

## **Canonical Governance of an Institute of Consecrated Life:<sup>1</sup> Its Purpose, Overview of Organization, and the Two Essential Structures**

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- I. Canonical Governance is foundational to the nature and existence of a religious institute.<sup>2</sup>
  - A. Governance provides the necessary organization and way of decision-making needed to sustain the members' collective identity and beliefs.<sup>3</sup>
  - B. Governance's purpose is to enable an institute to carry out its two-fold Mission (*the reasons why it was established*):<sup>4</sup>
    1. To assist the members in living their vocations fully all their days
    - and
    2. To give public witness of the institute's way of life

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<sup>1</sup> The word "institute" is the umbrella term used in this text for the various types of institutes of consecrated life and societies of apostolic life described in the Church's canon law.

<sup>2</sup> This organization is "to fulfil the purpose of religious government: the building of a united community in Christ in which God is sought and loved before all things, and the mission of Christ is generously accomplished." (#52 in "*Essential Elements* in the Church's Teaching on Religious Life as Applied to Institutes Dedicated to Works of the Apostolate" by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, May 31, 1983)

<sup>3</sup> The exercise of governance is to be "effective, personal, religious authority at all levels, general, intermediate and local"...and "the need for consultation, for appropriate involvement of the members in the government of the institute, for shared responsibility, and for subsidiarity..." (*Essential Elements*, 52)

<sup>4</sup> By its very nature an institute has a just autonomy: "A just autonomy of life, especially of governance, is acknowledged for individual institutes, by which they possess their own discipline in the Church and are able to preserve their own patrimony intact..." (canon 586)

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II. The Church's universal law<sup>5</sup> specifies the particular structures and offices through which an institute exercises its Canonical Governance

A. Particular structures an institute is to have are:

1. A General Chapter which is described as: (canon 631)

a. Supreme authority exercised in a collegial manner according to the norms of proper law for

- i. protecting the patrimony of the institute
- ii. promoting suitable renewal
- iii. conducting the election of the superior general
- iv. treating affairs of major importance and
- v. issuing norms which apply to the entire institute

b. Representation of the whole membership in a sign of unity in charity

2. Organs for participation and consultation (canon 633)

a. According to universal law and proper law conforming to the character and purpose of the institute

b. Expressing concern for the participation of all the members in creating and preserving the good of the entire institute

B. Particular offices an institute is to have are:

1. A range of superiors (canons 617-619)

a. General superior (canons 620, 622)

b. Other major superiors (canon 620)

c. Other superiors (canon 622)

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<sup>5</sup> The term "Universal Law" is the umbrella term used in this presentation to include both the Church's Code of Canon Law and all additional norms issued since the publication of the Code in 1983.

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- Authority attached to each office is (canon 596)
  - a. Expressed in universal law and proper law
  - b. Personal authority [*meaning: belongs to the individual while she/he is holding the office*] but always is (canon 618)
    - i. to be carried out “in a spirit of service” for the good of the institute’s life and mission
    - ii. to make efforts to involve the members in decision-making
  - c. Able to be delegated unless restricted by law (canon 131)
  - d. Received by either election, confirmation or consultation/  
appointment (canon 625)
  - e. Responsible for the careful management of the institute’s temporal goods and accompanying administration according to the scope of duties of the given office (canons 634-640)
- 2. A council for each superior, especially a major superior
  - a. Is required (canon 627)
    - i. to provide collective wisdom as well as
    - ii. to ensure the use of consultation in the exercise of authority
  - b. Is to exercise two different types of authority as specified in the universal law and/or proper law for particular acts to be valid
    - i. some matters may require the council’s consent (*deliberative vote*)
    - ii. some matters may require only obtaining the council’s advice (*consultative vote*) (canons 127§1, 627)
  - c. Is obligated to offer consultation with integrity, observing confidentiality especially concerning the matters listed in “b” (canon 127§3)

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C. Out of all the structures and offices named in the universal law and proper law there are two which are essential and mandatory for an institute to continue to exercise its governance:

1. Holding a chapter -- the highest source of authority when in session  
and  
Having an elected leadership -- exercising authority in the name of the institute except when the chapter is in session<sup>6</sup>

III. The exercise of canonical governance, especially the two mandatory structures, competently within an institute depends totally on the capacity of the membership

A. The capacity to govern needed in the membership is the ability

1. To do, experience, and/or understand

And

To implement the necessary action(s) to carry out a decision

2. In practice the capacity for exercising governance calls for the critical mass<sup>7</sup> of the members, in particular those members serving as delegates and/or in elected leadership, to have all three of the following:
  - a. Sufficient education and/or comprehension of the matters at hand,
  - b. Willingness to consider the difficult questions with honesty and transparency, and
  - c. Ability to live with and address complexity in situations vs viewing them as single-issue.<sup>8</sup>

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<sup>6</sup> The word “Leadership” is being used in this text as the umbrella term for the individual (s) serving in the offices of a major superior and her/his council. Please insert the term used in your institute for the person(s) and their offices who are major superior(s) with council(s).

<sup>7</sup> “In social dynamics, critical mass is a sufficient number of adopters of an innovation in a social system so that the rate of adoption becomes self-sustaining and creates further growth.” (Wikipedia, August 20, 2019) Sociological studies define the critical mass to be at least 30% of those who belong to a group.

<sup>8</sup> Adapted from Loss, Trauma, and Resilience: Therapeutic Work with Ambiguous Loss by Pauline Boss, Norton Professional Book, New York: W.W. Norton and Co., 2006.

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3. An institute's Constitution, primarily in the sections on the Vows, Entrance into Membership, the Common Life, Ministry, and Government, provides descriptions of what abilities and capacity are expected of the members, especially those in governing roles, in order to sustain and expand the life of the institute

B. Myths an institute can have in the immediate future (next 1-2 chapters) and into the near future (next 2-3 chapters) about its capacity for holding a chapter and/or having elected leadership often flow out of looking at the number of members, esp. those 75 and even 80 as well as younger than 70, and concluding<sup>9</sup>

1. All are qualified to be in elected leadership and/or be a delegate in chapter
2. All are willing to be available to be in elected leadership and/or be a delegate in chapter
2. All can function competently within an elected leadership and/or within a chapter body
3. All are electable and/or are able to focus on the common good of the institute more than their own interests

IV. To decide if an institute is able to continue to hold a chapter there must be a careful determination, after weighing the data, if in the immediate future (next 1-2 chapters) and/or into the near future (next 2-3 chapters) the membership has/will have the capacity required to exercise this essential governance structure competently

A. This determination must start with an honest consideration of whether an institute has a critical mass of members who possess these four elements:

1. Skill sets needed for being a delegate

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<sup>9</sup> Some parts of the hand-out are adapted from the writing of Dan Ward, OSB, JD, JCL.

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2. Age, health (includes memory and hearing), energy, needed to be a delegate
3. Ability to work with the chapter process and consensus building
4. Commitment and openness to act for the institute's common good instead of one's personal agenda or individual interests

B. If a critical mass of members with all four elements listed in "A" is identified, these questions about this group of members must be answered truthfully:

1. In this critical mass of members with all four elements are there enough who are both
  - a. Willing and able to serve as delegates?  
and
  - b. Representative of the institute?
2. Finally, overall will the delegated body be able to examine the chapter agenda objectively and make responsible decision(s) in the immediate future and/or in near future on matters facing the institute?

V. To decide if an institute is able to continue to have elected leadership there must be a careful determination, after weighing the data, if in the immediate future (next 1-2 chapter) and/or into the near future (next 2-3 chapters) the membership has/will have the capacity required to exercise this essential governance structure competently

A. This determination must start with an honest consideration whether an institute has a sufficient number of members who possess all five of these elements:

1. Administrative skills as well as a scope of professional and life experiences for taking on and carrying out elected leadership
2. Age, health and energy needed for a full term of elected leadership
3. Pastoral and spiritual abilities sufficiently developed for use in elected leadership

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4. Ability to form a healthy working dynamic within the elected leadership
5. Sufficient sense of electability<sup>10</sup> by the majority of the membership

B. If a sufficient number of members with all five elements listed in “A” is identified, the following question about this group of members must be answered truthfully:

Are there enough in this group of members willing to be available for elected leadership in the immediate future? In the near future?

VI. Making some changes in canonical governance are possible but require planning

A. Keep in mind: even if an institute has the capacity for competent elected leadership, it is always free to take action should it desire to either:

1. Adjust the scope of the elected leadership’s responsibilities to encourage perhaps more members to be willing to be available to serve in this role,
- and/or
2. Engage outside assistance to handle some of the responsibilities which need particular skills lacking in the membership

B. Since the exercise of canonical governance always requires having the two mandatory structures (*a major superior with a council and a chapter*), an institute must pay attention to foresee a time when, either in a particular part or in the entire institute, there will not be a sufficient number of members who are able to serve competently in both of these two mandatory structures

C. When an entire institute is facing a pending lack of capacity within its membership to sustain the competent exercise of canonical governance it can decide that

1. In the immediate future (*perhaps 4-8 years or 1-2 chapter cycles*)

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<sup>10</sup> Electability means that enough members feel sufficiently comfortable that they can trust this individual and are willing to accept the person in this office.

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- i. It can continue its responsibilities of canonical governance,
- ii. But needs to initiate the work of transferring some or all of its responsibilities for civil management<sup>11</sup> to individuals or an entity/entities outside the institute

#### 2. In the near future (*perhaps next 8-12 years or 2-3 chapter cycles*)

- i. It needs to seek and develop a relationship with an entity who will be able to take on its canonical governance, with the approval of the Church, when the members are no longer able to exercise it  
and
- ii. Assist its members to be ready for this change in the institute's canonical governance

VIII. Key Point: An institute, in either one of its particular parts or overall, can choose to make appropriate adaptation(s) in its governing structures as long as it continues competently to both hold chapter and elect leadership

A. The work of adaptation and ultimately direction-setting for the future is the obligation of the current members flowing from their profession to live the life of the institute and sustain its patrimony

B. This obligation challenges the members both to

1. Recognize significant change(s) that may be limiting their personal and/or their institute's collective capacity to exercise one or both of the two essential structures of canonical governance: holding a chapter and having elected leadership

And

2. Be pro-active in a timely manner if it is necessary to make changes in canonical governance to best sustain the institute's two-fold Mission of

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<sup>11</sup> The term "civil management" applies to those responsibilities and operations handled under the civil corporation of an institute.



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assisting the members in living their vocations fully all their days and of giving public witness to the institute's way of life

### **Options For Institutes Who Find Themselves In The Position Of Having Diminished Membership**

1. For Active, Apostolic Institutes:
  - a. Seek to have the present leadership continue in office through the completion of a planning process that is underway – perhaps 2-3 years. OR, if capable of having another chapter at the regular time, elect new leadership. OR, if no other viable members except present leadership, seek to have them postulated if it is the wish of the chapter. Petition either the bishop or CICLSAL for these permissions.
  - b. Seek to have the diocesan bishop or CICLSAL
    - i. Suspend holding the general chapter and election of leadership,  
and
    - ii. Appoint a commissary to continue *ad nutum episcopi or ad nutum Sanctae Sedis*.  
  
This means there would be no more general chapters and the individual(s) or entity appointed would continue as long as competent and able. In addition, the number of members in the leadership may get smaller as members become fewer if this permission is given by the competent ecclesiastical authority. Put in place the possibility of recommending a commissary when the members no longer have the capacity to exercise both mandatory structures of governance.
2. For Cloistered (or Contemplative) Institutes:
  - a. If contemplative institute with five or fewer chapter members, prepare to affiliate with another institute or the leadership of the association for the purpose of closure or revitalization. Closure would occur if each member would transfer to another contemplative community, die, or receive a dispensation from vows.
  - b. If contemplative institute with five or fewer chapter members who all have reduced health, do two simultaneous things: (a) make

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arrangements with a facility with assisted and/or nursing care for the sisters to move there, and (b) have CICLSAL appoint a commissary to lead until the last one dies.