

ALTERNATIVES FOR AGING INSTITUTES: ISSUES AND OPTIONS

By Amy Hereford, CSJ¹

Summary

This article will explore the civil and canonical issues faced by aging religious institutes and societies of apostolic life. What issues arise and what options are available to these institutes?

Introduction

Let's begin with a scenario from a case study developed by Janet Roesner when she was Executive Director of LCWR in the 1980s:

The Sisters of St. Dymphna are a congregation of 100 women whose median age is 60. In the past ten years, they have had one new member. The congregation was founded 50 years ago to care for the orphans in an eastern U.S. diocese. Their works are very diverse. The motherhouse is a large building in the central city, and most of the members live there. The community did not choose to join Social Security and it has only savings of \$900,000 at the present time.²

The case study went on to discuss the community's interest in exploring merger with another institute. However, let's imagine that the institute didn't move forward with those discussions, and that it never merged.

Coming forward about 25 years, the institute would now be nearing its 75th anniversary of foundation. It would likely be down to just over 70 members and its median age would have risen to the mid-70s. It would only have about 10-15% of its members under the age of 65 years. Members over 65 continue to be engaged in ministry, but by age 70 or 75, many would have moved to part-time or volunteer ministries. At this point, the institute might not consider merger as a viable option. Instead, it might seek to explore other possible options as it increasingly faces the challenges shared by many institutes, namely concerns over dwindling resources and a shrinking pool of members who would be capable of serving in community leadership and community service.

This article will seek to explore the options open to such a community at this point in its life-journey, and the issues that it should consider as it explores those options. The focus here will be on institutes whose median age is already in the 70s and is continuing to rise. Experience shows that many of the issues faced by an institute are related to this rising median age, rather than to the size of the institute. However, a section at the end of the article will address some specific concerns more common to larger institutes.

This discussion will draw on the experience of working with various institutes as they explore their options and pursue a preferred future. It will provide some legal background, together with case studies and practical insight to assist institutes as they study this issue.

¹ Amy Hereford is a Sister of St. Joseph of Carondelet from St. Louis. She works as an attorney and canonist with CSJ Ministries, consulting with religious institutes on a variety of legal matters.

² Quoted in: Ellen O'Hara, "Issues of Aggregation, Mergers and Dissolutions," *Canon Law Society of America Proceedings* 49 (1987): 155-168, p. 161.

Challenges & Uniqueness

The challenges cited by institutes such as the Sisters of St. Dymphna mentioned above generally center on three critical issues:

- 1) Providing ongoing leadership.
- 2) Providing care for aging members, in addition to health care, this includes pastoral care and support of the members, those facing the challenges of aging and those moving out of full time ministry, as well as those still in active ministry.
- 3) Providing leadership in the sponsored ministries.

These challenges will become increasingly acute as the institute ages. As an added difficulty, these challenges come at a time when the institute's energies and resources are waning.

As we explore the topic of aging institutes, it is important to recognize that each institute is unique, and its challenges and resources will be unique to its particular situation. Each institute has lived a unique history and has its own legacy of spirit and service. Institutes differ from one another in their relationship to other institutes of similar charism, or in their lack of such relationships. Institutes vary in their relationship to the local church, from an institute that serves in a single small rural diocese, to one that has lived and served in several urban centers. Institutes differ in their current resources, in the numbers, demographics and particular skills of the members, as well as in the financial and property resources. In addition to these issues, the level of internal energy and leadership in the institute may be high or low, despite the number of members or other resources the institute possesses. Beyond the institute itself, each community builds a trusted support system within the local church where it serves, and in the civic

community. These will certainly vary from one group to another. Finally geography can vary, both during the life of the institute, and as it diminishes in numbers. Some institutes tend to re-gather close to their historic center, whether in a single monastery or motherhouse, or at least a single urban center. Other institutes remain in several centers, with fewer and fewer members in each location.

All of these factors will color the decisions of an institute as it ages, and faces what may be the last generation of the institute's life-journey.

Invitation to Discern

The leadership of aging institutes who face increasing difficulties, may be at a loss as to where to turn. Often all their attention is directed to addressing the ever present challenges that arise on a daily basis. Concerns about members and health-care, funerals and family members, investments and administration often require all their time and energy, so that there are few resources left for looking to the future, which continues its steady approach. Is it really 2011? Communities do well to find ways to spend some time looking at the longer range issues, before they approach any nearer.

It is helpful to turn to another particular resource of an institute – its spiritual heritage. Are there particular ways the institute, its founders, and its heroes and heroines have faced the challenges of their own day? Certainly they can turn to scripture for inspiration for the journey ahead:

"Do not let your hearts be troubled. You have faith in God; have faith also in me. In my Father's house there are many dwelling places. If there were not, would I have told you that I am going to prepare a place for you? And if I go and prepare a place for you, I

will come back again and take you to myself, so that where I am you also may be. Where I am going you know the way." Thomas said to him, "Master, we do not know where you are going; how can we know the way?" Jesus said to him, "I am the way and the truth and the life."³

An institute is not traveling alone, or in uncharted territory. Jesus has 'already prepared a place' for them. They can take courage and set out to find that place. And along the way, they need not fear because Jesus also proclaims 'I am the way' that leads to where you are going.

In this article, we will use this passage as an image for communities that are exploring their options for the future. We will use the image of 'house shopping'. On a house shopping trip, we go in and look around. Explore the rooms and check out the view and the gardens; look in the dark corners as well. Ask if this could become 'home' for us. When exploring the options for the future of the institute, those charged with the responsibility should give themselves and each other the freedom to explore these options, look around, ask questions, imagine it as home. After exploring each option, there will be time to compare and discern.

End of an Era in an Institute's Life-Journey

Often communities are only vaguely aware that, at some point in the future, they will no longer be able to continue as they have. They make small and sometimes significant adjustments along the way. But despite the inevitable and gradual diminishment of capacities, they have been unable to face the larger issues of how the community will face the end of its life-journey. This is in part because of the

³ John 14

morass of tasks that lay claim to the time and attention of the community and its leadership. But it may also be the intuition that facing mortality is always a challenge. While we have models for this in our human lives, we have few models in our communal lives. How does the community face the end of its communal life-journey? Even if it is to live on in another form, the community must come to grips with the end of an era. This is a challenge for each member, and a challenge for the group as a whole.

While shepherding the ongoing life of the members, leadership can help individuals as well as the group to face the sense of loss, guilt, anger, depression, grieving that can arise as the institute comes to face and accept its reality. In addition to the spiritual and emotional concerns for individuals and the group, there are complex legal issues of settling the affairs of the institute along with those of various civil and canonical entities. It is a tremendous challenge to address administrative and pastoral issues at the same time, but this may be the central task of the current leadership of an aging institute.

Options

Knowledge of options is often helpful to an institute and its leadership as they accept the challenge of imagining alternate futures for their institute and determining which is best suited to enable the last generation of members to complete the life-journey of their institute. A number of options and models have emerged over the past several years. This section will explore some of these options and the growing experience of institutes that have used them. Each model has its challenges and its opportunities. Briefly, the options are:

- Remain as one is
- Seek outside leadership
- Seek non-canonical affiliation with

- another institute(s)
- Seek canonical reconfiguration with another institute(s)
- Seek canonical suppression and allow members to pursue their own option.

An institute might choose to remain as it is, and hope that the institute can meet the needs of the members on an ongoing basis. This is often not realistic, and the burden of this choice may fall on a few members still able to care for the group.

On the other end of the spectrum of possibilities, an institute may seek to canonically merge with a larger more stable institute. This option too has its difficulties since it would require the aging members to give up their identity and charism and take on that of the larger group. In addition, most large communities are also aging, and it may be difficult to identify a potential partner.

There are intermediate options, which might be more attractive to an institute. One of these would be seeking outside leadership. This may be sought from among religious with whom the institute and its members already have a relationship. The arrangements that have been made for outside leadership vary, as does the experience of institutes that have used this option. However, it may provide a viable option for some institutes. It is important to consider the option carefully, along with its attendant consequences. It is also important to clarify for the institute and for the outside leader, the expectations of each. It is possible however, that this outside leader may not be able to continue this service, leaving the institute with the prospect of finding a replacement.

Another intermediate option is seeking to affiliate with another religious institute, while not merging canonically. In this scenario, a smaller institute would enter into an agreement with a larger, more stable

institute to help with leadership and administration as the institute diminishes; this may also be an agreement with several institutes of the same or varying sizes. An agreement can work out the general lines of the relationship, leaving details to be determined as time goes on. As needs arise, the smaller institute can approach the larger institute or the group for needed assistance. This allows the aging members to retain their identity and some degree of autonomy, while still obtaining the needed help. This arrangement could provide for a succession of leadership, so long as the larger institute is able to provide it.

Finally, an institute may petition to be canonically suppressed after its members are first dispensed from their vows. The members would then discern their own futures individually. The remaining assets are disbursed and corporations are wound up. Any remaining ministries are passed on to others or closed down. This option too requires close attention to legal and financial issues and the appropriate timing of the various steps involved. This is mentioned here for the sake of completeness, but it will not be discussed in detail in this article.

Many aging institutes have generously served in a particular diocese for 100 years or more. In this case, the institute might turn to the diocese for assistance as it gets smaller and finds itself in need. After having received so many years of service, it is hoped that the diocese would take responsibility for the institute in its moment of want. Although the diocese may be able to provide some help, it is important that the integrity of the religious life of the institute be respected and preserved to the extent possible.

Each of these options will be discussed in more detail below.

Status Quo

At an early age, I heard the adage “not to decide is to decide.” This points to the experience that when we delay long enough, doors will close, opportunities will disappear and options slip away, leaving us perhaps with only a few remaining courses of action. If religious institutes delay long enough, decisions regarding their future may be forced upon them, or will be made by others. Experience shows that this often results in much less desirable consequences for an institute. Some of these less desirable consequences are as follows:

- Sponsored ministries may still be in the legal control of an institute, while the number of members able to responsibly exercise oversight, and the energies of those members are no longer adequate to the task. In some cases, there are individuals in the leadership of the ministries and their boards who are able to ensure that the ministry remains effective – in other cases, the ministries have floundered, or have wandered from the focus for which they were established.
- In some cases, institutes have been defrauded of significant assets. This can happen to anyone, but as members age and there are fewer persons able to exercise oversight of resources, the potential for fraud increases.
- There have been cases where the institute has not recognized its diminishment or settled its future, and an external authority, usually the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL),⁴ sometimes on the information and

the request of a diocese, has moved to appoint an outside administrator (*commissarium*) or to suppress the institute.

- It has happened that elderly members are left without proper care, or in some cases, a few aging members are entirely occupied with trying to assist those members with greater health-care needs, to the neglect of their own needs, and other needs of the institute.
- General mismanagement of the operations, of the care of members and of the upkeep of properties has also occurred, opening the institute to several sources of potential liability or loss.

This may paint a dire picture, and these examples were drawn from different institutes over time. It is nevertheless important to realize that an institute that chooses to remain as it is, will still have to make some deliberate choices to ensure that its interests are protected. In the midst of these challenges, there are fewer healthy members bearing the burdens of all this. They often do this while maintaining active compensated ministry, both to continue the works of the institute and to obtain much needed income.

Outside Leadership

As Institutes face decreased numbers and energies and an increasing median age, the two most frequently cited issues that lead to active exploration of options are a decreasing pool of members from which to draw leadership and financial concerns. In this context, it is important to remember that leadership in a religious congregation has many aspects. In addition to exercising administrative oversight and canonical authority, leaders are called to promote the life and mission of the institute, and to

⁴ This is the dicastery of the Holy See which oversees religious institutes and societies of apostolic life.

exercise pastoral care for the members. This role is in addition to the issues of finance and administration that often occupy much of the time of congregational leadership.

Further, as an institute ages, leadership must ensure the health-care of the members, ensure the care of dying members and attend to the details of their funerals and relations with families. Often as institutes diminish, they turn to outside individuals to assist in one or more aspect of this leadership. These individuals may assist with health-care, with administration, and with other tasks, thus freeing up the canonical leadership for a more pastoral role, as well as oversight of these other facets of leadership.

Canon law requires that the canonical leader and council be members of the institute. However, at some time in the institute's life-journey, it may wish to yield the entire task of leadership to someone outside the institute. Since this would derogate from the requirements of the constitution, it would require approval of the competent authority. Some institutes have accepted an outside person to act as the leader of the institute. This individual is not the supreme moderator, but may be entrusted with most or all of the responsibilities of such a role. The person is technically a *commissarium* or canonical trustee, and their responsibilities are specified in the document of appointment. Such an individual may be chosen by the institute, with approval of competent authority, or they may be appointed by competent authority.

When an institute chooses this option, it generally looks to someone it knows and trusts to carry out the role. The person is generally a religious and should be carefully vetted since he or she will have a great deal of authority over the life of the institute and its members. The person may be chosen because of their office, e.g. a

person on the council of another religious institute, or someone from the diocesan office for religious. Sometimes the role is split between two or more persons, with one responsible for the members and their needs, and another responsible for the administration of the institute, its finances and its legal responsibilities.

A written agreement states the responsibilities of the canonical trustee and of the institute and its members, accountability, any powers that are reserved to the members, and succession, if an individual is appointed, rather than tying the role to an office. It is also helpful to have some type of checks and balances, and to have someone to whom the trustee reports. Once the individual is identified and appointed, they will have to be given the civil authority to carry out the role, either as attorney-in-fact or as an officer of trusts and corporations.

Pros & Cons

This option has definite advantages. It brings new energy into the leadership role and relieves members of that responsibility; it also frees the members for ministry and for the normal activities of aging.

Sometimes a congregational member will serve, by election or appointment, as liaison with the trustee for terms of one or two years, so long as there is someone able to fulfill this role. At this time in the history of religious life, there have been several mergers of institutes, and there may be veteran leadership available that would be willing to serve in this way. Finally, in this model, the institute is able to retain its identity, however, its heritage will die with its last member.

The disadvantages of this model are the significant letting go that the institute undergoes as it acknowledges that it is approaching the end of an era. It must definitively abandon any hopes for future

membership or ministries and face this future with courage. In addition, the selection of a person for this role may prove a challenge, as will finding a way to compensate someone willing to serve in this role. Both the community and the canonical trustee will need time to adjust to one another's needs and expectations. In addition, if an individual is appointed, a succession plan will be needed.

Case Study: Sisters of the Angels

The Sisters of the Angels were founded in 1920. The original six sisters arrived from Austria in 1897 and they became a separate diocesan institute. The community served in various ministries in several dioceses in the Northeast. Thirty sisters remain, five in their 60s, ten in their 70s and fifteen who are age 80 or above. There are three sisters working full time in the institute's only sponsored ministry, Our Lady of the Angels clinic. Most of the elderly sisters are in two diocesan facilities. They pay a discounted rate based on past service in the diocese, and the sisters do some volunteer ministry with their fellow residents.

The sisters have three convents and the health clinic. The constitution requires a superior, vice-superior and three councilors. A few years ago, they entered into an agreement with the diocese for care for their remaining members, in exchange for all their properties when they are no longer needed by the sisters. The director of the office for religious, Sr. Arlene does pastoral care for the group, and Sr. Ann, a sister who works on the diocesan tribunal serves as trustee for administration; neither is a member of the Sisters of the Angels. The sisters select a coordinator so long as one is willing and able – she serves as liaison with Sr. Arlene and Sr. Ann.

Affiliation with Another Institute

A second intermediate option, i.e. in between doing nothing, and full merger, is that of seeking a non-canonical affiliation between two or more institutes. This relationship would be *praeter legis* i.e. outside the provisions of law, though not against the law; it is simply a response that is not foreseen or provided for in canon law. This affiliation would allow two or more institutes to share some resources, principally that of leadership, but there may be other resources that could be shared as well. These relationships are generally between a smaller institute and a larger one, however, it is also possible that several smaller institutes could come together to share resources and responsibilities. When a smaller institute affiliates with a larger one, the two seek a point of intersection between their structures to facilitate the arrangement. The smaller institute may become a unit of the larger one, e.g. it may become like a 'local community' of the larger institute, having the responsibility and oversight that the larger institute generally affords a local community. The smaller institute would however, retain its constitutions and its identity. It does not acquire any active or passive voice in the larger institute or any rights in that institute. In this model, the smaller institute retains some leadership of its own members but also passes over some of the leadership role and responsibility to the larger institute. It may also be assisted by sharing in the services of the larger institute, its health-care, administration and property management. The smaller institute will at all times retain its own legal and financial responsibility. It often provides some agreed compensation, or grant of property when the institute no longer needs it.

In this model, the larger institute relates to the smaller analogously to the way

it relates to a house, or province or other unit of the institute, providing review, oversight and government. It uses its own constitutions and policies in this, while recognizing that some accommodation must be made for the fact that they are relating to an autonomous religious institute. They often assign the principal responsibility for this to a member of the council, or another member, often subject to the approval of the smaller institute.

In another version of this model, several institutes of the same religious family or from the same geographical region enter into a collaborative agreement. Under this agreement, they establish a service corporation as a non-canonical entity to provide or administer one or more services that are needed by all of the participating institutes, e.g. health-care, finance and administration, insurance, property management, human resource management, sponsorship, legal oversight, etc. Each institute would be represented on the board of the service corporation.

Pros & Cons

This model, either as affiliation or as a collaborative service corporation, has many of the same advantages as the previous model. The institute receives support for leadership and a built in succession for that leadership. The institute retains its identity, as well as legal and financial responsibility for itself and its members. This frees members for ministry and the normal activities of aging. In addition, in this model, the institutes share some services, or eliminate duplicated services. This will be very dependent on the precise situation of each institute and what can be arranged between them. Over time, it may just make sense to combine certain health-care or administrative services. In addition, an advantage of this model, over full merger is that the institutes in question

need not be closely related in charism.

The challenges of this model include finding an institute that is willing and able to enter into such a relationship, and negotiating an equitable relationship between the two institutes. It may be that several institutes in the same area may enter into a collaborative agreement for some services, as has been done for ministries and for health-care services in the past. This is a newer model, and will require more creativity and careful negotiation and documentation to ensure a fruitful relationship for the institutes. In addition once the affiliation is established, it will take time for the institutes and their members to adjust to the arrangement, an arrangement that may need to change over time.

Case Study: Sisters of the Blessed Trinity

Founded in 1880 to work with immigrants, the Sisters of the Blessed Trinity (SBT) is a pontifical institute that has mainly ministered in education in the Northeast, and the Midwest. At the time of affiliation, it had four sisters in Chicago, two still teaching in a diocesan school, and twelve sisters in New Jersey, with three active in a Blessed Trinity school. The sisters recently affiliated with the Sisters of St. Barbara (SSB), who have an unrelated charism, but whose ministry also focused on education. The two Blessed Trinity locations became 'houses' of the Sisters of St. Barbara who assigned a liaison to the Blessed Trinity sisters. Sr. Betty SSB has accepted this assignment, and the Blessed Trinity sisters confirmed this. Sr. Betty took on the rights and obligations of a major superior in the Blessed Trinity sisters, except she does not have the obligation of residence. Four of the sisters in New Jersey have moved into a St. Barbara facility, the rest remain in place. The St. Barbara, Office of Aging will track the sisters and its Finance Office will process health claims; it will also add the

Blessed Trinity cars to its fleet. The Blessed Trinity sisters are compensating the St. Barbara sisters for these services, and have realized some cost savings over earlier arrangements. The Blessed Trinity school is not separately incorporated from the sisters, but has a board of trustees. It will move toward separate incorporation and is seeking to join the St. Barbara school collaborative.

Merging with Another Institute

We turn now to our final model, that of full merger with another institute; there have been numerous examples of this in recent decades. It is governed by Canon 582:

Fusions and unions of institutes of consecrated life are reserved to the Apostolic See alone. To it are likewise reserved confederations or federations.

The generic term 'merger' covers two distinct canonical processes. In fusion a small institute joins with a larger one; the members and the patrimony and the temporal goods become part of the larger institute, and the smaller institute is suppressed. Members of the smaller institute make a new profession in the larger institute, live its charism and constitutions, and acquire active and passive voice in that institute. The larger institute receives the members and patrimony of the smaller institute and works to integrate these into the larger institute. The larger institute is responsible for not only for the members, but for the preservation and carrying forward of the legacy of the smaller institute.

In union, two or more institutes of the same size join; all the founding institutes are suppressed, a new institute is founded and all the members become members of the new institute. All are responsible to ensure that the members, patrimony and legacy of the founding institutes are incorporated and integrated into the new institute as it comes

into being.

Fusions and unions are reserved to the Holy See, principally to ensure that the rights of the institutes and members are protected and to advise and assist the institutes, leadership and members as they move through the process. In the process, each institute is free to explore the proposed merge and prayerfully discern its future. An institute's chapter will be called to discuss and decide to go forward with the merge. After this, each member must be given the opportunity to affirm the move, or to choose another option for herself, e.g. dispensation or transfer to another institute. Because this goes to the root of each person's vocation, each one remains free to go with the group or not. But no member's decision can stop the group from moving forward.

Pros & Cons

As with other options, merger has advantages and disadvantages. It is the option with the largest administrative burden as all the structures and functions of the institutes must be integrated. It is also the option that requires the most personal commitment and movement on the part of members. The members entering a merger acquire full membership in the new institute, either a completely new one, or a larger institute they are joining. They acquire active and passive voice in the new institute. It will take time and energy to fully invest themselves in the life of the institute, and for the new institute to incorporate them into its life. Members are then fully reliant on the new institute for their care and support, all of their own assets having been transferred to the new institute. The new institute also takes on full financial and legal responsibility for the merged members. As with other options, this option can increase the pool of persons available for leadership and free members either for ministry or for the normal activities of aging. It also may

help to achieve some cost savings through elimination of the need for duplicated services for a few members.

A large disadvantage of this option at this time is the level of energy and commitment required by the members and by the institutes. The members of a smaller institute will give up their institute's identity and their constitutions. It is important to find institutes with a good fit in both mission and charism. It will take time to find such an institute and to develop a relationship and negotiate the details of the merger. In addition to the canonical merger and the personal work of members, there is an enormous amount of financial and legal work involved in this type of merger.

Merger may no longer be an option as the size and energies of an institute diminish. Even if it were possible, the leadership and resources freed up in the process may not be significant compared to the resources required for the merger to occur. For this reason many institutes are turning to some of the other models described earlier.

Sisters of Good Counsel

Three members of the Sisters of Good Counsel came from Germany in 1870 and settled in Ohio. They were established as a pontifical institute in the United States, and were involved in teaching and nursing in their earlier years, and expanded their ministries after Vatican II. In the 1960s when the community was the largest, it had just under 100 members. In the year 2000, they merged with the Sisters of Christ Healer who had a similar charism and were based in a nearby state. There were 34 sisters when they merged. At that time, the Sisters of Good Counsel retained a retirement convent where many of the sisters lived and sold other properties. Efforts were made to gradually combine and streamline administration and divest properties and

corporations that were no longer needed by the merged group. An effort was made to share in celebrations, but to have only minor changes in the daily lives of the members. In the time since the merger, the sisters report various levels of satisfaction with the merger. Some are happy, but others are less satisfied, and report that they feel there is an ongoing distinction between themselves and the Sisters of Christ Healer.

We now turn to the issues that arise in any discussion of the future of an aging institute.

Issues

There are several important issues which will require attention in any attempt to develop a plan for an aging community, these include the timing of the plan, the time and energy needed to discern and implement a plan, realism, financial matters, and careful attention to civil and canonical issues.

Timing is crucial – Ongoing planning is certainly an important part of the life of any organization. For an aging institute, it is critical to begin any plan for this stage of its life-journey early enough that it still has resources needed to develop and implement a plan. As the institute ages and diminishes gradually, it may be difficult to face the need for change, but it is never too early to ask the questions and begin exploration.

Time and energy will be required in this planning process. It will often be necessary to gather as many members who are still able to participate, scheduling a process in keeping with the availability of members and with the level of energy they are able to bring to the process. Often this will also require time to allow those in the process to deal with the emotional and spiritual challenges of planning the last stages of their institute's life-journey. Individuals as well as the group will likely

experience various degrees of anger, grieving and sense of loss. It is important that the group have the resources to process this, as they move through planning. This is a demanding process, requiring members to think of themselves and their future in a new and unfamiliar way.

Realism is essential in the planning process. Often an aging institute that has difficulty finding enough members for leadership is still unwilling or unable to face its own diminishment, and possible end-of-life of the particular unit or institute. Even if it chooses one of the options described, an important chapter is ending. It will take time, but the group must be encouraged to face its situation realistically. It is likely that many of the religious institutes in the US are currently in their final generation. Some may be refounded, or dwindle to a few members only to rise again. But for most institutes, this is not a realistic hope; they are at the end of a life-journey. Facing this reality squarely can enable a community to make realistic choices and focus its remaining energies. It may be helpful to think of this stage as completion and reaching the goal, rather than as failure and dying. This is a time to celebrate the whole life story of the institutes – many are turning to this task – witness the Women in Spirit exhibit that is drawing crowds across the nation.⁵ This is a time for celebrating the accomplishments and achievements, and for culmination and integration. It is also a time to face forthrightly the challenges of the last stages of this journey.

In the context of realism, word of caution should be offered regarding re-foundation. This word is often bandied about as a panacea in a world of diminishment. Re-foundation is hard work; the history of religious life shows that it is most often done by a small group of members with a particular inspiration,

indomitable energy and dauntless tenacity. It is a work of the Spirit. Re-commitment, both personal and communitarian is something different. Both are laudable. Refoundation is possible; we are certainly in a *kairos* time and we can expect the unexpected. But at the same time, talk of refoundation should not be used to avoid realistic assessment of an institute's and its possibilities.

Goals – It is important to identify the motivation for looking at alternatives for the future. It often happens that institutes enter a planning process with high goals: This is for the sake of mission! Yet when pressed they will confide that their more immediate concerns about dwindling leadership and finances and over-sized infrastructure. While mission should remain central, planning should address actual issues. It may be a red herring to pursue complete restructuring of institutes or units, when a collaborative service corporation may be established to provide several units with administrative support, assistance to streamline finances and help to manage and downsize infrastructure.

There may also be particular subsets of the institute with diverse goals, e.g. there may be groups of members in a particular region, or age group, or particular ministries whose goals remain squarely within the charism of the institute, yet diverge from the concrete needs of the unit as a whole. It may be helpful to find ways to give these groups some freedom to pursue their goals, enabling the leadership to focus on the concerns of the unit as a whole.

Members – The choice of a path for the future of an institute is made with the common good in mind. Nevertheless, the individuals who must live out that choice also have a role to play in the decision for the future. In some of the choices, like a canonical merger, there is a statement of intent, that is, a deliberate formal opportunity for each member to express his

⁵ See <http://womenandspirit.org/>.

or her acceptance of the group's future path, or a personal decision to choose another path. The rights of the members, as well as their freedom and their need for personal discernment and support must be safeguarded in these decisions and processes. While no member can stonewall and refuse to let the group move forward, the member can choose to walk another path. This will usually be either dispensation from vows, or transfer to another institute or another form of consecrated life. As the group moves ahead with its discussion and discernment, these individual choices will necessarily be a part of the discussion. For example, if there is a group of thirty members, and ten cannot accept a merger, the other twenty could go ahead. But it would be good to hear out those who cannot accept it and see if another option would be acceptable to a larger group. At the same time, the ten cannot hold the group back if it needs to move. Patience and respectful listening are helpful throughout the process, as is an understanding that everyone is facing the emotional challenges of the process.

Finance – Financial matters will enter into the planning at many stages. While finance should not drive an institute decision, it should not be absent from the discussion either. An institute that is financially stable will have more possibilities and more options in moving through this process. If they are seeking outside leadership, or some level of affiliation with another institute, financial stability will make this much more feasible. The National Religious Retirement Office may be able to assist communities in assessing and improving their financial stability.⁶

It must be noted that there are unsavory individuals who appear to offer assistance, but who can defraud or seriously

negatively impact the security of the institute. As members and leaders age, there is increased risk that they may not be giving full attention to financial matters. It is important to have key checks and balances in place. Financial abuse of seniors is all too common in our society, and experience tells that some religious leaders are not exempt. Some have trusted outside advisors who have been incompetent or downright fraudulent.

Law – Finally, each of the options described above raises important civil and canonical issues that must be considered and addressed as the options are assessed. In addition, each option will require careful planning to ensure that appropriate steps are taken to ensure that the institute complies with all its legal obligations in this stage of its life-journey.

A religious institute is fundamentally a group of people who have come together around a common experience of God, community and mission. Vatican II describes the life as follows:

Driven by love with which the Holy Spirit floods their hearts (cf. Rom. 5:5) they live more and more for Christ and for His body which is the Church (cf. Col. 1:24). The more fervently, then, they are joined to Christ by this total life-long gift of themselves, the richer the life of the Church becomes and the more lively and successful its apostolate.⁷

It is important when turning to legal considerations regarding future options for religious life to remember that the life itself is central, and that law is at its best when it is at the service of the life and used to facilitate the life. Many founders did not intend to create an institute or write a rule;

⁶ See <http://www.nrro.org>.

⁷ Second Vatican Ecumenical Council, *Perfectae Caritatis*, October 28, 1965, AAS 58 (1966) 702-712., sec. 1.

they sought instead to live the gospel in their own life and with their companions, and to bring that same *good news* to their communities and neighborhoods and to the pressing needs of the day.

As the founding vision materialized and the movement spread, groups found a need for a certain formalization and structure. In addition, external authorities, both church and state, encouraged this formalization, and at times required or even imposed it. The canonical status and documents and the civil structures of an institute are the result of this historical interplay. And as the life-journey of the institute continues, institutes and their leaders are well advised to attend to the wisdom and experience that is embodied in these documents. At the same time they must be cognizant of present realities and future needs. The best way forward is likely to be a creative balance between continuity with the institute's life-journey so far and the legal structures which have served it well and the discontinuity that will enable it to live the values of that founding vision in the next phase of the institute's life.

Canon Law

Institute

Some of the options an institute may choose might not require canonical changes, e.g. status quo or a non-canonical affiliation with another institute. Other options will require changes, e.g. various types of reconfiguration, suppression, and seeking outside leadership. Significant changes in the canonical structure of the institute will require careful attention to canonical procedures necessary to make the change. An institute may decide to turn to outside leadership in order to continue its life and ministry for some years in the best way possible. This should be chosen only after time for study and exploration of possible

options and after there has been sufficient time to explore the issues and concerns of this option and prepare the members for the change. The arrangement will require a derogation from the constitutions which mandate the number and qualifications of leadership and council and specify that all persons filling these roles must be members of the institute. The derogation from the constitutions may be decided on by the General Chapter, but must be approved by the competent authority that approved the constitutions. This will also involve a significant change in the life of the institute and the members should be adequately prepared and supported during the process.

Much has been written about reconfiguration and its canonical requirements. If this is sought within an institute, e.g. restructuring provinces, this can be done by the internal authority of the institute. If external reconfiguration is needed, a more extended process is required and any type of external reconfiguration involving two or more institutes or societies coming into a single institute requires the permission of CICLSAL.⁸ The reconfiguration process begins with serious consideration and discussion of the needs and possibilities for restructuring. The entire membership should be kept informed, and may at times be consulted for input on the process. The decision to move forward will be made by the General Chapters of all the Institutes/Societies involved. Each member also has the opportunity to make a statement of their intent to accept the Chapter decision to reconfigure, or to pursue their vocation in another institute or another form of consecrated life, or to seek dispensation of their vows. Careful consideration together with the ongoing assistance of professionals, including a canonist would be required for this.

The decision for suppression of an

⁸ Canon 583

institute is also made after serious study and discussion, when no other option is available to the remaining members. It requires a decision of the General Chapter, along with a plan for the distribution of any remaining assets of the institute. Any remaining members must seek to transfer to another institute or form of consecrated life, or seek dispensation before the suppression of the institute. Only CICLSAL can suppress an institute, even if it is an institute of diocesan right.⁹

Members

Throughout the entire process of exploration, decision and implementation, the personal, spiritual, emotional and physical needs of the members must be kept in mind. In addition, as the institute moves toward significant change, members retain the right to receive from the institute 'everything necessary for the fulfillment of their vocation.'¹⁰ As discussions move forward, those members who are able to engage in the process must be allowed the freedom to choose their vocation. This is particularly the case when the institute to which they have given their life is closing a chapter of its existence. Both pastoral sensitivity and careful attention to the rights and legitimate expectations of members is necessary as leadership and Chapters seek the common good for the majority.

Particular attention must be given to members who are significantly younger than the majority of members. E.g. if there are members still active, care must be taken to enable them to continue to live this life, even if the decision is made for the benefit of the retired and aging members. These members also have the rights discussed above, but since they will likely have more years of active life, it is important that they also receive from the institute 'everything

necessary for the fulfillment of their vocation.' Some may begin discussions regarding a refoundation of the institute or the emergence of a new project in line with its charism. Care must be taken so that these discussions have a place to flourish as the wider group pursues its goals.

Temporalities

As the process moves forward, some attention must be given to temporal goods and to any remaining ministries. Any ministries should be entrusted to another institute, a diocese or another entity capable of ensuring its ongoing mission. If this cannot be done, the ministry may be able to be self-sustaining, or it may be closed down. Disposition of temporal goods must meet the requirements of canon law and civil law. Much of the work in this area will involve civil law, however, care must be taken that ecclesiastical goods are distributed in accord with canon law. A plan for this will accompany any petition for restructuring or suppression.

It is also important to consider where the archives of the institute can best be held after the life of the institute. These archives contain important historical information that have value in telling the story of the institute, but also as part of the historical record of the church and society in the region.

Civil Law

Any of the options chosen will require that the civil entities and documents are adjusted to give effect to the new canonical realities. While it is not possible to carry all this out simultaneously, it is important that attorneys be engaged in the process early enough to be able to begin planning for the changes. In some cases there may be civil circumstances that can dovetail with the changes being contemplated. E.g. if there is a buyer for property, or a potential sponsor for a

⁹ Canon 584

¹⁰ Canon 670

remaining ministry, a balance must be struck. On the one hand, it may be unwise to let the opportunity slip by, if some negotiation may be able to hold it open while the future of the institute is settled. On the other hand, these opportunities should not be allowed to drive the decisions about the future of the institute, to its own detriment.

If an interim solution is chosen, e.g. affiliation or outside leadership, then an interim legal structure may be needed. The affiliation or outside leadership may serve the institute's life well for ten or twenty years, but then the institute will likely be suppressed, and a more final legal arrangement will be needed. It is helpful if the legal arrangements may be made with these two phases in mind, but with enough flexibility to allow for inevitable changes over time. For any legal entities, there must be provision for governance and succession, for merger if this is called for by the documents, and for winding-up and disposition of the assets. As was stated before, this arrangement must take into account both canon law and the civil nonprofit and tax exempt organization law, thus both civil and canon lawyers will have to collaborate on this work. Some existing legal entity, a corporation or trust can hold assets for the care of members. Assets cannot be distributed to the members directly, under either civil or canon law, except for the purposes set forth in the documents. Thus it may be best to hold a corporation or trust to continue to pay for the ongoing needs of aged and infirm members.

In addition to the arrangements of civil entities, the individual member's legal documents must be reviewed and adjusted in accord with the evolving realities. E.g. Wills, declarations on remuneration, powers of attorney and health-care directives should be reviewed.

Larger Institutes

Larger institutes often face many of the challenges seen by smaller institutes in terms of aging and diminishment. However, there are particular challenges to them as well. The smaller institutes are often impelled to act and to address their diminishment earlier because the issues become acute sooner. Larger institutes, on the other hand, can often delay making decisions because of their larger pool of resources and leadership. However, this can be deceiving. It can allow larger institutes to delay serious attention to their long term future until the median age has risen beyond a certain critical point, telling themselves all the while: we have time, we still have many members, we have some younger members. Larger institutes should probably re-read the section on realism and make sure that they are not missing an important opportunity for strategic planning.

Larger institutes may also have some provincial and regional structures which are somewhat easier to reconfigure than joining of separate institutes. However, often the size, diversity and geographic distribution of larger institutes make the feasibility of significant internal restructuring a daunting task. As with the external options discussed above, the internal restructuring of an institute may not be the best solution to issues raised by aging and diminishment. Simply combining aging units with large complex organizational structure will not significantly address the needs that prompted the restructuring discussion. It may be more beneficial to examine the current infrastructure and current needs and determine those areas that would benefit from downsizing, divestiture, partnership or shared services in order to better meet current and future needs. Thus the focus turns from combining large complex organizations, to simplifying them and focusing energy and resources.

Conclusion

Individuals do estate planning to ensure that costly unforeseen problems do not undermine their security or that of their legacy. In the same way, religious institutes are well advised to ensure that their legacy of service, spirit and ministry are secured for their members and for the future. It is hoped that this article can help institutes explore their reality and options candidly and to begin or to continue needed conversations and processes about the future of their institutes.

When beginning these discussions, there is a great deal of information that must be considered. It may be helpful to consider the possibilities for the future one at a time, as one would go house shopping. At the beginning of a house shopping trip, we make a plan to visit several houses. At each stop, we'll get out and go into the house, take a good look around, notice the view from the windows, visit the yard or garden, check the wiring and plumbing and look in the closets. This is in addition to information about price, square-footage, location and neighborhood. When looking at one house, it's important to be fully present to that reality, and take notes and photos. We can

even imagine moving in and where we might put furniture or a favorite piece of artwork. We're just shopping, there are other houses to see.

In the same way in examining the options for an institute, it can be overwhelming to try to examine all the options at the same time. It might be helpful to take each option and take the time and freedom to explore that option and imagine what it might be like for the institute. Then write down some notes and reflections, before walking away from that option to consider the next one.

Through the process, the institute, its leadership and members can rely on the words of Jesus: I am the Way. The same God who was present at the founding of the institute and throughout its history will be present, sustaining the members now, as it faces an uncertain and changing path.

Author:
Amy Hereford
6400 Minnesota Ave.
St. Louis, MO 63111
amyhereford@gmail.com
314-266-1814