

# RELIGIOUS AND THE ADMINISTRATION OF TEMPORAL GOODS

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By law religious institutes are public juridic persons that can acquire, possess, administer and alienate temporal goods that are considered ecclesiastical. At the same time religious institutes are radically committed gospel idea of the vow of poverty that may vary from a monastic institute to an order and to a religious congregation. Hence Codes of Canon Law require religious institutes to draft norms that prescribe a method of administering temporal goods consistent with the vow of poverty appropriate to the institute. The *typikons*, constitutions or statutes of a religious institute must take great care to integrate the universal norms on temporal goods and harmonize them with the institute's particular charism and spirit. The Church recognizes that religious institutes will differ among themselves in interpreting the vow of poverty. Nevertheless, it obliges all religious institutes to a corporate witness of poverty. This witness is to be derived from and constituent with the tradition, 'faithfully observing the mind and designs of the founder' and the entire charism of each institute. It is high time that religious collectively think and act as ambassadors to provide a powerful witness in the Church.

## 1. Introduction

The word 'temporal,' derived from the Latin '*tempus*,' means 'relating to,' 'limited by,' or 'pertaining to' time. In other words, it refers not to

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something eternal but to something transitory. Therefore, the *temporal* goods of the Church are goods that exist in our transitory world, and that provide worldly support to the Church's spiritual ends. Donations to the poor, buildings for divine worship, and publications that further the apostolate are just a few examples of such support.

Temporal ecclesiastical goods are either immovable (e.g. land, buildings) or movable (e.g. money, precious metals). Codes of Canon Law also distinguish those temporal goods owned by public juridic persons (eg: parish, diocese (eparchy), religious institutes and religious houses). Such juridic persons, which are aggregates of persons or of things (eg: IOCL, CLSA, Dharmaram College), are legal fictions - they exist only in law. By conferring rights and duties on these aggregates,<sup>1</sup> the Codes of Canon Law enable them to own temporal goods.

### **1. Background of the Law of Temporal Goods and the Religious Institutes**

The administration of temporal goods has existed in the Church from its beginning. Jesus and his own disciples kept a "common purse" (Jn. 13.29). Various other passages also in the New Testament (e.g. Luke 10:7; Acts 4:37 and 5:2; 1Cor 16:1-3; 2Cor 9:7) show that fidelity to the Gospel requires a *proper* administration of temporal goods. In fact, what constitutes as a proper attitude toward economic resources for religious institute relates, at least in part, to the conditions that surround them.<sup>2</sup>

Over two millennia, the Catholic Church has witnessed the evolution of various economic systems. Emerging amidst the ancient imperial economy, the Church subsequently beheld the economic chaos of the Dark Ages and the feudal land-based system of the Middle Ages. In modern times, she has also seen the development of capitalism, the advent of socialism, and the onset of the international open market system that dominates much of today's world.

In legislating on the Church's own financial matters, the 1917 CIC placed Church administration within the context of a developed Western capitalism. This Code canonized certain aspects of contemporary

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<sup>1</sup> The "Catholic Church" as such (cf., CIC c. 113) is a moral person by divine law. The CIC uses the term "moral person" as distinct from "juridic person" because a moral person does not require any intervention from an outside party to come into existence. The "moral person" will provide itself with the necessary "juridic persons" to carry out its mission. (cf., Francis G Morrissey, omi, "Acquiring Temporal Goods for the Church's Mission," *The Jurist* 56 (1996) 1, 591.

<sup>2</sup> Joseph W. Pokusa, "Introduction to Church Finance Handbook," in Kevin E. McKenna and Others (eds.), *Church Finance Handbook*, Washington DC: CLSA, 1999, vii.

economics, such as the civil law on contracts that were thought to protect the rightful use of Church property. The same approach was subsequently taken by PAL (1952), and is currently employed by the CIC (1983) and CCEO (1990).<sup>3</sup>

The canon law governing the temporal goods of religious institutes in both Codes of Canon Law is an amalgam of various norms. For any given institute, property law consists of universal law on religious institutes, general norms on temporal ecclesiastical goods, and the constitutions or *typikon*<sup>4</sup> or statutes (i.e., the proper law) of the institute itself. This property law applies to secular institutes and societies of apostolic life as well as to religious institutes properly speaking; however, this article will discuss only the norms pertaining to the latter.

By law, religious institutes, provinces, houses, and their equivalents are public juridic persons that can acquire, possess, administer, and alienate temporal goods. Nevertheless, the constitutions of a particular institute (e.g. the Order of the Friars Minor) may restrict or even exclude this capacity.

## 2. The Vow of Poverty

Essentially, "the founders and foundresses of the numerous 'monasteries', 'religious orders' or 'religious congregations' were radically committed to the Gospel ideal of poverty. But the tragedy of the religious life is this: Practically every 'monastery' 'order,' or 'congregation' about fifty years after it was founded became rich in finance."<sup>5</sup> However, even if such practices "may be far from the ideal," the ownership of temporal goods is not intrinsically "contrary to evangelical poverty."<sup>6</sup> Thus, religious property law requires institutes to draft norms that prescribe a method of

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<sup>3</sup> Joseph W. Pokusa, "Introduction," xiv.

<sup>4</sup> The word *typikon* derives from the Greek word *tupikon* to indicate the foundational statutes of a monastery. Especially from the tenth century on, there developed the custom of a founder founding a monastery (emperor, patriarch, bishop, civil or ecclesiastical functionary, some rich men) by stabilizing the monastery with a *typikon* or proper law. These were the foundational *typikon*s of the monasteries. Other than these there existed also *typikon*s dealing with foundational dispositions of a monastery such as dependence of the monasteries, liturgical laws, disciplinary laws (for example, on the election of a superior and other officials, admission, communitarian life, habit, management of finance etc.), cf., Varghese Koluthara, *Rightful Autonomy of Religious Institutes*, Bangalore: Dharmaram Publications, 2014, 10.

<sup>5</sup> Kurian Kunnumpuram, "The Religious Life: New Perspectives," *Light of Truth*, Vol. 8, (October 1-15, 2017) 1.

<sup>6</sup> George Nedungatt, "Temporal Goods in the Church," *Vidyajyothi* 64 (2000) 377.

administering temporal goods consistent with the poverty appropriate to the institute. In this way, the law demonstrates a special respect not only for the religious vow of poverty but also for the diversity of charisms among religious institutes.<sup>7</sup>

**3. Practical Implications of the Vow of Poverty** (CIC. c. 668; CCEO cc. 525, §2; 529, §§3-4; 530; 467, §§1-2; 468, §1; 533)

1) The vow of poverty requires that religious depend on their institute in using and disposing of material goods.

2) These canons aim to foster common life and to regulate the aforementioned dependency.

3) The commitment of poverty adopted by a religious through public vows involves a series of obligations related to material goods. The basic normative criteria for these obligations are established in CIC c. 600.<sup>8</sup> Individual religious institutes, in accord with their diverse natures, will vary amongst themselves in specific applications of the vow of poverty.

**4. Three Things to be done by a Novice of a Religious Institute of Simple Vows before making the First Profession of Vows**

1) Cede administration of his or her possessions to another person.

2) Dispose of the use of and revenue from these possessions.

3) Draft a legal will.

**4.1. Ceding of Administration** (CCEO cc. 525, § 2; 530; CIC c. 668).

The word 'ceding,' rooted in the Latin verb '*cedere*,' means 'to grant' or 'to give up.' Ceding of administration of temporal goods, therefore, means 'to surrender' or 'to give up' something such as land, rights, or power, to another group or person. Ceding administration of one's possessions entails selecting a person and transferring to him or the duty of overseeing these possessions. The person may be a relative, a trusted friend, a lawyer, or the religious institute itself. This cession (giving up) can be done informally or drawn up in a document binding civilly. It must be done for the period of temporary profession.<sup>9</sup>

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<sup>7</sup> Understanding the importance of temporal goods of the Church and its administration in the Church today, the vow of poverty and its ramifications on religious institutes etc., an entire issue of *Karunikan* (a catholic monthly publication in Malayalam from Kochi, Kerala, India) vol.1 5 No. 3 (March 2018) 3-51, devotes itself to it.

<sup>8</sup> Ernest Caparros and Others (eds.), *Code of Canon Law Annotated*, Montreal and Woodridge: Wilson & Lafleur Limitee, 2004, 534.

<sup>9</sup> David F. O'Connor, S.T., "Obligations and Rights," in Jordan Hite and Others (eds.), *A Handbook on Canons 573-746*, Minnesota: The Liturgical Press, 1985, 181.

Religious in simple vows, unless they totally renounce their property, must continue the cession throughout their perpetual profession (CIC c. 668, §5).<sup>10</sup> Therefore, those who make simple vows in religious congregations ordinarily lose only the right to administer property received from their parents, not the actual ownership of this property.<sup>11</sup> By ceding administration, one allows the use and revenue from these possessions to whomever it is ceded.

#### **4.2. Disposition of Income**

Disposition of goods distances religious from their possessions and therefore increases their dependence upon their institute.<sup>12</sup> To dispose of the use and revenue of personal property, a religious in simple vows makes arrangements for the income that this property may produce. It is because those who make simple vows are legally capable of owning a property which they inherit but they cannot administer them or enjoy the fruits of them. For example, if one has invested money or rented land, disposition directs the use of the interest or rent to be received. The novice gives the administrator whatever instructions the novice considers desirable in expressing keeping up their ownership but not administering them. It is also to be worked out according the guidelines given in their own constitutions or statutes.

#### **4.3. Last Will (CCEO c. 530; CIC c. 668, §1)**

Religious in congregations with simple vows must make a civilly valid last will and testament. A will makes determinations for one's property that become effective after the person's death. Novices with possessions should have a will drafted before first profession; others may do so at a later time. In any case, one must be made before perpetual profession.<sup>13</sup>

#### **5. Changing the Dispositions (CCEO c. 529; §4; CIC 668, § 2)**

Members of religious congregations with simple vows need the permission of their proper superior, usually the major superior, to change the disposition of their possessions or their last will and testament. Such religious also need proper permission to give away, loan, invest, or alter

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<sup>10</sup> David F. O'Connor, S.T., "Obligations and Rights," 182.

<sup>11</sup> In CIC (1917) this was forbidden to the members of religious congregations, that is, to those who profess simple vows. However, *PC 13* abolished this ban and the Rescript *Cum admotae* (1967) and *Religionum laicalium* (1967) later authorized superiors general to allow their subordinates in simple vows the possibility of ceding their patrimonial goods., as cited in Ernest Caparros and Others (eds.), *Code of Canon Law Annotated*, 534.

<sup>12</sup> David F. O'Connor, S.T., "Obligations and Rights," 182.

<sup>13</sup> CCEO c. 530: In religious congregations "at least before perpetual profession, a member is to make a will, which is to be valid also in civil law."

in any way the disposition of their temporal goods.<sup>14</sup> According to CCEO c. 529, §4 “this cession and disposition of this type, however, cease to have force upon departure from the order or congregation.”

### **6. Common Goods (CCEO c. 529, § 3; CIC 668, § 3)**

When religious acquire property by gift, stipend, fee, salary, pension, insurance, settlement, etc., the property acquired belongs to the order or congregation and not to the religious themselves. Examples include a patient bequeathing property to his or her religious nurse; parents gifting money to religious who teach their children; and parishioners who donate a chalice to a religious priest. In all these cases, the institute itself canonically acquires the property. Canon law recognizes this acquisition even in cases where civil law does not.<sup>15</sup>

### **7. Gifts or Inheritances**

In institutes with monastic or solemn vows, doubts about ownership will never arise concerning religious in perpetual vows. By taking these vows, religious renounce their capacity to acquire temporal goods. On the other hand, religious in temporary or simple vows do not completely renounce this capacity. Their constitutions allow members to retain the right to acquire goods and permit their use or usufruct only with proper permission.<sup>16</sup>

### **8. Small Gifts, Pensions and other Benefits**

Many people give gifts to religious friends intending that the recipient possess these gifts personally. Despite this intention, these gifts are acquired not by the recipient but by his or her community. For example, if a person gives a mobile phone to a religious friend, the phone becomes the property of the friend's community.<sup>17</sup> Nevertheless, religious who receive gifts can request the permission of their concerned superiors and if they have granted permissions to them they can make use of them.

Unless an institute's constitutions or statutes state otherwise, pensions, social security benefits, medical aid, insurance and the like, belong to the institute and not the individual religious. Civil law may not recognize this ownership; however, it is a canonical reality and consequence of professing public vows in an institute. If religious are dispensed from their vows or leave religious life, social security benefits and the like will go directly to them and no longer to the institute.<sup>18</sup>

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<sup>14</sup> David F. O'Connor, S.T., “Obligations and Rights,” 182-183.

<sup>15</sup> David F. O'Connor, S.T., “Obligations and Rights,” 183.

<sup>16</sup> David F. O'Connor, S.T., “Obligations and Rights,” 183.

<sup>17</sup> David F. O'Connor, S.T., “Obligations and Rights,” 184.

<sup>18</sup> *Consecrated Life* 2 (1978)152-153; 170-173, 5 (1982)104 as cited in David F. O'Connor, S.T., “Obligations and Rights,” 184.

**9. Renunciation of Ownership** (CCEO cc. 460; 467, §§1-2; 533; CIC c. 668, §4)

The constitutions of some monasteries and orders require members to renounce ownership of property. By perpetual profession, religious in these institutes become canonically incapable of acquiring or owning property. Institutes with monastic or solemn vows require total renunciation of possession and ownership (CIC c. 668, § 5; CCEO cc. 468, § 1; 533). Moreover, CCEO c. 467 §§1-2 says that "a candidate for perpetual monastic profession must, within sixty days before profession, renounce in favour of whomever the candidate wishes all goods that he or she has on the condition that the profession subsequently takes place. A renunciation made before this time is by law itself null. Once the profession has been made, all necessary steps are to be taken at once so that the renunciation also becomes effective in civil law."<sup>19</sup> Contrary acts are invalid. They make this renunciation just before perpetual profession to be effective at the time of profession, and, as far as possible, in a civilly valid form.

**10. Consequences of Renunciation** (CIC c. 668, §5; CCEO cc. 468, §1, 533)

By perpetual profession, a religious in monastic or solemn vows tradition loses the capacity to own or acquire anything personally. Civil law may recognize attempts to exercise ownership; however, such attempts violate of the vow of poverty<sup>20</sup> and have no standing in canon law. On the contrary, religious in simple vows retain radical ownership and the right to acquire goods. These religious can give away some or all of his patrimony if their institute's constitutions or statutes permit it.

Some institutes limit what members may renounce in favour of the institute to protect both the individual and the institute.<sup>21</sup> In institutes with simple vows, a religious is permitted to make a partial or a total renunciation of his or her patrimony with the permission of the proper superior. These religious give up property they actually possess, but not the actual right to own and acquire property itself.

**11. Administration of Temporal Goods by Religious Institutes**

"Administration" comprises the activities required to preserve, maintain, repair and improve a juridic person's property, and to put it to productive use to serve the Church's proper purposes.<sup>22</sup> CIC cc. 634 - 640 deal

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<sup>19</sup> CCEO c. 467, § 1.

<sup>20</sup> David F. O'Connor, S.T., "Obligations and Rights," 185.

<sup>21</sup> Rosemary Smith, SC, "The Governance of Institutes", John P. Beal and Others (eds.), *New Commentary on the Code of Canon Law*, Bangalore, 2003, 835.

<sup>22</sup> John P. Beal, "Ordinary, Extraordinary and Something in between: Administration of the Temporal Goods of Dioceses and Parishes," *The Jurist* 72 (2012) 109.

specifically and solely with goods corporately owned and administered by the religious institutes. CCEO distributes these norms in Title XII among general canons and the canons on monasteries, orders and congregations.

The content of the Latin and Eastern canons are somewhat similar. Neither code applies these canons to goods that may be personally owned or acquired by the individual religious. Personally owned temporal goods are governed by the requirements of the vow of poverty (CIC c. 668; CCEO cc. 467; 468, §1; 525, §2; 529, §§3-4; 530; 533). Since both codes consider religious institutes public juridic persons, the latter are subject to the former's norms on ecclesiastical temporal goods. The principles of stewardship, accountability and subsidiarity are integrated into this section on temporal goods and are normative for all religious institutes.<sup>23</sup>

Temporal goods of religious institutes are considered ecclesiastical because they are owned by public juridic persons (CIC c. 635; 1257, § 1; CCEO cc. 425; 1009). As ecclesiastical goods, the property of religious institutes are governed by the principles of CIC book five and CCEO title XXIII (cc. 1007 - 1054) unless provided otherwise.

The constitutions or statutes (proper law) of each institute could provide particular norms for the acquisition and administration of goods.

Temporal goods actually owned by religious institutes are canonically distinct from goods entrusted to institutes without ownership. At times, religious serve in schools, hospitals, and other institutions that do not belong to the institute itself. Consequently, such institutions are not ecclesiastical goods and generally not subject to CIC book V<sup>24</sup> and CCEO title XXIII. Religious service in these institutions should be based on written agreements between the religious institute and the owner of the institution.

An institute's constitutions or statutes (proper law) must take great care to integrate the universal norms on temporal goods and harmonize them with the institute's particular spirit. In this way, neither element will be lost. Such proper legislation helps to preserve the identity of each institute by expressing, fostering and defending the institute's particular manner of living the evangelical counsel of poverty.<sup>25</sup> (CIC c. 635, §2; CCEO c. 424)

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<sup>23</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," in Jordan Hite and Others (eds.), *A Handbook on Canons 573-746*, Minnesota, 1985, 103.

<sup>24</sup> Francis G. Morrissey, "Temporal Goods and their Administration" in Angel Marzoa and others (eds.), *Exegetical Commentary on the Code of Canon Law*, Vol. II/2, Canada 2004, pp. 1675 - 6.

<sup>25</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 104.



**12. Separation of Roles and Administrative Accountability** (CIC c. 636, §§1- 2; CCEO cc. 447, §§ 1-3; 516, §§ 1-3; 558, § 2)

Each institute or province of an institute must have a financial administrator (bursar, treasurer). As the administrator must be distinct from the major superior, the latter and former are examples of incompatible offices (CIC c. 152, CCEO c. 942).

A major superior is responsible for fiscally managing temporal goods of his or her institute. However, her or she cannot and should not be directly responsible for the daily business transactions involved in running the institute. Therefore, a treasurer or finance officer should be constituted for this purpose at general and provincial levels of government. Moreover, wherever possible, local houses should have their own bursars.<sup>26</sup> In those instances (CIC c. 636 §1 and CCEO c. 447 §2), the law requires that the finance officer be distinct from the local superior whenever possible.<sup>27</sup>

Every administrator of the Church property is canonically responsible and accountable to those he or she serves and to his or her superiors. Religious institutes, therefore, must recognize this serious responsibility, and should give the details regarding the times and manner of reporting the financial administration in their constitutions or statutes (proper law). The proper law should also specify the discretion accorded to financial officers at all levels of government. The law should state clearly the actions which flow from the officer's role and therefore, may be undertaken without special permission of the superior. On the other hand, the law should also identify the actions which require explicit permission.<sup>28</sup>

Although CIC c. 637 does not make it obligatory for institutes of diocesan right, the diocesan bishop (or the local Ordinary) could require a report before authorising a fundraising campaign (or similar activity) on behalf of religious involved (CIC c.1265). The ordinary has the right to be informed of the financial situation of a house of the diocesan right in the diocese.

Pontifical institutes are not subject to the local Ordinary in financial matters. Therefore, the latter cannot require a financial report. An institute may give such a report to the bishop on its own initiative, however. For example, an institute may provide financial information to a bishop who will use it to decide whether to financially assist the institute.<sup>29</sup>

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<sup>26</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 104-105.

<sup>27</sup> Jobe Abbass, *The Consecrated Life: A Comparative Commentary of the Eastern and Latin Codes*, Ottawa, 2008, 100.

<sup>28</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 105.

<sup>29</sup> Francis G. Morrissey, OMI, "Temporal Goods," 1679.

### 13. Ordinary and Extraordinary Administration (CIC c. 638)

CIC uses words such as “limits” and “manner” in canon 638 §1 to distinguish between ordinary and extraordinary administration. This distinction is important for valid administration of ecclesiastical goods. By virtue of office or delegation, a competent administrator can place acts of ordinary administration in the normal course of business. Fiscal acts of ordinary administration include paying for and receiving payments for goods, depositing money in the bank, investing free capital, accepting or making donations or gifts, reserving money for particular purposes, etc. Expenditures, even large ones, included in an institution’s annual budget should be considered ordinary administration.<sup>30</sup>

On the other hand, acts of extraordinary administration exceed the limits and extent of what is ordinary. These could be acts that are not repeated regularly, that entail an expenditure greater than the amount predetermined in proper law, or that according to universal or proper law, requires special authorisation to be carried out. For these acts to be placed validly, prior permission must be obtained from the competent superiors, ecclesiastical authority, or both. According to CCEO c. 1024, an administrator can validly place acts that exceed the limits and manner of ordinary administration only with the written consent of the competent authority. Here, the CCEO terminology - which requires consent - is more precise than that of CIC.<sup>31</sup> Acts of conveyance or alienation almost always are acts of extraordinary administration.<sup>32</sup>

Generally speaking, the following are recognised as acts of extraordinary administration: accepting an inheritance, donation etc; purchasing immovable goods; selling, exchanging, or mortgaging any property of significant value; borrowing large sums of money on a temporary basis; building, demolishing, rebuilding, or carrying out major repairs on a church; establishing a cemetery; and entering into a court case.

Within the limits of universal law, each religious institute's constitution or statutes (proper law) should clearly distinguish between acts of ordinary and extraordinary administration. On one hand, upper expenditure limits should be set for acts of ordinary administration. On the other hand, the law should also specify which *types* of acts must be considered extraordinary administration by their very nature. In addition, the constitutions or statutes (proper law) should carefully identify the requirements for the validity of acts of extraordinary administration. All

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<sup>30</sup> John P. Beal, “Ordinary, Extraordinary and Something in between: Administration of the Temporal Goods of Dioceses and Parishes,” 115.

<sup>31</sup> John A. Renken, “Temporal Goods in the Latin and Eastern Codes: A Comparative Study,” *Studies in Church Law* 5 (2009) 97.

<sup>32</sup> Joan De Lourdes Leonard, CSJ, “Temporal Goods,” 107.

specifications should be made according to the nature, needs, and operations of the institute.

Ordinary administration includes transactions inherent in the daily functioning of one's office. It also includes all juridic acts normally required for the preservation and improvement of goods and property, as well as the use of the fruits arising therefrom. In addition to superiors, the constitutions or statutes (proper law) should designate others who may perform specific acts of ordinary administration, such as bursars, administrators of institutions.

#### **14. Alienation** (CIC cc. 1290-1298; CCEO cc. 1034-1041).

Alienation and other acts that adversely affect the condition of a juridic person are considered acts of extraordinary administration. Consequently, these acts require special authorization by competent superiors<sup>33</sup> and the consent of the council. Moreover, if the transaction exceeds a sum that the Holy See has determined for the region, the permission of Holy See must also be obtained. Where the Holy See has not determined a sum for religious, the amount approved for bishops applies.

Both CIC and CCEO regulate the process of alienation (CIC cc. 1290- 1298; CCEO cc. 1034 – 1042). Many of these canons apply to religious institutes<sup>34</sup> and should be considered in any act of alienation.

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<sup>33</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 108.

<sup>34</sup> CMI (Carmelites of Mary Immaculate: is the first indigenous clerical religious institute of Pontifical right originated among the St. Thomas Christians in India in 1831) Constitutions and Directory of 2016 gives a model how ceiling is carried out in religious communities on fiscal administration of extraordinary nature:

No. 228 a) The permission of the prior general (superior general) with the consent of his council is obligatory for a house or a province:

i) To undertake an extraordinary expense for a sum exceeding rupees five crores (Rs. 5,00,00,000/-).

ii) To undertake an obligation under debt, mortgage or alienation for a sum exceeding rupees one crore (Rs. 1,00,00,000/-).

iii.) For gifts and loans for a sum exceeding rupees ten lakhs (Rs. 10,00,000/-).

b) In the case of gifts and loans between our houses the local superior with the consent of the local council can grant permission for an amount up to rupees twenty-five lakhs (Rs. 25,00,000/-).

c) Regarding gifts and loans between provinces the provincial with the consent of his council can grant permission up to rupees one crore (Rs. 1,00,00,000/-).

d) In the case of each prefect, superior, prior, department council, local advisory council and local council, the major superior with the consent of his council shall fix the actual competence within the permissible range for

These canons reflect caution toward alienation and acts which adversely affect ecclesiastical property. CIC c.1293 and CCEO c. 1035 set up additional requirements for alienation, viz., a just cause such as “urgent necessity, evident usefulness, piety, charity or some other serious pastoral reason and expert evaluation in writing of the thing to be alienated. Moreover, the thing to be alienated should not ordinarily be sold for less than its appraised value (CIC c. 1294, §1). Proper canonical formalities are also prescribed not only for alienation but also any transaction which could cause a loss of ecclesiastical goods.

Two things seem noteworthy about alienation of ecclesiastical goods:

- 1) Subsidiarity is applied in designating the competent superiors for granting of permission to alienate below the amount approved by the Holy See.
- 2) In making contracts, applicable civil law not contrary to divine or Canon law is to be followed (CIC c. 1290; CCEO c. 1034).

All this legislation chiefly intends to guard against the loss of ecclesiastical property. Such losses impede the Church's mission by depriving it of the necessary resources, especially regarding the service of the poor in the spirit of Christ.<sup>35</sup>

Pontifical religious institutes are not financially accountable to the local Ordinary. On the other hand, the diocesan right religious institutes are so

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extraordinary expenses, on the basis of the annual income and expenditure of the house.

e) In case of members habitually staying outside our house, a ceiling on the various types of expenses they may incur shall be fixed by the major superior in consultation with the immediate superior if any.

229. The provisions in respect of debts and obligations shall apply also to contracts involving obligations.

230. a) What has been laid down about the permission required for alienating properties, shall not apply to easily perishable goods, commercial products and livestock.

b) When applying for permission to take loans or incur obligations, the existing debts or obligations shall be indicated. This is necessary even for the validity of permission. The superiors concerned shall give permission only after satisfying themselves that the interest can be paid easily from the ordinary income, and that the loan itself can be paid off within a definite period

c) Care must be taken not to exceed the sanctioned limits by spending the amount piecemeal (cf., Carmelites of Mary Immaculate, *Constitutions and Directory 2016*, Kochi, India: Prior General's House, 2016, 178-179).

<sup>35</sup> Joan De Lourdes Leonard, CSJ, “Temporal Goods,” 110.

accountable. Consequently, these institutes must obtain the local ordinary's written consent in administering their own property.

**15. Liability** (CIC c. 639; CCEO cc. 468, §§ 2-3, 529 § 5, 533)

Only an authorized person can enter contracts in the name of the religious institute. The superior who gives permission is not personally liable for the indebtedness, because such a person acted in the name of the juridic person. Instead, the liability belongs to the institute (CIC c. 639, § 1).<sup>36</sup> From the perspective of civil law, once persons have been empowered as agents, actions within the scope of their agency always bind the principal (i.e. the religious institute in this case).<sup>37</sup>

When a member enters a contract without permission of superiors, the member alone is responsible (CIC c. 639, § 3; CCEO cc. 468 §, 2; 529, § 5; 533). An individual only possesses the legal capacity to contract in the name of the institute when the latter has made that person an agent or given a power of attorney (CIC c. 639, § 5).<sup>38</sup>

The Church recognizes that religious institutes will differ among themselves in interpreting the vow of poverty. Nevertheless, it obliges all institutes to a corporate witness to poverty. This witness is to be derived from and in tune with the tradition and vision of each institute (CIC c. 640).<sup>39</sup> The Codes of Canon Law require administrators of ecclesiastical goods who employ workers to observe the civil law concerning labour and social policy, according to the principles handed down by the Church (CIC c. 1286; CCEO c. 1030 n. 1). They are also required to pay an equitable and 'just remuneration' that fittingly provides for employees' needs and those of their dependents (CCEO c. 1030, n. 2; CIC c. 1286, n. 2).

In determining how their members will dispose of and invest their temporal goods, religious institutes should reflect on their own charisms and traditions and the needs of the world in which they live. Relying on the fruits of this reflection, institutes can then develop policies and practices in harmony with their tradition. In this way, their stewardship in behalf of the poor will best be realised.<sup>40</sup>

**Conclusion**

Before her death, Saint Mother Theresa of Kolkata was asked: "What would happen to your congregation after your death?" She answered: "If my sisters are quite strict in the observance of the vow of poverty, the congregation will flourish. Otherwise, it will perish." In this regard, Prof. Kurian Kunnumpuram makes a valid observation: "There is an obvious

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<sup>36</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 111-112.

<sup>37</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 112.

<sup>38</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 113.

<sup>39</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 114.

<sup>40</sup> Joan De Lourdes Leonard, CSJ, "Temporal Goods," 114.

lack of a sense of mission among the religious today. There is a lot of activity, but no clear orientation to mission..."<sup>41</sup> According to a recent study only 32% of the religious believe that the majority of the religious have the spirit of poverty and simplicity.<sup>42</sup> It is high time that religious collectively think and act as ambassadors who should give powerful witness in the Church as caring to the poor and their needs. Only such introspection on their care for the poor and change of their life style genuinely in administering the temporal goods according to the teachings of the Church could enable them to be the 'wake-up call' the Church of today needs.

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<sup>41</sup> Kurian Kunnupuram, "The Religious Life: New Perspectives," 1.

<sup>42</sup> Kurian Kunnupuram, "The Religious Life: New Perspectives," 15.