

# EXPLORATIONS ON THE “COMPLETION” OF RELIGIOUS INSTITUTES

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## INTRODUCTION

Looking at the current state of religious life in Europe, we see that the numbers of religious have been declining for decades, while their average age continues to rise. For example, the Congregation of the Brothers of Saint Aloysius Gonzaga, a congregation of pontifical right, has 29 members with an average age of 82. In its heyday, in 1961, the brothers numbered 427 and worked on four continents. By human standards, the end of the congregation's existence is in sight, and the same applies to a large number of religious institutes in The Netherlands, both of diocesan and of pontifical right. In addition, a large number of religious institutes with a province in The Netherlands will see their presence in this country end at some point.

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Some 20 years ago, these developments started to attract attention in The Netherlands, and the Conference of Religious in The Netherlands (KNR)<sup>2</sup> considers it one of its duties to assist religious institutes<sup>3</sup> with preparing for the last phase in their existence and their eventual dissolution or, as it is frequently called these days, 'completion.'

## I. ASPECTS OF THE *ARS MORIENDI* IN INSTITUTES OF CONSECRATED LIFE

For centuries, Christian believers have been encouraged to prepare for death by practising the *ars moriendi*, the art of dying. The aim of this was the individual salvation of a Christian; institutional or legal aspects fell outside this scope. However, the German theologian Johann Baptist Metz elaborated upon the *ars moriendi* concept in a new and gripping manner in his book *Zeit der Orden?*<sup>4</sup>, in which he devoted several pages to the decline and possible end of religious institutes. He argued that religious institutes

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<sup>2</sup> Since 2004, there has been one conference of Major Superiors in The Netherlands, the KNR (<http://www.knr.nl/documenten/MS%20KNR%20Eindtekst%20Engels.doc>). The KNR has over 200 members and represents a number of institutes, each with a membership ranging from 1 to 650 religious. Only a few Major Superiors are not members.

<sup>3</sup> This contribution equally concerns the Societies of Apostolic Life and, in some cases, Secular Institutes.

<sup>4</sup> J.B. Metz, *Zeit der Orden?*, 1977, p 18 - 22.

need to realise that the Holy Spirit called them into existence, but that this existence need not necessarily last for all eternity. The three evangelical counsels urge the religious to detachment as their guiding attitude to life, which carries with it the need to accept that the specific calling of an order or congregation may at some point end. Metz called this attitude the “charismatic art of dying” and distinguished four aspects, which we will summarise briefly and then elaborate.

### I.I

Winding up an institution or organisation, including a religious institute, is almost always painful. It has a serious impact on members of a congregation to be told that the institute they have identified with in many ways will not have a long-term future. Therefore, Metz identifies the first characteristic of this *ars moriendi* as *acceptance*, i.e., admitting and agreeing that the institute is on the wane, at least in terms of numbers. Elisabeth Kübler-Ross distinguished four stages in an individual’s coming to terms with his/her death<sup>5</sup>. These stages can, *mutatis mutandis*, also be applied to collective death. They are denial, anger, negotiation, and depression. For a long time, congregations can hold on to the conviction that the situation will change for the better. Congregations can feel wronged by the situation, social and cultural circumstances, or even policies. Members can move towards the end apathetically. It is to be hoped that these attitudes will pass with time and culminate in acceptance, the last stage in Kübler-Ross’s description of the process.

Given that, in The Netherlands, the end of a religious institute’s (or a province’s) existence is now often referred to as “completion,” we may assume that the level of acceptance is growing: this acceptance is

accompanied by looking back with gratitude and pride on what the religious institute has meant and the work that has been done.

### I.II

The end of a religious institute comes in sight most obviously when, for a prolonged period of time, no new people have expressed the wish to join. This development may be experienced as a negative judgment on the institute and its members – there is a “you missed the boat” element to it. This is painful. Yet Metz advises, as the second aspect of the *ars moriendi*, not to avoid the confrontation with such judgments but to spend time reflecting: which turning points presented themselves and how did we react at the time? Those who wish to die as full human beings must face up to their history and responsibilities, including what the American poet Robert Frost calls “the road not taken”<sup>6</sup>. Rather than blame earlier generations or each other, this process should aim to eliminate old grievances and, as a result, to enable the members to live more freely in the present. In The Netherlands, this has led to the interesting development that the elderly are encouraged to write, alone or with help, a ‘book of life’, an honest retrospective of their way through life.

### I.III

The next characteristic of Metz’s *ars moriendi* is a practical one: the settling of affairs. When the end of the institute is in sight, the institute as a whole needs to make arrangements for privatising institutions founded by the congregation, such as hospitals, schools and boarding schools. In The Netherlands, this was largely completed by the end of the 1960’s and 1970’s, due to the steady decrease in the number of religious and the steady increase in

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<sup>5</sup> E. Kübler-Ross, *On Death and Dying*, 1969.

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<sup>6</sup> R. Frost, ‘The Road Not Taken’, in *Mountain Interval*, 1916.

professional requirements, which made it irresponsible for religious who were unable to meet these requirements to hold on to leading positions.

When it comes to settling affairs, an area that deserves special attention is the historically, culturally and at times also financially significant objects that the institute has obtained in the course of the years that deserve an appropriate destination. By handing these over, the institute demonstrates its active engagement with the world around it, while at liberating itself from any concerns that could become a burden at a later stage. The same applies to the decisions as to what needs to be done with the archives and the congregation's own cemetery.

#### I.IV

When the above three points have been dealt with, it creates room and freedom. Metz uses the term "being open." This response is by no means self-evident, for being eye to eye with the end can easily result in tunnel vision or cynicism. It is important to acknowledge this risk and seek ways to overcome it. Each and every member of a religious institute should be aware of the fact that s/he is greater than the circumstances: an individual who has a sound awareness of his or her worth is able to survive the collapse of structures that were precious to them, not in embittered isolation, but in mature stability. This is an attitude, the art of life (*ars vivendi*) which is at the same time the art of love (*ars amandi*): to make room for others and rejoice wholeheartedly about new developments, even though they take place elsewhere. Those who accept change as a challenge to keep growing and open their hearts to biblical visions of peace and justice to all humanity will not become rigid or paralysed by the chill of death.

The above is a general outline of Johann Baptist Metz's views on the *ars moriendi* in religious institutes, as articulated in his book *Zeit der Orden?* The book was written over thirty years ago, with the purpose of offering members of religious institutes new perspectives and renewing their enthusiasm. Metz's comments on the *ars moriendi* were an aside, not the focus of the work. Moreover, at the time, the fate of a considerable number of religious institutes in the next twenty years had not become as manifest as it is now: extinction. It is therefore understandable that Metz did not develop many ideas on the *ars moriendi* as it applies to religious institutes. For this reason, we would like to elaborate upon three of the points Metz makes in greater detail.

#### I.V

Metz simply and rightly states that religious institutes are not by definition meant for all eternity. This may be true, yet such a statement might raise eyebrows when it is applied to a particular institute. Thinking like this about our own institute could be viewed as a form of betrayal to our charism or as a reprehensible symptom of hopelessness. For this reason, we should think carefully about when and under which conditions we would be well advised - obliged, even - to discuss the end of our own institute. At an institutional level, we should consider how many mentally and physically capable staff members are still available; whether new members could be offered appropriate formation; to what extent the institute is still actively involved in society and cultural life; whether the institute is willing and able to adapt its apostolate in the light of the original charism to new needs in Church and society; and whether there are sufficient financial means to engage in new initiatives. Such realism may be branded unevangelical by some, but, if it is presented with prudence, it may free the institute from

false dreams and, as Metz himself stated, this realism fits very well in the broader perspective of engagement with the world and the Church.

Moreover, we should not forget that, historically, the creation of a religious institute was always a response to a particular situation in Church or society. A new charism does not arise in a cultural vacuum. Here, too, it is a matter of *gratia supponit naturam*. When social circumstances change and other parties take over the work of religious in the areas of education and healthcare, this inevitably has consequences for religious institutes. When this happens, the religious may well say to themselves that their congregation has done good and important work at a particular place in a particular period of history, and this work has now been taken over by others. In this sense, mission accomplished!<sup>7</sup> When we take this perspective, we can speak about it in positive terms: with pride, because we played a significant part in history – and with a hint of nostalgia.

#### I.VI

Major Superiors of religious institutes who see the end coming are faced with an awkward task. Whereas their membership is declining, and with it the potential for energetic and understanding leadership, the care requirements of the members are increasing. Much of this can in principle be met by handing over duties and property to non-members, but part of the responsibilities

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<sup>7</sup> Cf. A. Hereford, “Alternatives for aging institutes: issues and options,” *RCRI Bulletin* No. 6 (Fall 2011), p 14: “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 (...) 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.”

for an institute remain an inherent part of the duties of a Board, or, as the case may be, a General or Provincial Superior. The question may arise to what extent it is actually still possible to take initiatives of a stimulating spiritual nature in the face of a much reduced and rapidly aging membership. Living and carrying responsibility in an institute that is in the grasp of *taedium vitae* demands social-psychological insight and wisdom. It is vital to communicate about this with the members of the institute in an understanding manner.

#### I.VII

Metz’s book was written with a theological purpose. It is therefore not surprising that he does not give explicit organisational recommendations or instructions apart from those concerning handing over responsibilities. In the meantime, it has become clear that the envisaged end of a religious institute requires thorough consideration on points of law. Canon law gives very few pointers in this area, although in the course of the centuries numerous institutes have come to an end (as Hostie demonstrates<sup>8</sup>). The issues were probably resolved on an ad hoc basis, or they were not resolved, or time solved them. This is no longer an option. Taking appropriate measures that ensure full transparency in management and governance, in particular with regard to the duty of care for the members and sound financial arrangements, is something that is an important aspect of

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<sup>8</sup> Raymond Hostie's historical survey *Vie et mort des ordres religieux* (Paris 1972), which ranges from the first forms of organized religious life in the 3<sup>rd</sup> century all the way to Vatican II, strongly supports this thesis. One of Hostie's conclusions is that most religious institutes exist for some 300 years: “le cycle de vie complet d’un groupement religieux est bouclé en quelque trois cent ans” (p 313). It is worth noting that the scope of this survey is limited to institutes of male religious.

bringing the *ars moriendi* into practice in religious institutes.

## II. GOVERNANCE AS AN ASPECT OF THE 'ARS MORIENDI'

At the start of the nineties, the item of 'future governance' was first put on the agenda in The Netherlands. In particular, women religious had seen the writing on the wall when they increasingly experienced difficulties with finding suitable candidates for the post of 'House Superior'. The sisters reflected on how to deal with this issue. In addition, at a treasurers' meeting, an appeal was made for a dignified end to religious institutes. After all, religious institutes had been cultivated and nurtured into growth with care and wisdom, so their retreat from Dutch society should not be sloppy either. It was a call to good planning and appropriate action.

### II.I ATTENTION TO DECLINING GOVERNANCE CAPACITY

In November 1997, a delegation of the three conferences<sup>9</sup> that existed in The Netherlands at the time brought the issue to the attention of the Congregation for the Institutes of Consecrated Life and Societies of Apostolic Life, using statistical data published in a social-scientific report, a KASKI memorandum.<sup>10</sup> The number of religious was calculated to be 19,500 in 1996, and this number was expected to drop to just over 6100 by 2011 (in fact, on 1 October 2011 there were approximately 6820). In 1996, 50% of these were over 75 years of age, and

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<sup>9</sup> These consisted of the conferences of brothers, those of active/apostolic women religious, and those of religious priests.

<sup>10</sup> L. Spruit, J. Sanders, *Members of religious institutes in The Netherlands. Data and prognoses*. KASKI-Memorandum 303, October 1997.

it was predicted that by 2011 this would be 73%.<sup>11</sup>

According to this report, the increase in average age of religious and the decrease in numbers would cause problems in two main areas. Socially and spiritually, there would be an increased attitude of isolation, with the overburdening of some members and a fading spiritual life. Financially and economically, the religious houses themselves were too large and costly to maintain without the hiring of additional personnel.<sup>12</sup>

These observations gave rise to the three questions:

1. How do we create the prerequisites for a good religious and social life for current members?
2. How do we creatively address the problem of an increasing lack of good leadership?
3. How do we deal with the issue of fading attraction to religious life as a vocation?

On the basis of the KASKI report, the delegation put an open question to the

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<sup>11</sup> As the actual higher number is caused mainly by the unforeseen increase in life expectancy, the average age will currently also be higher. No exact figures are available as yet.

<sup>12</sup> In fact, it is stated even more clearly: "Religious institutes that are in a prosperous economic condition can allow themselves to postpone the necessary attention to the problems of decrease and aging for a long time. Thus, economic prosperity may function as a restraint on innovation," p. 9. One of the causes is that religious, like all Dutch citizens, receive a basic state pension once they have reached the age of 65 and that the state or health insurers cover the additional costs for the care of elderly religious.

Congregation: ‘What should the KNR<sup>13</sup> do in response to the problems that have been identified?’ The Congregation responded with three answers in the meeting:

- For a number of institutes, a “holy death” will be unavoidable (a foreshadowing of the term ‘completion’). Those institutes will receive pastoral care just like a dying person.

- On the one hand, the KNR needs to respect the autonomy of religious institutes; on the other hand, they should not, like Pontius Pilate, wash their hands of a religious institute and stay aloof when they see it is in trouble. By the time competent leaders are no longer available and the administration has become too cumbersome, a conference needs to help. The Congregation cannot impose any rules in this matter, but the matter needs to be solved in keeping with the mentality of the relevant country and depending on the situation at hand.

- A merger of religious institutes does not constitute a real solution – it is only cosmetic.

Furthermore, the Congregation explicitly said it would follow the developments in The Netherlands in this area with great interest, as these might be of future benefit for other countries

In 2000, the Board of the KNR published a policy document (*Beleidsnota*), in which it put forward the conclusion that “caring for elderly religious is being replaced by caring for elderly religious institutes.” The description of the situation and the

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<sup>13</sup> At the time, the KNR was still the association of the above said three conferences and the union of convents of contemplative sisters.

considerations set out in the document relied heavily on the KASKI report.

The *Beleidsnota* furthermore stated that the KNR planned to concentrate on future governance, which could be considered “the main focus of attention for the KNR in the coming years.” The issues to be dealt with were defined as follows: “The dignity of an institute and the quality of life will take centre stage in this process and carelessness in the decision-making processes must be avoided. The areas that deserve our attention include: management and governance structures and responsibilities; the preservation of the religious climate; individual care for members; plans that have been made; any requirements as regards assistance from third parties; measures that need to be taken so that the religious institute can enter its last phase in a responsible and dignified manner.”

To assist with this task, the KNR did seek expert assistance outside itself, but it soon discovered that there is no specific academic knowledge about shrinking organisations. Nonetheless, we did learn from our meetings with academics and other organisation experts was that it is of the utmost importance for a religious institute to take decisions about its completion at a time when it still can do so independently (i.e., because it is still able to hold a chapter meeting in conformity with the requirements laid down in the Constitutions).

This signifies the importance of starting to think about the theme of future governance in a timely way. To find out to what extent religious institutes were already grappling with the issue, to map out areas in which the KNR should become involved, and to encourage religious institutes to start thinking about future governance or to increase their momentum, KNR staff embarked on a programme whereby they

visited almost all Major Superiors, often with their Councillors, from 2000 to 2003. The interviews were conducted via a questionnaire, which was supplemented and improved after each round (there were five rounds in total)<sup>14</sup>. The survey yielded some striking conclusions:

- ✓ The majority of religious institutes conceded that their purpose had gradually altered into caring for elderly members, with the striking exception of the contemplative monasteries. Most institutes still exercise their original apostolate primarily by the voluntary work of individual members and their involvement in earlier works by means of prayer, financial support to projects or parts and/or works of the institute elsewhere.
- ✓ Housing is a permanent concern for many institutes, and at the time of the survey, approximately 50% of the institutes had plans to close and sell houses.
- ✓ In the majority of institutes, vacancies on the council of the institute can still be filled, but apart from those members who are on the council already, there are virtually no persons left who are suitable to take up office. At some 10% of the institutes, it was felt that, apart from the incumbent Major Superior there were no other members who could take up this office. It has also become increasingly difficult to find members for the position of House Superior.

- ✓ The majority of the institutes employ lay staffs who hold central advisory, policy-preparing and executive positions at financial and economic levels. In addition, the number of lay people who advise councils in other areas is on the increase, and most institutes can no longer function without the assistance of lay people in executive areas.

The conclusion of the survey is that in the coming years the KNR may expect to be needed in particular by the institutes of diocesan right and those of pontifical right that are based only in The Netherlands, and by a number of convents of contemplative sisters. The KNR acknowledges the specific responsibility of the bishops in this area, but at the same time has to conclude that they hardly have sufficient staff or means to fulfill this responsibility appropriately.

## II.II SOME SPECIFIC ISSUES IN PRACTICE

In the above we explained how the KNR has become increasingly engaged in the issue of future governance. As it happens, the members of the conference very much supported the direction taken. It was discussed at General Assemblies and at national meetings of treasurers and economic advisors. The religious institutes submitted questions in this area to committees and staff members of the KNR and made grateful use of their advice. It resulted in clear advice or unequivocal stances on a number of issues. We will now give several examples of such issues.

### 1. House Superior

The result of the five rounds of interviews on the impossibility of finding members for the post of House Superior was no surprise. In response to this situation, institutes for

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<sup>14</sup> For the definitive version of the questionnaire, see the appendix to this article.

women religious in particular had already taken the step to charge female lay staff with leadership tasks in their communities. These lay women are called ‘coordinators’. It was considered sufficiently responsible to entrust the coordinators with (some/many/important) duties of a Superior on the principle that “what must be done, must be done; if it can’t be done the way it should, it should be done the way it can.” Of course, canon law describes the requirements a Superior has to meet, and, apart from canonical, there are also general human, psychological and religious criteria<sup>15</sup>; but if a superwoman like this cannot be found, one has to settle for less. The sisters took the practical approach: what should be effectuated in this position in the current situation and which competences are needed to achieve it?

Nevertheless, religious institutes kept asking questions about this issue and the position of these coordinators. In response, the KNR committee on canonical matters concerning the religious (*Kerkrechtelijke Aangelegenheden Religieuzen, KAR*) defined the position of lay leaders in detail in 2004 in the document on religious authority and community leadership (*Religieuze overheid en communiteitsleiding*). The KAR found that the pivotal question remained: “How can we best serve and improve the quality of religious life in our communities as a whole as well as that of their individual members?” The KAR takes the view that decisions on legal and organisational aspects should depend on the answer to this question.

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<sup>15</sup> J. Scheepers, “Toekomstige bestuurbaarheid”, *Toekomstplanning (2) een drietal verkenningen KNR Publication 29* (November 2003), p 1-11, lists the following canons: 618, 619, 623, 624, 625, 627, 629, 630, 636. The criteria would comprise sufficient physical and mental health, wisdom, a sense of fairness, excellent communicative skills, and a mature religious attitude to life.

The tasks a canonical Superior cannot delegate and which can therefore be considered his/her core task is:

- a. The Superior was elected by the members of the institute or appointed to be the one who speaks with the religious
  - about living in accordance with the vows, and
  - about the content and quality of the religious life of the religious and the community.
- b. After such a consultation, the Superior can pronounce on matters with binding authority, and the binding element may concern both the institute and individual religious (see Can. 618).

On the other hand, the duties involved in leading a community are more comprehensive than this core task, so in any local community there should be someone who :

- pays attention to and takes responsibility for the personal wellbeing of each individual religious, physically, psychologically and religiously;
- pays attention to and promotes the community’s functioning as a religious community.

This should be elaborated in more detail for each religious institute and community, depending on its circumstances and needs.

Thus, the position of Superior and that of leader of the community have in effect been separated, which means that those holding these offices must cooperate closely, and that the position of each of them is clearly defined, both within the institute and to the outside world, and also clearly laid down in writing.



*Mutatis mutandis*, the distinction between the position of Superior and that of leader of the community can also be functional at provincial and general level, if the need arises. Elaborating this in greater detail will be a challenge for the coming years.

## 2. Chapter, Major Superiors and Their Councils

In a number of religious institutes, there are really no members left who could carry the responsibilities of Major Superior, and no members who have the physical and mental competencies to undertake administration and governance responsibly, although competent and trustworthy advisors are available. If the members of a religious institute are no longer able to perform the duties of their office, it would be highly irresponsible to invest them with this office, as it could lead to undesirable situations. Also, it should be taken into account that it would no longer be possible to hold chapters as prescribed by the constitutions.

If those conditions occur, how can we ensure proper future governance for these religious institutes of diocesan right and the religious institutes of pontifical right that are only based in The Netherlands?

Under those conditions three questions can be asked:

- Who should be the one to assume administrative responsibility?
- In what way could we do justice to the *iusta autonomia*?
- How do we preserve the dignity of the religious institute in this phase?

Our experiences so far and the thought process concerning this issue has resulted in seven options<sup>16</sup>:

- a. Dissolution;
- b. Personal union: sharing board members with another institute;
- c. Merger of institutes;
- d. Merger of provinces;
- e. Separation of immaterial and material interests by establishing an ecclesiastical juridic person;
- f. Change of status;
- g. Charging non-members with administrative responsibility.

### **Option a:**

The thesis has been advanced that a religious institute may as well be dissolved (as defined in canon 584) once it can no longer put forward suitable candidates for the offices of General Superior and member of the General Council, as it is then no longer able to provide people for core positions. Yet a number of members are still there, and there is community life. These members have the desire and, one may say, also the right to end their lives as members of the institute. To dissolve the institute at this stage would cause much distress and disappointment and would not do justice to the members' personal situation and history. In addition, it may give rise to all kinds of legal and tax-related complications.

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<sup>16</sup> This list displays some options that differ from those mentioned by A. Hereford (in "Alternatives for aging Institutes: Issues and Options," (see footnote 7), p 6-7). Her option "Remain as one is" is not listed here, as it does not seem reasonable in a situation whereby in the short term there will be no members at all left to fill leadership positions.

**Options b and c:**

As stated in 1997 in the meeting with the Congregation, these options can only be considered unrealistic, for any institutes which might qualify as partners in this solution are faced with the same problem. On the other hand, the option of a personal union may constitute a temporary solution, providing leadership for two provinces of one religious institute.

**Option d:**

This has often been the preferred solution, because it allows for an increase in potential members to fill management positions. However, it is often no more than an administrative manoeuvre, a solution only "on paper", that provides some solace in the short term. The parts in the various countries<sup>17</sup> keep having a significant degree of independence. The superior of this international province will have to cope with very different situations on her/his own, often also in several different languages.<sup>18</sup>

**Option e:**

In The Netherlands, an ecclesiastical juridic person (for instance a religious institute, a province or a house) automatically also possesses juridic personality under civil law. This is exceptional when compared to other countries, which often observe a stricter separation between ecclesiastical and civil juridic persons. In The Netherlands, it is possible to establish a public canonical juridic person, to which the material interests of the religious institute are transferred as well as the human resources management (because more personnel means more worries). Such a public canonical juridic person is recognized under Dutch civil law. The Board of this juridic person would at first consist of members and non-members

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<sup>17</sup> The solution is assessed here on the basis of the situation in Europe.

<sup>18</sup> See too: A. Hereford, o.c., p 18.

of the institute. Within this construction, the Major Superior and her/his Council would only have to undertake responsibility for the personal interests of the members (i.e., in relation to the vows, community life and psychological, pastoral and spiritual aspects).<sup>19</sup>

A separation of material and immaterial interests may be seen as a solution that relieves the Major Superior and her/his Council. It is a solution of a temporary nature and in the existing cases provisions have therefore been made that the Board of the new juridic person (likely to consist entirely of non-members) would in the final stages of the religious institute undertake full responsibility for the last members.

The question may be raised whether it is in fact possible to distinguish so clearly between personal and material interests. In cases in which this solution was chosen in The Netherlands, it has proven to be effective for the present.

**Option f:**

If there are no members left who can carry the responsibilities of Major Superior or councilors, it is an option to change the status of the part of the congregation in The Netherlands: a province can become a 'region' or 'house', which renders the task of managing it much lighter. This 'house' then comes under direct responsibility of the General Council or a province.

The above seems a good solution for provinces with a limited membership and an uncomplicated material state (for instance little or no ownership of immovable property

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<sup>19</sup> This is the central responsibility of the Superior: see the *Instruction The service of authority and obedience Faciem tuam (May 11, 2008)* of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life.

any longer) and after having laid down the 'testament' in consultation with the General Board.

A house superior (member of the institute) and a coordinator (non-member) can fulfill the day-to-day leadership tasks of the community. In addition, a member of the General Council will be given the task of 'special supervision' on the 'house' in The Netherlands and this member-councilor will then come to The Netherlands with some regularity to support the 'house' and its leadership, as well as to maintain and foster the bonds with the institute as a whole.

**Option g:**

As it looks now, the option of delegating administrative responsibility to non-members is the likely choice of most religious institutes in the relevant situation.

Institutes of diocesan right are, from a canonical point of view, faced in particular with the question: how do Canon 586 and Canons 594 and 595 compare? These canons emphasise on the one hand the *iusta autonomia* of the religious institute, but on the other hand also the special duty of care of the bishop and his responsibility "to take matters of greater importance in hand, which concern the institute as a whole and which surpass the powers of the internal authority".

In some cases, the bishop assumes responsibility whilst the *iusta autonomia* of the religious institute is preserved by the fact that it keeps its own Board, consisting of one or more persons (depending on the size of the institute and the demands of the post<sup>20</sup>)

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<sup>20</sup> There is rather a difference between taking management responsibility for a community of 4 persons who live in a care/nursing home as a community, without any significant *bona temporalia*, and responsibility for a congregation of 70 members with a large own building, personnel and a significant volume of *bona temporalia*.

who are not members of the institute. In such cases, the bishop appoints persons who undertake administrative responsibilities (preferably on recommendation of the institute), who in turn have to render account to the bishop once a year.<sup>21</sup> The actual task will predominantly consist of promoting the wellbeing of the members of the religious institute and implementing the wishes of the last Chapter. It does not seem a good idea for a delegate (or vicar) from the bishop to take over the actual management responsibility, as this really does no justice to the *iusta autonomia*.

For institutes of pontifical right, too, the time when it will no longer be possible to elect General Superiors or Councillors from within the institute is rapidly approaching.

For them, too, dissolution and the formation of a personal union or merger do not constitute realistic solutions. For some of them in particular it is at times suggested that the boards of religious institutes in the South, which in the past became independent from the religious institute in The Netherlands<sup>22</sup>, could become involved in the institute in The Netherlands again by means of a personal union or a merger. However, the very reason why the relevant religious institute in the South was made independent was its very different circumstances, and in the meantime the differences will only have

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<sup>21</sup> Contrary to canon 637 ("The local Ordinary also has the right to be informed about the financial affairs of a religious house of diocesan right")! This choice was made due to the absence of any remaining internal controlling body in the religious institute, in view of canon 594 and because such an institute usually has just one house left.

<sup>22</sup> Many religious institutes in The Netherlands used to have a presence in the former Dutch colony of Indonesia, which gave rise to a number of new independent religious institutes in the archipelago: in most cases these institutes still maintain friendly and spiritual relations.

increased. This does therefore not seem a feasible option.

In their situation, too, establishing a canonical juridic person to separate material and immaterial matters can be a clear, though temporary, solution of the problem.<sup>23</sup>

The next step would be for the Congregation to give non-members administrative responsibility for these religious institutes. The problem here is the distance, in all meanings of the word, between the relevant religious institutes and the Congregation. The religious institutes will fear that complete strangers will be put in charge, or that such persons will not respect the institute's particular religious nature. Here too, the institute's dignity and *iusta autonomia* must be preserved. Internal agreements, for instance on a *consilium a rebus oeconomicis* (Canon 1280) which sometimes has a more extensive advisory task in The Netherlands, must be respected. In short, the interests of the religious institute concerned, its members' wellbeing, preserving the *iusta autonomia* and dignity will take center stage for the *Congregation* when appointing a "commissary". It will therefore be vital to prepare this phase carefully and it seems that the KNR will be able to play a pivotal part as mediator and advisor, for instance by assisting with the preceding apostolic visitation and by looking for suitable persons. It will not be easy to find suitable persons if we assume that possible candidates will have to speak Dutch. After all, it may be expected that the members of these religious institutes can communicate directly with the persons who are given these responsibilities.

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<sup>23</sup> There is a purely theoretical possibility to turn those institutes of pontifical right back into institutes of diocesan right. However, this remains a purely theoretical possibility, for it is not described in the Codex and as far as known it has never occurred either.

### 3. Financial aspects

Religious institutes also soon came up with questions about the financial aspects of future governance and completion. First and foremost, it should be said that the main purpose of the financial means of religious institutes is the maintenance of its members<sup>24</sup>. If religious institutes are approaching the end of their existence, it is possible to calculate how much money will be needed for maintenance in future years, but if it is envisaged that there will be a surplus, what should be done with these funds? Who is going to take decisions about them?

The same question presents itself to religious institutes whose Dutch province is approaching the end of its existence. Legally, the surplus will revert to their institute as a whole, in effect to its General Board. But is this all there is to say about it?

These questions gave the KNR Board cause to urge religious institutes to draw up a 'testament'. In July 2008 the Board sent out a letter stating that:

- ✓ 'temporal goods' (*bona temporalia*) of religious institutes are not governed by liberal principles on property (free right of use and disposal on the part of the owner, who can dispose of them at his/her own discretion), but the capital must be preserved, managed and deployed in accordance with the purpose;
- ✓ the 'temporary goods' of religious institutes are, as stated before, first and foremost meant for living costs for the members; once these have been covered

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<sup>24</sup> The term 'maintenance' should be understood in a broad sense in this context and also includes for instance salaries of staff members and the upkeep of or rent for living accommodation.

the remainder can be used for apostolate and, more generally, *caritas*.

This letter was mainly addressed to religious institutes “that are faced with the imminent end of their existence”. With this letter, the KNR Board wishes to draw attention to the importance, in view of a number of provisions under canon law, of thinking carefully, when preparing for the last phase of the religious institute, about the destination of the temporal goods that will remain when there will be no members left (or when the institute is dissolved or the last house is closed).

This destination should preferably be laid down in chapter resolutions, or otherwise in the constitutions. Temporal goods include financial means (including immovable property), art treasures and historical objects, liturgical objects and clothing, the institute’s own cemetery or the part it occupies in a larger cemetery.

If the institute wishes to lay down decisions on this matter in the constitutions, these decisions should not be too detailed or soon be outdated, for it must still be possible to execute them a number of years later. This applies to a lesser extent to chapter decisions, as these may be amended after some years. However, if the institute expects that a particular chapter may be the last ‘real’ chapter, i.e. held in conformity with the traditional rules concerning the number of participants and their election, this rule applies again: preferably not too detailed or prone to becoming outdated.

Obviously, the destinations should, wherever possible, be chosen with the object of the relevant religious institute in mind. If it is clear that such decisions should be taken by a chapter, it should also be clear that a religious institute can only take such decisions as long as a full chapter can still be

held. The letter also mentioned the old wisdom that it is better to make donations during life than after!

The letter states that some four canons imply that a religious institute would do good drawing up a ‘testament’, although the Code of Canon Law does not *expressis verbis* mention this as a possibility or obligation in the part that deals with Institutes of Consecrated Life and Societies of Apostolic Life. However, Canon 616 § 4 does specify this as an obligation for a number of convents for contemplative sisters.

Canons 584 and 616 § 2 stipulate that both the dissolution of a religious institute and closing the only house of an institute pertain to the Holy See, which will subsequently decide on its temporal goods.<sup>25</sup> It is significant that Canon 123 assumes that a public juridic person (which religious institutes are) will have included some clause about the “destination of its property and proprietary rights . . . and obligations” in its statutes.

A common misunderstanding that needs to be dispelled is that the temporal goods that remain at the time of dissolution will automatically ‘go to Rome’ or that ‘Rome’ will automatically allocate them to the diocese. In fact, Canon 584 says no more than that the Congregation for the Institutes of Consecrated Life and Societies of Apostolic Life will decide about these goods. If there is a ‘testament’, this will make the Congregation’s task easier.

Once the funds needed for future living costs have been determined and set aside, the testamentary dispositions on finances should be governed by the principle that the ‘disposable capital’ should be used for

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<sup>25</sup> The word “temporary” does occur in c. 584, but not in 616, § 2. This is remarkable to say the least.

apostolate and *caritas* in line with the *charism* of the institute. This *charism* is a gift from the Holy Spirit (Can. 605) to the Church. Funds that have once been earmarked to bring the *charism* into practice will remain tied to this purpose and it is up to those who express this *charism* in their lives (for they are the ‘embodiment’ of this *charism*, the *charism* becomes tangible in and through them) to decide which purposes their religious institute wishes to support with funds it no longer needs to sustain itself. It requires a careful decision making process to determine this: which current needs in church and society correspond to the *charism*?<sup>26</sup>

In connection with the above, something could be said *mutatis mutandis* about provinces, regions, or houses in The Netherlands of large, international religious institutes. When preparing for the end of their existence in The Netherlands, those institutes could ask themselves questions including: 'Which obligation do we feel towards The Netherlands?' and 'What do we wish to help preserve for the future in The Netherlands?' After all, the capital, the ‘temporary goods’, have been accumulated in The Netherlands, in part by donations, pensions and the disposal of immovable property. This may be a reason to decide that the ‘inheritance’ in the broadest sense of the word, both spiritually and materially, should wholly or partly benefit causes in The Netherlands.

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<sup>26</sup> M. Wijlens, *Auflösung von Religioseninstituten. Die vermögensrechtlichen Aspekte aus kirchenrechtlicher Sicht*”, *Ordenskorrespondenz* (2005), p 196 – 214, in particular 198 – 200.

## CONCLUSION

On the whole, the religious in The Netherlands are not frustrated about the upcoming end of their religious institute. Looking back, they are able to say, ‘our *charism* has proved fruitful in The Netherlands, in the work we did, and in the attraction we had on new members.’ Their prevalent feeling will be one of pride for the great work the institute has done through the efforts of its members in the course of many years, at times under difficult circumstances, both in The Netherlands and elsewhere. However, today, virtually all the work has been taken over by the state or organisations for social work in The Netherlands. Religious are no longer needed in these areas of work, and in a number of cases they have made themselves redundant by leaving professional institutions and educational institutes behind. Elsewhere the same happened or other religious have followed in their footsteps. In the stage of “completion,” the *iusta autonomia* and the dignity of religious institutes remain too important to be careless about them: the KNR stands for this interest. In that situation it is important that one or more persons are available at all times and that they are competent and authorized to promote the interests of the institute and its members.

What the future of religious life in The Netherlands will look like is as yet still unclear. A number of religious institutes will remain and we hope that there will be sufficient to ensure the further existence of our great spiritual tradition in The Netherlands. In addition, we are witnessing the rise of communities of associates; and in view of the idealism of a number of young people, we may expect that new forms of religious life will be created.

# **Questionnaire to Assist Religious Institutes With Obtaining an Overview of Their Present Situation and Making Arrangements for the Future**

This questionnaire was developed by the Secretariat of the Conference of Religious in the Netherlands (KNR) in 2002 and is used for consultations with religious institutes. The aim of the questionnaire is to help institutes outline their current situation and take initiatives for defining the future of the institute.

## **1. Purpose**

- What is the purpose of your institute as a religious community?
- Are you able to achieve this purpose to a satisfactory extent?

## **2. Spirituality**

- How do you ensure a vibrant spiritual life among your members?

## **3 Pastoral care**

- Is sufficient pastoral care available, also in the long term?
- Do you have a priest specifically assigned to your community/communities, or a pastoral worker or someone like a hospital chaplain?
- Do you celebrate the Eucharist on a daily basis? What happens if this is not possible due to, for example, a lack of priests?

## **4 Management and governance**

- Do you have a sufficient number of members who are suitable and able to fulfill the administrative and managerial positions? For how long will these people remain able to do so?
- How old will these people be in eight or twelve years (another two terms of office)?
- Do you have several people within your institute who are suitable and able to hold the position of Superior or Major Superior?

- Is your institute governed from the United States? Does your institute carry responsibility for houses abroad whilst not having a higher level of leadership abroad? What arrangements have been made for those houses in the future?

## **5 International financial relations**

- Do you manage funds from parts of your institute abroad, for example the generalate or other provinces? Do you look after the interests of parts of your institute in mission areas? If so, who is responsible?
- Do you expect any changes to this situation in the near future? If so, have you been sufficiently informed about the options and/or possible problems?

## **6 Novices**

- Have you had any new entrants in the past ten years (i.e. persons who were interested in the religious life and at least embarked on the novitiate)? How many people took perpetual vows and are these people still with your institute? What does this mean for the future of your institute?
- Do you cooperate with other communities for the purpose of education and formation of your novices?

## **7 Apostolate**

- Does your institute have its own 'works' (for example spirituality center, social service ministry, school, healthcare ministry, infirmary, etc.)?
- Does your institute carry the responsibility for the management and governance of these apostolic works?
- Do you have plans to pass on the management and governance responsibility? If so, what do the plans comprise?

## **8 Accommodation and care**

- Is the future care and accommodation of your members a topic of debate in your religious institute?
- Have you made arrangements for the accommodation of your members, for instance in a religious care home (including specialized care in case of members with for instance dementia)? Do you have any such agreement in writing and is it regularly updated?



- Do you expect to have to close or sell houses/buildings in the future? Who would you ask for advice in case you wish to sell property? Do you know estate agents specialised in selling monasteries?
- Do you intend to keep ownership of your own house for as long as possible, or are you considering renting accommodation?
- Are any of your buildings listed on the historical register or would any be eligible for this status? Which consequences does this have for you?

## 9 Finance

- Do you carry direct responsibility for the financial administration, or have you 'outsourced' this to for instance the finance office of another, perhaps bigger religious institute?
- Do you use a budget? Do you feel that a budget is a useful administrative instrument?
- Does the Board find the financial reports user-friendly and clear, or should they be more transparent?
- Do you deploy an external accountant to audit the annual statement of accounts?

## 10 Investments

- Has part of your capital been invested?
- Which objectives<sup>1</sup>/profile have you defined for your investments and have you concluded an agreement<sup>2</sup> concerning risks etc. with a bank?
- Did you lay down in writing the general conditions for the investment portfolio?
- Who is your investment adviser? Why do you use just one person? Is this person subject to assessment/supervision/control?

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<sup>1</sup> The options are to aim for large profits or rather for a secure old age.

<sup>2</sup> This agreement provides for matters including the level of risk the bank is allowed to take and the preferred minimal return.

## **11 Reserves**

- *Which amounts have been set aside in the annual accounts for reserves? These may include:*
  - ❑ *reserves for living costs;*
  - ❑ *reserves for additional personnel in the future (for instance caretakers, gardeners, secretaries for the leadership, bookkeepers etc.);*
  - ❑ *reserves for maintenance of buildings.*
- *Have these reserves been laid down in writing as decisions from the Board and do you check regularly whether the provisions are still sufficient or whether adaptations are needed?*

## **12 Archives, art, cemetery**

- What is the situation regarding your archives? Have you developed plans for the archives? To whom should they go when your institute no longer exists? Have you considered moving them to a central archive?
- Does your institute possess works of art? Do you have an inventory of the art works and do you know their historical and/or financial value?
- Do you own your own cemetery? What will happen to your cemetery in the future, for example when the adjacent house has to be sold? Who will take care of it when all members of the order have passed away?

## **13 External support**

- Do you have plans for a future 'merger' (or other form of close collaboration) with one or more neighboring provinces? On which grounds was the decision taken not (yet) to do this?
- Do you expect support from your General Board or other provinces when the time has come that you will no longer be able to carry management and governance responsibility?
- Do you expect spiritual or management support from your 'religious family' (for example the Franciscan, Carmelite or Benedictine family)? Are these persons / institutes aware of the fact that you are expecting such support?
- Do you hope to receive some form of external support, but do you not yet know from where or from whom? Have you made plans to, for example, set up a management foundation, outsource part of the work, or delegate managerial powers?

## **14 Relations with the diocese**

- Does the diocese carry formal responsibility for your institute?
- Does the diocese show an active interest in your institute? Do you maintain contact with the person who is responsible for religious orders? Do you submit your annual accounts to the diocese?

## **15 Position of laity**

- Do you deploy lay persons as advisors to the leadership of your institute, or are you considering this option?
- Do lay persons carry out 'managerial tasks' in your community/communities?
- How do you view your position as an 'employer' of lay persons, in particular of those in 'core positions' such as coordinator and pastoral worker? Do you foresee that fulfilling this duty may become difficult for you in the near future?

## **16 Important documents**

- Does your institute have some form of document that outlines your wishes concerning what should happen with the assets after the suppression of your institute (for instance the generalate, the diocese, an associated institute, or a particular project)? For example, it may be the purpose that part of the assets should be donated to a religious institute in an African or Asian country, yet should be managed in your country (for example for reasons of inflation): if so, have you made arrangements for this?
- Are you prepared in due course to place copies of the Constitutions, the Regulations on Proprietary Rights, bylaws of companies and other documents that may be of importance in the final stage of an institute with the Conference of Religious/ of Major Superiors for safekeeping?<sup>3</sup>

## **17 General**

Do you expect that you may need support in a particular area shortly? How can the Conference of Religious / of Major Superiors be of help to you?

*Den Bosch, January 2003*

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<sup>3</sup> There has been a case in the Netherlands where the last members of a religious institute did not know where these documents were kept.