides a continuum for personal progress through various stages of responsibility in an atmosphere of cooperation and support for each individual's creative contributions.<sup>46</sup>



One expression of this model is the "linking pin" concept. In this model, used in a religious institute, a member of a local group or community would be a representative to and a member of the next level – perhaps a regional council. Next, a member from each regional council might make up a provincial council. Finally, the general council would have members from each of the provincial councils. This approach "fosters an immediate

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<sup>46</sup> See <http://www.strategems.com/fractalorgcharts.htm>, viewed 14 September 2009.

advance in the area of knowledge. Information can flow in all directions through the various circles by means of the members who serve as the linking pins."<sup>47</sup> In this model, there is no group of decision makers detached from the realities of life. Each of the members who serve as the linking pins has an additional function of accountability to the council in which they participate and the groups that they represent. The fundamental task of these individuals is to facilitate the work of all the members and all of the decision bodies. Sharing of resources becomes easier because the information at the primary level is shared and decisions are not made in isolation. Ideally, the basis for decision making "becomes the values and mission of the whole and the policies that are in place to facilitate both the achievement of those values and the fulfillment of the mission."<sup>48</sup>

The praiseworthy effort to find an exercise of authority and obedience which affirms, enlightens, brings together, integrates and reconciles, more closely inspired by the Gospel, is appreciated. (*Starting Afresh From Christ*, 7)

Community discernment is a rather useful process, even if not easy or automatic, for involving human competence, spiritual wisdom and personal detachment. Where it is practiced with faith and seriousness, it can provide superiors with optimal conditions for making necessary decisions in the best interests of fraternal life and of mission. . . . When a decision has been made in accordance with the procedures established by proper law, superiors need perseverance and strength to ensure that what has been decided not remain mere words on paper. (*FL* 50)

In the consecrated life *the role of Superiors*, including local Superiors, has always been of great importance for the spiritual life and for mission. In these years of change and experimentation, the need to revise this office has sometimes been felt. But it should be recognized that those who exercise authority *cannot renounce their obligation as those first responsible* for the community, as guides of their brothers and sisters in the spiritual and apostolic life. (*VC* 43)

In its application to religious governance, this model provides some very positive elements. With the expectation of mentoring by leaders, it encourages and empowers members to take both responsibility and initiative regarding their own life and the mission of the institute. Also, this mentorship facilitates an expanded pool of members prepared for and willing to assume roles of leadership. Some areas that need to be approached with caution would be to not get too bogged down with the process of consultation so as not to be able to function. Clarity of roles and responsibilities would be essential so that leadership can do the work for which they were appointed.

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<sup>47</sup> C. M. HARMER, "Governance in Religious Congregations," in *HD*, vol. 16, no. 1 (1995), p. 27.

<sup>48</sup> C. M. HARMER, "Governance in Religious Congregations," in *HD*, vol. 16, no. 1 (1995), p. 28.

The "linking pin" expression of the organic model can be very effective in a smaller institute. Some issues might need clarification before implementing such a model. Is the "link-pin person" a representative of their group of origin – from a local group to a regional or provincial group? Theoretically, a person is a representative of their local group to the regional group, from their regional group to the provincial group, from their provincial group to the general group. When they are at these various groups, which group are they actually representing? In this model, can the general council or group truly have a picture of the whole institute, or is each member present merely seeking the authority and resources to do what needs to be done in their sector? Does the linking pin person have the authority to make decisions at the various levels? Or are others given the responsibilities of the "superior" at each level and the linking pin person is a representative of that body?

### **2.3 THE CIRCULAR MODEL**

The circular model is based on the primal shape and the notion that early cultures gathered in wisdom circles. This also follows the trend of moving away from hierarchy in organizations to an egalitarian approach with each person offering their gifts for the common good. In these circles leadership is shared and located around the rim, the center contains the collective wisdom of those gathered as well as the transcendent dimension of the Sacred. In this model, it is acknowledged that the whole is greater than the sum of its parts and decisions are made based on consensus. The presumptions for this model are: leadership is shared "around the rim" and the collective wisdom is what is most valued; decisions are made by consensus, if no consensus is reached, the issue is tabled for future consideration; inclusivity is a priority and diversity is celebrated; consultation of all is essential and various tasks are delegated.

The focus of the circular model is the manner in which the leadership team, those around the circle, interact and interrelate. This model presumes, but does not explicitly express, the inclusive consultation of the body being governed. It strictly speaks of the dynamic of the leadership team.

The expression of this model in religious institutes would be a collegial team in which each member has a certain task with regard to the body being governed – i.e. one member of the team would be in charge of apostolates, another of community life, another of temporal goods, another of healthcare of members, and so on. A team can function with a spirit of collegiality, but again, the expectation is for the two elements – superior and council – to work together, yet with distinct roles. There is nothing that would prohibit councillors from being given the responsibilities for various aspects of the life of the institute, divided in the manner stated above. But there is a need for someone to have a true picture of the whole of the institute, the life of the members, and the vision of the mission as lived out in the world and in the church.

There are institutes where no one is formally named as "the superior." To fulfill the law, the competent authority in the institute might write the name of one of the team members as being the superior, but among the team, it is not known who that person is. Some issues that might arise from this, other than the fact that the Holy See has made it

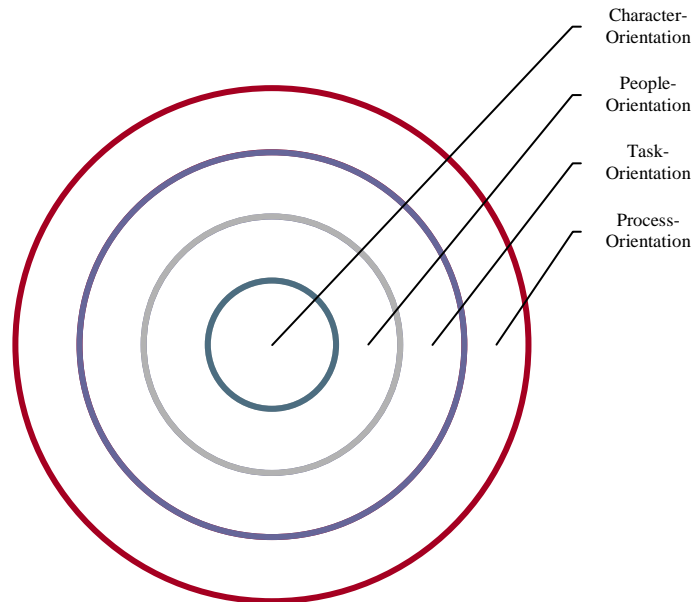
clear that there needs to be a designated superior, have to do with civil structures. Who is the legal representative of this civilly incorporated structure? Various team members can be the chair of boards for the corporations owned by the institute, but who is the official for the institute? Another issue would be that no one person has the whole picture of the state of the province or congregation and its members. If a member has an issue with their ministry, they would report to the person in charge of apostolates, but this may also have implications for the community life situation, or vice versa. Who is to resolve the issue and the various subsequent issues that may arise? And finally, the right of privacy of the members must be a priority. The member has a right to deal with one person in confidence and not have personal issues brought to a committee. But if no one person has the authority to resolve the issue, how can this right to privacy be honoured? Also, if no one is established as "the leader," one will emerge and it may not always be the person that will bring out the best in the group.

Another strong caution must be mentioned with regard to the use of consensus in both leadership circles and community functioning. Consensus is often confused with unanimity. To make a decision by consensus is to use a particular process that enables all to be supportive of the decision. Consensus does not mean a majority vote or have some mathematical proportion that is needed to say that consensus has been reached. If consensus is understood to mean unanimous acceptance, some issues will never be decided.

## **2.4 THE CONCENTRIC MODEL**

Another circle-based model is the concentric model, which comes out of the "new" (in the last ten years) concept of "Servant Leadership." The irony, of course, is the fact that this has been the model of Christian leadership since the gospels and example of Jesus. Instead of linear cause and effect models, this model is viewed as a series of concentric circles. The innermost circle is the individual leader, who first must master his/her own sense of self-awareness and discipline, hence giving them a "leader's heart." Concentric leadership contrasts a hierarchy by flattening the pyramid. The leader remains the leader, those within the leadership structure occupy their positions, but all become part of the structure in terms of equality that cannot theoretically exist within the separation imposed by traditional hierarchy.

Concentric leadership in principle and practice is designed to promote feelings of equality and togetherness, offering equality of recognition, with everyone being on the same plain, very much like the circular model. This model does not identify people on the basis of subordinates looking up and superiors looking down. Everyone looks at each other in terms of simple sideways or 'across the circle' eye movement. With everyone operating on the same level, communication should be enhanced. The concentric model is characterized by a network of relationships with shared information, shared mission, and continuous learning. The leader must cooperate, coordinate and partner with various members in the circle of relationships, then accomplish tasks and coordinate processes moving outward from these relationships.



The expanding concentric circles are centered on the character of the servant's heart. From this core, the development of servant leadership requires four orientations, which are represented by a sequential outward expansion of the circles. The four circles represent character, people, tasks, and process orientations, as well as the development, practice and influence of servant leadership. Because it is so dependent upon the person of the leader, the concentric model will not work well in distrustful situations. If leaders are on the same plain and operate at the same level as all within the organization, then trust has to be a quality in place. For this model to work, leaders must act and 'live' within a way that encourages trustful responses, and an appreciation by those within that the leader has a job to do.

Unlike the others, this model is about the disposition of the persons in leadership. The first priority is for an enlightened and generous leader or team. The following is the priority of relationships, first with the members, moving outward to co-operators and partners in life and ministry, and to the broader church and society. The final two are objective based, the accomplishment of tasks and processes which move from the tasks to practice and influence. Since the church has always considered (if not practiced) leadership as service, centering this model on the heart of a servant-leader seems redundant for religious life.

## **2.5 SUMMARY**

Today there are very few, if any, pure hierarchies still in use by religious institutes in North America. In line with the structures defined in canon law, as long as there is a designated superior (at the various levels) and an effective council, distinct but in concert with the superior, the "team" approach of leadership is not opposed to governance as

envisioned by the Code and the Holy See. Since the Second Vatican Council religious have conscientiously applied the conciliar principles of collegiality, legitimate diversity, and subsidiarity. For them, the monarchical authority of the past has been replaced by genuine inclusivity and collaboration in governance. Religious have interpreted this principle of collegiality in a broad sense to be more than a sharing of opinions or consultation of the membership, but to be an effective sharing in the responsibilities of the decision-making process. This has stimulated a more positive sense among religious of personal responsibility for their own lives and a more profound dedication to the mission of the institute and therefore the church.

At the same time, strong criticisms have been levied against this movement.

[T]he new leadership team and collaborative model approach of superiors and councils, coupled with the new participative and consensus model functioning of chapters, have in practice created increasingly bureaucratic business management systems primarily operated by middle level committees to replace the former governance structures in the majority of active religious institutes of women in North America. ... Tradition has been abandoned, and the past is perceived as oppressive. Institutes have become business corporations, and governance has become administration. Structures have become participative, and superiors are primarily managers. ... All members are becoming empowered for decision making, although not many members claim responsibility for any particular decision. Obedience is increasingly negotiable, and personal fulfillment dominates most choices. ... Everyone is now somehow accountable, but few (if any) religious are called to accountability by anyone for anything. Communication is the cardinal virtue, and everyone is progressing to self-actualization.<sup>49</sup>

Such assessments urge the use of caution when incorporating business models into religious governance structures. Religious life is unique and its character must not be lost in the redefining of structures. "The supreme rule' of their [religious] life is the following of Christ as revealed in the Gospel.<sup>50</sup> Religious life and structures are to be based on faith and enable religious to be witnesses of the mystery of the church. Government in religious communities is a ministry of service to be exercised in the spirit of the Gospel and with sensitivity to accountability and subsidiarity."<sup>51</sup>

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<sup>49</sup> E. McDONOUGH, "Juridical Deconstruction of Religious Institutes," p. 320, 330.

<sup>50</sup> See c. 662.

<sup>51</sup> P. GRANFIELD, "Changes in Religious Life: Freedom, Responsibility, Community," in *America*, 151 (1984), p. 123.

Each community has its unique character and purpose, which benefits the life of the church. The adoption of particular forms of governance, therefore, should ideally be related to the spirit of the founder and structured to address contemporary challenges of the institute.

Every community has a mission of its own to accomplish. Persons in authority thus serve a community which must accomplish a specific mission, received and defined by the institute and by its charism. Since there is a variety of missions [sic], there must also be a variety of kinds of communities and thus a variety of ways of exercising authority. It is for this reason that religious life has within it various ways of conceiving and exercising authority, defined by proper law. Authority is, evangelically, always service. (*FL* 49)

As reiterated throughout this paper, the autonomy of governance must be respected, preserved, and indeed encouraged. Fundamentally, whatever structures are in place, the character of the institute will be evident in the actual exercise of authority and power. Whether the authority originates from the body of the members (election) or from a competent superior (appointment), how it is exercised depends largely upon the persons in office and the expectations, expressed and unexpressed, of the members and of the leader herself. Structures cannot legislate for the functioning of a team. They can provide a distribution of responsibilities, but they cannot realize the dynamic of people working together. Some individuals and some teams will be very inclusive, inspiring, and cohesive, while others will be less so, regardless of the governance model in place. The establishment and articulation of a governance structure is a means of expressing the expectations by the members as to their desire for how leadership is to function and how membership wishes to be regarded in the process, as well as an acknowledgement and response to the needs of the institute and the members in the current time (and hopefully considering projected needs of the future). Ultimately reassessment of structures is an attempt to find that balance between aspirations and capacity without getting swallowed up or mired in the daily contingencies of governance.

### **3.1 CURRENT DEMOGRAPHICS**

The Center for Applied Research in the Apostolate published a study in August of 2009. The purpose of their study was to assess the trends and best practices for vocation ministry for religious life as a resource for the National Religious Vocations Conference in the United States. Useful for our purposes is the current age statistics of men and women religious in the United States. These numbers can easily be considered as reflecting the Canadian situation as well. The responding entities in the CARA study account for 62,250 men and women religious, a number they attest is well over 80 percent of all women and men religious in the United States. To be precise, CARA attributes this number to *The Official Catholic Directory 2009* which gives the statistics: 13,428 religious priests; 4,905 brothers; 60,715 sisters = 79,048 in total – making the CARA statistics account for 79% of the US religious.

	United States (2009)	Canada (2008) <sup>52</sup>
Sisters	60,715	18,324 <sup>53</sup>
Brothers	4,905	1,485
Religious Priests	13,428	2,903

**Age Distribution and Median Age for Members with Perpetual Vows<sup>54</sup>**  
*Percentage in each category:*

	All	Men	Women
Under 40	1%	3%	1%
40-49	3	8	2
50-59	8	14	6
60-69	23	24	22
70-79	31	28	32
80-89	24	19	26
90 and over	10	4	11
Average Median Age	69	65	70
Median Median Age	71	66	73
Modal Median Age	75	68	76

Overall, religious are an aging population. Seventy-five percent of perpetually professed men and ninety-one percent of perpetually professed women are age 60 and over according to these 2009 US statistics. This comes together as seventy-eight percent of perpetually professed men and women religious were born in the 1920s, 1930s, or 1940s and, therefore, are in their 60s, 70s, and 80s in 2009. Among both [US] men and women religious, a majority of those under the age of 60 are in their 50s. Only 12 percent are younger than 60 while almost as many, 10 percent, are age 90 or older.

With this current picture, it is clear that leadership models need to change from previous models that were effective for relatively large groups of young and active members. Thirty years ago a majority of the members were under 60, now they well are over 60. Elements to be considered in a shift of models of governance: fewer members available for leadership; needs of the community are very different from the needs of thirty years ago; institutional needs; future considerations regarding membership, apostolate, stable patrimony; and the desire and capacity of membership for participation. The

<sup>52</sup> According to the *2008 Directory of the Canadian Conference of Catholic Bishops*, and compiled by M. BUNSON, *Our Sunday Visitor's Catholic Almanac 2009 Edition*, Huntington, IN, Our Sunday Visitor Inc., 2008, p. 448.

<sup>53</sup> Of this number, 12,494 (over 68%) of the women religious in Canada are in the Province of Quebec.

<sup>54</sup> M.E. BENDYNA and M.L. GAUTIER, *Recent Vocations to Religious Life: A Report for the National Religious Vocation Conference*, Center for Applied Research in the Apostolate [CARA], Georgetown University, Washington, DC, 2009, p. 28.

essential question that needs to be asked before making any structural shift in governance – Is this change to be an adaptation of the current system in order to meet our capabilities and our needs better? Or is this change to be an innovation in order to do things differently for the sake of the members and the mission? Both are valid, but narrowing the question will help to focus the response.

### **3.2 CANONICAL OPTIONS**

Beyond changing the internal governance structures, some religious institutes are changing expectations in light of their current demographics. Some institutes or provinces will change their assessment of how many councillors they need on their leadership team. For some, this may require an act of the General Chapter, as the number is defined in their proper law. Seldom will the proper law specify that there are to be "at least three [or four or whatever number determined] *full-time* councillors." Once this is realized, it often helps groups to re-think their expectations of the role of councillors and what is necessary for an effective leadership team. Before doing away with structures or creating new structures, the first step must be the evaluation of expectations.

There are some offices that have traditionally been held by members of the institute, but do not always (subject to definitions in proper law) need to be maintained by members. Many institutes have explored and actively have provincial or general treasurers and secretaries that are not members of the institute, but hired employees. The possibilities for this are fundamentally dependent upon the proper law of the institute – does it require that the treasurer or secretary be a member – and the statutes of the corporation(s) [which can be amended] on which these officials may serve. Some institutes have gone so far as to have those who are not members of the institute on a provincial council – either members of another institute or lay people associated with the institute. Close examination of canon 627 reveals that it is not prohibited by canon law. Whether it is advisable or not must be left for the institute to decide in the exercise and enjoyment of their autonomy of life and governance.

Other responses to the current demographics of religious institutes entail establishing formal relationships with other institutes. Canon 582<sup>55</sup> offers four possibilities: "Mergers and unions of institutes of consecrated life are reserved to the Apostolic See alone; confederations and federations are also reserved to it."

A merger, also called fusion, is when a small or declining institute joins a larger one, thereby suppressing the smaller institute which is then absorbed into the larger one. One group maintains its canonical identity while absorbing the other. Depending upon the situation, sometimes the group being absorbed is able to maintain some sort of identity, becoming a province of the larger institute, or some other identifiable structure at least transitionally, while in other instances the smaller institute is totally absorbed into the

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<sup>55</sup> The structures of the CCEO regarding religious are quite different, and therefore the corresponding canons do not offer the same options as the CIC. The canons that address confederation, suppression, and aggregation are 438 - 440.

larger institute. In the case of a union, two or more institutes merge, forming a new institute. All of the groups involved relinquish their canonical identities and form a new public juridic person. "This union would necessitate the structuring of governance, the drafting of proper law, and all other requisites for the formation of a new institute."<sup>56</sup> Of course both of these actions are done with much time and preparation – spiritual, psychological, temporal, and juridical. Individual members of the merging institute(s) must be allowed to choose freely to belong to the new institute, to seek a transfer to another institute, or to request a dispensation from their vows.

Less traumatic, but also less helpful for an institute with a waning population is the possibility of a federation. Often this refers to religious institutes that have the same historical roots and founding charism. It is a moral union in which each institute maintains its identity and juridic autonomy. A federation may participate in joint meetings or projects focusing on their charism and spirituality; some federations will use their combined resources to found a Non-Governmental Organisation at the United Nations. The statutes and officers of federations do not touch upon the internal governance of the participating entities or any of their members. A monastic federation may have a more juridic relationship with some common proper law, but each monastery still maintains a great deal of autonomy. Its relationship is more than spiritual and can contribute to cooperation with regard to resources. A confederation is the joint meeting of two or more federations, and unless it is going to have some juridic effect, these relationships are usually not official – having no statutes or board, etc.

Another option, less considered and used, is aggregation as presented in canon 580.<sup>57</sup> "In the former legislation the concept of *aggregation* encompassed only the 'third orders' (cf. 492 CIC/1917)."<sup>58</sup> This is obviously not the case in the current law, as the canon refers to one institute of consecrated life aggregating with another institute of consecrated life. Some authors consider this form of relationship to be merely a spiritual communion, similar to the aggregated relationship between institutes and third orders.<sup>59</sup> With aggregation, each institute maintains its autonomy, and unless otherwise specified, the aggregating institute does not have jurisdiction over the aggregated institute. Because the law is so vague, institutes can be creative as to how they will use this concept. One scenario would be that a diminishing institute, not wishing to merge with another, but live out their days as an autonomous institute, may seek aggregation with another institute.

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<sup>56</sup> R. M. McDermott, "Institutes of Consecrated Life," in J.P. BEAL, J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CANON LAW SOCIETY OF AMERICA, New York/Mahwah, NJ, Paulist Press, 2000, p. 750.

<sup>57</sup> Canon 580, The aggregation of one institute of consecrated life to another is reserved to the competent authority of the aggregating institute, always safeguarding the canonical autonomy of the aggregated institute.

<sup>58</sup> T. RINCÓN-PÉREZ, Commentary, in Á. MARZOA, J. MIRAS, and R. RODRÍGUEZ-OCAÑA (eds.), *Exegetical Commentary on the Code of Canon Law*, prepared under the responsibility of the MARTÍN DE AZPILCUETA INSTITUTE, English language ed., E. CAPARROS (ed.), Montréal, Canada, Wilson & Lafleur, 2004, vol. II/2, p. 1486.

<sup>59</sup> See *ibid.*

"This bonding of institutes of consecrated life enables them to collaborate and share personnel and resources in preserving and promoting their spirituality and works, while each institute maintains its distinct nature and autonomy."<sup>60</sup> Resources can be shared for the duration and according to the needs of the smaller institute. And when there are no longer any members of the aggregated institute, whatever remains of the stable patrimony would pass to the aggregating institute. Ecclesiastical goods remain ecclesiastical goods, support is provided for members of the smaller institute – in whatever way they need and arrange, and autonomy is maintained.

## CONCLUSION

Beyond the canonical structures that offer the options that institutes might utilize in light of shifting demographics, creativity in using a combination of these possibilities cannot be overlooked or dismissed. Some institutes could come together and form a public juridic person, much like the ones used for Catholic health care systems, to which institutes could be aggregated, or with whom they might be federated, so to speak. The needs of religious institutes vary one from the other, so the responses must be broad, creative, and innovative. Canon law does not say that this list of inter-institute relationships is exhaustive. Just as the structures of governance provided by the law leave tremendous room for autonomy, so also is there room for innovation.

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<sup>60</sup> R. M. McDermott, "Institutes of Consecrated Life," in J.P. BEAL, J.A. CORIDEN, and T.J. GREEN (eds.), *New Commentary on the Code of Canon Law*, commissioned by the CANON LAW SOCIETY OF AMERICA, New York/Mahwah, NJ, Paulist Press, 2000, p. 749.