

**STRATEGIES FOR THE FUTURE**  
**RESTRUCTURING RELIGIOUS INSTITUTES**  
**AND IMPLICATIONS OF THE DECISION TO PROCEED**

Religious Leaders & Teams  
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**INTRODUCTION**

Many religious institutes in Australia, North America and in Western Europe have had, in recent years, to re-examine their internal governance structures, and to foresee the eventual disappearance of their provinces and regions, if not that of the institute itself. After many years of sustained growth, their numbers have now diminished considerably, and the sponsorship of their apostolic works has often already passed to others, or the transfer will occur in the near future.

Demographic changes within an institute usually call for adaptations in governance structures. Indeed, as the number of retired members grows, the younger members, often few in numbers, feel less and less concerned about the issues that interest the older members, and the quality of their apostolic commitment can suffer from the lack of support they perceive from their community. Where there are younger religious, they often ask what would be the best means to regroup so that they can continue or even perfect the institute's mission.

This is a first sign of "trouble" on the horizon, because the internal structures no longer correspond to life, or even, on occasion, stifle it!

However, keeping in mind that many institutes have already gone through the process of internal restructuring, it is probably time to look more attentively at the next – and sometimes inevitable – step. It is not that I am pessimistic about the future of religious life, but I am, I hope, realistic about the current situation. We must keep in mind that, at the same time as many, if not most, of the older religious institutes and autonomous monasteries are dying, there is new birth around the world. It seems, for instance, that more than 200 new groups that eventually hope to become recognized as some form of

consecrated life in North America have been identified and are in various stages of formation.

Some of these new foundations will last; perhaps others might not be successful; but, at least, we see that the desire for consecrated or dedicated life is still very strong – although perhaps not always in the forms in which it was traditionally lived in years gone by. For instance, some of the newer groups wish to espouse norms that, in law, are presently not applicable for members of religious institutes. For example, these groups often want to form a community of men and women living together; others do not want perpetual commitment; some are open to Christians of other denominations, and so forth. Although at the present time, such groups cannot be recognized as institutes of consecrated life; they can, however, be recognized as public associations of the Christian faithful (provided all the other conditions of the law are met).

But, coming back to the situation we are addressing, we should keep in mind that closing an institute, or abolishing its internal units, is not something like the “flavour of the month”. The others are doing it, so I guess we should do so also!!! Nevertheless, any institute that is going to have to face the situation in the relatively near future should begin preparing for it now.

I thought, then, that it would be helpful to provide a sort of check list to be followed when it is question of closing down an institute, or a monastery, that is no longer viable. I will not address directly issues relating to internal restructuring; if necessary, appropriate adaptations can be made using the criteria to be presented below as a guide when considering the dissolution of an institute.

There are formal canonical steps to be taken; likewise, there are a number of other points that, even though they are not formally canonical, should not be overlooked in the process. However, I am limiting myself here to canonical criteria. Superiors would also have to keep in mind, for instance, other criteria of a spiritual nature (reading the signs of the times), of a psychological nature (preparing the members for “death and dying”), of a financial nature (closing down or changing corporations, charitable trusts, etc.) and of a relational nature (such as making appropriate arrangement with various benefactors and donors).

But, before examining these various steps, it might be important to recall the canonical criteria necessary to maintain a juridical person in the Church and review briefly some of the basic forms of restructuring.

In a final part, I would like to address arrangements that have recently been made by the Holy See for religious institutes in Canada to provide for their future in those instances where it is not appropriate or feasible for them to enter into a union or fusion (merger).

## I. CRITERIA APPLICABLE TO THE VIABILITY OF RELIGIOUS INSTITUTES

Since each religious institute is a juridical person in the Church (c. 634), it must meet a number of specified criteria. For, even though by its nature it is perpetual, there could come a time when it will be necessary to dissolve the entity, or have it merge with another one.

1. A first point to keep in mind is that, in an institute, there must be a major superior, by whatever name that person is known (Prior or Prioress General, Congregational Leader, Abbot or Abbess, Superior General, etc.). This person has personal authority over all the members, houses and works of the institute. In other words, a juridical person must have its own leadership.

At times, though, because of a lack of appropriate persons, it has become necessary to appoint a religious from another institute, or some other qualified person, to serve as leader, pending the outcome of negotiations with another institute or entity. The need to have an outside person designated is a sign that the institute, on its own, will most likely become non-viable in the very near future.

2. A second criterion is that an entity must have sufficient financial resources to carry out its mission (c. 114.3). Fortunately, this has not been a general problem for many of our institutes.

3. Thirdly, an institute must have a certain internal autonomy to carry out the assigned mission (c. 114.3). When it is unable to assume responsibility for any specific apostolic works, but, rather, has become turned in on itself, and all the able-bodied members are occupied with internal responsibilities, then, again, it is time to prepare for the demise of the institute.

4. A fourth point to consider is that there must be sufficient persons available to carry out the mission. It is not only a question of numbers, but also of qualified persons. It often happens today that, for various reasons, Superiors cannot readily assign even the younger members to positions of responsibility.

To help in this discernment, the Holy See, on certain occasions, has listed various criteria to be taken into account when considering whether an institute or a monastery is still viable. Among these, we could mention four, which, to some extent correspond to those we have just noted:

- a. The median age is quite high (probably in the 80s).
- b. There has been no perpetual profession in the institute (or the autonomous monastery) for more than a quarter century.

- c. The community is no longer able to provide superiors and leaders for its works.
- d. No bishop is asking the community for members to assist in the apostolate.

When these criteria exist, it is time for the institute to consider seriously the question of its future, either through a form of restructuring or even a reconfiguration.

## II. PREPARATION FOR THE RESTRUCTURING OR RECONFIGURATION OF INSTITUTES

There are a number of possibilities to consider when it comes time to dissolve an institute or to restructure or reconfigure it in a significant way. We can examine some of these here.

The most common forms are: (1) an aggregation with similar institutes, in order to share certain services; (2) a federation with other like-minded institutes, while preserving internal autonomy; (3) a merger or fusion with another institute and being, as it were, absorbed by it (this was the case recently with the Presentation Sisters of Newfoundland and the Irish Union of the Presentation Sisters; likewise, here in Australia, with the various Josephite communities); (4) a union of two or more institutes to establish a new one (as with four groups of the Sisters of St. Joseph in Canada); (5) dissolution of the institute by the Holy See, at the request of the members; (6) suppression by the Holy See (usually a penal action). Later on, we will consider other newer methods which are not directly foreseen in Canon Law, but which have proven effective.

Or, in the case of an internal restructuring: (1) abolishing all provinces and similar units and having one central government; (2) joining certain provinces and units together, while not touching other ones; (3) reorganizing the way the central government works, with, for example, a sharing of regional or local responsibilities by members of the central leadership.

No matter which form is selected, there are a number of preliminary steps to be taken.

### A. INITIAL QUESTIONS TO BE ASKED AND ANSWERED

Before any serious work is done on a reconfiguration, three basic questions must be answered:

1. Why is the "reconfiguration" taking place?

For instance, is it to support the mission, similarity of charism, to witness to unity in the Church, to broaden the scope of mission, to simplify structures, simplification of administration, best use of personnel, better service in the Church, to reduce expenses, or simply to prepare for death?

Of course, there can be a variety of reasons, and one is not necessarily more important than the others.

2. Does the group wish to do this in steps, or take a more radical solution once and for all?

For instance, are they satisfied now simply with greater cooperation with another institute, with a federation, with some shared programs, etc. They should, however, keep in mind that an interim solution most likely means that the entire question will have to be re-opened within a few years, with the resulting concern and insecurity for the members.

3. If the community intends to take a more definitive solution, then which model does it wish to follow: a fusion (merger), or a union, or even, in extreme cases, dissolution?

When the answers to these questions are assured, then the community can begin moving towards more definitive steps.

## B. FURTHER INITIAL STEPS

### Choosing a union or a merger with one or more other institutes

In canon law, a union is defined as the process whereby two or more autonomous institutes unite to create a new institute composed of all of them, but not identical to any one of them. It follows, then, that, in a union, all the entities are suppressed, and a new one is created by the competent ecclesiastical authority. In this way, no one community appears to be favoured over the others.

However, this usually calls for new Constitutions, new leadership, a new name, new corporate documents (land titles, insurance policies, etc.), and so forth. The process can become rather expensive civilly, but sometimes this is the price to pay.

The Holy See, in an unpublished document dated July 3, 2010, has prepared a check list relating to the eventual union of separate religious institutes. I am making abundant use of this document in what follows.

A similar, though less complicated, procedure can be observed in the case of a merger (fusion), when one institute simply joins a larger one and adopts its constitutions and recognizes its leadership.

A key characteristic of any procedure is to make certain that the rights of the members are respected.

I intend to base what follows on the procedure for a union; appropriate adaptations can readily be made in the case of a fusion (merger). It is not necessary that each of the following steps be completed before the next one can be considered. Indeed, many of these are overlapping in nature. For easy reference purposes, I intend to number the various steps consecutively.

#### Preliminary work

1. "Getting to know you"; an old principle in Philosophy is: "You cannot love what you do not know". There are no specific norms in this regard, but it would be important that the members of the institutes involved begin to feel comfortable with each other.
2. Finding out what are the practical possibilities; there might not be any institute available or willing to consider a union or a merger.
3. Creating awareness among the members of the need for steps to be taken to make certain that they are going to be well cared for in the coming years. One community meeting on the topic is certainly not enough, nor can it be taken for granted that every member involved hears the message in the same way.
4. If a particular institute is chosen as an eventual partner, determining common elements (charism, history, ministry, etc.); determining also those elements which are different and which will eventually call for adaptation.
5. Initial sharing of information, of events (such as retreats, holidays, community days), of personnel, etc.
6. Examining criteria to see if they are applicable at this time. For instance, considering the points listed by "*Ecclesiae sanctae*", II, 39-41:
  - spiritual preparation
  - psychological preparation
  - juridical preparation

- . keeping the good of Church in mind
  - . keeping the specific character of each institute in mind
  - . respecting the freedom of individual members.
7. Verifying the existence of the formal criteria (for suppression or closure of institutes):
- . the small number of religious
  - . the lack of candidates over a period of a number of years
  - . the advanced age of the majority of its members.
8. Taking into consideration the informal criteria (for suppression or closure):
- . no bishop requests the ministry of the Sisters
  - . impossibility of finding leadership within the institute.

## V. THE ACTUAL RESTRUCTURING PROCESS

### A. FIRST FORMAL STEPS TOWARDS A UNION OR FUSION

We can note that Canon Law is very protective of what are known as "acquired rights", such as those arising from religious profession. For this reason, there are a number of steps to be taken before the Holy See accepts the request to change the nature of the group. Likewise, before a religious makes a formal written commitment to join the new "entity", there are a number of informal or non-binding votes along the way, to make certain that a sufficient number of members are in favour of the proposal. For this reason, the required percentages are relatively high.

9. Deciding on the general lines of the model to be followed (union or fusion, diocesan or pontifical institute, central government or provinces).
10. Establishing a realistic timetable

To make certain that things don't drag on indefinitely, it is helpful to draw up a clear timetable for the transition period. In this way, people have a sense of security and are less likely to raise obstacles constantly.

### B. ESTABLISHING COMMITTEES TO CONDUCT THE PROCESS

11. It is important that the process itself be in the hands of a few persons who become, as it were, a central committee. Too many cooks spoil the broth. It is preferable that a member of the community (possibly a general councillor), who is not the Superior General, be placed in charge of the process, although, of course, frequent reference is made to the Superior General and Council. In this way, if something goes really wrong, the Superior can still act. Otherwise, if it is the Superior personally who is conducting the process, there is no wiggle room if the group reaches an impasse.
12. In addition, sub-committees can be established (financial matters, associates, formation, governance structures, etc.). The lines of communication to the central committee should be clearly established.
13. Likewise, establishing specialized task forces to review and prepare congregational documents, corporate documents, liturgical celebrations and rituals, sharing of experiences, to share information and build up trust. In particular, as information is shared, the anxiety level usually goes down. It is essential that true and complete information be given at all stages. Also, it is important to counter-act rumors that could come from a certain element within the group, such as a "shadow cabinet"!
14. Establishment of a newsletter (or similar means) to share information and build up trust. It would be most helpful – to avoid the proliferation of unfounded rumors – to establish, from the beginning of the process, some type of newsletter or bulletin, dedicated exclusively to matters relating to the change in structure.

In this way, the members are kept correctly informed, and the comfort level rises with time.

### C. NOTIFYING THE BISHOPS

15. Courtesy calls for notifying the diocesan Bishops involved once the decisions have been taken, but before they are implemented. If no local communities are opened or closed, this might not be a canonical necessity, as such. But, if the name of the community is changed (i.e., in the case of a union or fusion), or when there is an agreement with another institute, it is important for the diocese to be aware of the situation and also able to know who to contact.

Nevertheless, if a merger (fusion) or union is to take place, the Holy See will require a letter of support from the diocesan bishops in whose territories the religious are situated, or at least have their headquarters. Bishops cannot give this letter easily if they have not been made aware of the process beforehand.



D. UNIFYING ACCOUNTING PRACTICES AND FINANCIAL POLICIES

16. After any union or merger, differences in customs and practices arise, which might not have been envisaged or addressed beforehand. These can cover such mundane matters as disposal of gifts, holidays, use of cars, jubilee money, and so forth.
17. The same applies to the administration of personal budgets and accountability requirements.
18. Usually, when an institute is absorbed or becomes part of a union, there is an unwritten policy to the effect that any permission granted orally by the previous administration remains in effect for six months. After that, it must be renewed by the current leadership. Written permissions are generally to be renewed within a one-year period.

E. MAKING ARRANGEMENTS FOR MEMBERS WHO WON'T GO ALONG

19. One of the delicate issues to face before a merger or union takes place, is to ensure that provision is made for those members who will not go along.

In some instances, they simply wish to leave and request a dispensation from their vows. In others, they wish to remain religious, but on their own. Some wish to transfer to a different community. In all these cases, some type of fund (or trust) must be established for their care. The diocesan bishop is often asked to exercise appropriate pastoral concern for these persons who are on their own, even temporarily.

20. The laws of the country must be carefully observed in such instances, because charitable funds are not to be given, as such, to individuals.
21. It would be important – except in the rarest of situations – not to give the impression that a dissenting group could form a new religious institute, or even become a public association of the faithful. Usually, such groups have a very short life expectancy.

F. DUE DILIGENCE

22. Selecting advisers. Any process of this nature will require outside advice. This can concern canonical issues, legal issues (such as employment questions), eventual evaluation and sale of property, revision of corporate articles, change of land titles, accounting practices, insurance policies, etc. Most communities do not have the internal experts available to help in this rather complicated process.
23. Examining the financial situation ("no surprises"), especially in relation to restricted gifts or property holdings (sometimes called "due diligence"), as well as to potential court cases and other liabilities. One of the delicate points to keep in mind during this process, is that the receiving institute, in addition to receiving the members and the assets, also receives the liabilities (canon 121). Therefore, if there are a number of court cases pending, or probable, it might not be a good idea to move forward immediately with a formal union or fusion, at least of the civil corporations, because this could contaminate the assets of the receiving community.

Sometimes, it suffices to keep the original civil corporation operative, with sufficient assets to cover liabilities, but this would have to be worked out carefully with civil lawyers.

24. Preparation of an inventory of property, bank accounts, insurance policies, and other assets. It will be important to have all land titles in order, verifying if there are conditions or easements attached to certain properties.

Also, a complete listing of all (known!!!) bank accounts, or investments, or related foundations, and so forth.

Also, current and past insurance policies must be available and carefully preserved (c. 1284.2.1). It is recommended that communities never dispose of expired insurance policies, because, if later a claim arises for the period that was originally covered, proof will be required to show that the policy was indeed in effect at that time. This is especially important in those instances where insurance companies have merged, gone out of business, or are no longer operating under the same name.

Likewise, a clear listing should be made of those titles which will have to be changed, whether on cars (ownership, insurance), lands and buildings, foundations, or similar entities.

25. This might be a good time to verify existing insurance policies, to see whether they should be consolidated, revised, or (eventually) dropped. In addition to automobile insurance, there are also policies for fire insurance (such as replacement, cash settlement, etc.), liability, accidents, etc., etc.

26. Review of investments and investment policies. This would also be a good time to review investment policies, to determine whether they should be maintained or revised, or simply, in the case of a merger, be integrated with the existing policies of the receiving institute.

Also, the investments themselves should be examined, to see whether they should be combined with those of the receiving institute, or adjusted in some other way. If the resulting entity is international, then it is important that all those involved understand clearly the import of civil laws relating to recognized charitable entities.

27. Provision, if appropriate, for the continuation of certain apostolic works. It will be important to determine whether all the assets of the community will be transferred to the receiving community, or whether some will be separated into distinct corporations (if they are not already in this situation), to enable some of the current works to continue on their own. It could well be that the receiving institute is not interested in assuming sponsorship responsibilities for some of these existing works.

Some Congregations have already made a general distinction between funds required for the support of the members, and those which are destined to support their apostolic works. It will be important to determine clearly beforehand whether both sets of funds will follow into the new or receiving institute, or only those related to the members.

It could also happen that the receiving institute might wish to co-sponsor the works with some other group. There are a number of provisions in the Code for such joint ventures.

28. Changing last wills and testaments, and possibly also documents relating to cession of administration of personal patrimony. If a member, in his or her will, named the institute as beneficiary, it would be necessary to have these documents revised to correspond to the new entity.

Likewise, if a member had named the General Treasurer, or some other congregational representative, as administrator of the personal patrimony, this too would have to be revised.

29. Updating documents for durable power of attorney for health care. It will be important to make certain that documents relating to durable power of attorney for health care are up to date (with civil law requirements) and refer to the proper persons.

30. Provision for present and past lay employees. When groups are combined, it will be important to compare and verify salary scales and benefits for the lay employees, to make certain that there are not unfair comparisons.

The same applies also to retired employees.

Also, since it is probably inevitable that some employees will lose their jobs as entities are combined, it will be important to make certain that justice issues are fairly dealt with, and that all employment laws are duly observed.

31. Lay employees should be properly informed in due time of the projected changes, so that they can make the necessary adaptations. This information, however, should not be shared too soon in the process, in case the employees would all want to leave at the same time, and the institute might be hard pressed to find people to work for it in the interim period.
32. Care of archives. Existing archives should be examined, to determine what should be retained (in accordance with a general retention policy). Arrangements should then be made for their proper storage.

Also, arrangements are to be made so that the current files of living members are readily available.

Among materials to be kept: building plans (electricity, plumbing, architects' drawings).

One of the major reasons for keeping such documents is to establish the rights of the institute and, (if applicable) of the receiving institute.

#### G. CONSULTATION WITH THE MEMBERS AND OTHER ENTITIES

33. Recognizing the importance of following the Constitutions. In a number of smaller institutes, it is the general chapter which is competent to discuss and consider future plans. In others, it is the general leadership.

Keeping in mind that most of the regular communities have only two, or at most three general chapters left in the present format, if the preliminary intervention of the chapter is required, it is good not to delay this step indefinitely. (Over the past couple of years, the Holy See authorized four Canadian pontifical institutes not to hold further general chapters, but to replace them with an open assembly).

34. Making arrangements for appropriate consultation of the members. Before any steps are taken to provide for the future, it is essential that the members of the community be duly consulted, in as much as they are able to be consulted.

We must, of course, keep in mind, that it is almost impossible to have unanimity in a religious institute. There will always be dissenters, as well as people who can't make up their mind, and who will want to delay taking necessary steps.

35. Decisions as to the eventual form of re-structuring. As mentioned earlier, it will be important to determine clearly what form the re-configuration will take. Will it be a union or a fusion, a federation, or a "covenant" agreement with another institute for the care of the members?

36. If the institute is to be suppressed, either because it will be part of a union, or will be part of a fusion, or even in the case of a dissolution, the intervention of the Holy See is required. For this reason, once a general orientation has been chosen and a direction accepted, it is good to have preliminary contacts (preferably in person) with the Holy See to obtain their opinion on the decision and to receive practical instructions for the application of the process.

This applies even in the case of diocesan institutes, because the suppression of any institute is the exclusive prerogative of the Holy See (see canon 584).

37. Concern for members who are in an irregular situation. Particularly in clerical communities, it often happens that there are members who have simply left, without applying for a dispensation from priestly obligations, but who have never married or are not involved in scandalous situations leading to dismissal.

It would be important to try and resolve these situations before steps are taken towards re-configuration. Fortunately, the Holy See, in a letter dated April 18, 2009, has now agreed to dismiss from the clerical state (with a dispensation allowing marriage) priests who, for personal reasons, have not been functioning for at least five consecutive years and who have no intention of returning to ministry.

Obviously, there are fewer of these cases in communities of sisters or of brothers where members have simply left the community without applying for the appropriate dispensation.

H. PROCEDURAL STEPS

38. Prepare the documents to be used as a basis for an eventual vote (the precise proposal, governance plan, financial arrangements, if any, etc).
39. In the case of a union, hold a non-binding straw vote among the members of each group (70-80% usually recommended before continuing). The vote may be secret and unsigned at this point.

We could mention in passing that, in the case of a merger (fusion) this vote would be taken only in the institute that is asking to join another one.

40. Then, at an appropriate time, hold a formal vote of the members to accept the proposals for their institute (80%) (a signed ballot). The wording of the ballot could be something like this, although it would have to be adjusted accordingly in the case of a merger (fusion), since, in such instances, there is no "new" congregation or institute, nor is the Holy See approving a new institute:

"Preamble:

"This is a vote in preparation for the Congregational Chapter of the Sisters of N.N. This Chapter will deliberate as to whether N.N. Congregation should become part of X.X., if and when this new Congregation is approved by the Holy See. If it takes place, the Sisters of N.N. will no longer exist as a separate Congregation.

"Voting formula:

Are you willing that the Congregation of the Sisters of N.N. become part of the new Congregation of X.X.?"

41. Providing for representation at future general chapters. In the case of a fusion (merger), where the Constitutions of the receiving institute do not have to be changed, it would be good to foresee whether there will be special modalities for representation of the "new" group at the next general chapter (and at subsequent ones). In the case of a union, this is foreseen when the Constitutions are revised.

Of course, this does not apply when a community is simply welcomed by another institute into one of its houses through a "covenant" relationship to which we will refer to later in this presentation.

42. Then, in the case of a union, a general chapter is held in each institute involved (2/3 vote in favor). This may be a special general chapter called for this purpose, or the ordinary one which was already scheduled. In the case of a fusion, unless the Constitutions provide otherwise, only the institute that is going out of existence holds a general chapter.

In the case of a union, fusion, or dissolution, a two-thirds (2/3) majority is required for ratification of the decision.

Because of the new elements involved, especially in the case of a union, it is important that the chapter be duly prepared. This can easily take one year, in order to provide for all the elements now being represented in the new entity.

Chapter vote (in the case of a union):

Do you wish that the Congregation of the Sisters of N.N. petition the Holy See to be permitted to become part of the new Congregation of X.X?

Or, in the case of a fusion:

Do you wish that the Congregation of the Sisters of N.N. petition the Holy See to be permitted to join the Congregation of the Sisters of Y.Y?

43. Binding vote from each member to go along with the proposal if the Holy See accepts (signed by each member individually).

Declaration of intent:

Given the result of the Chapter Vote of the Congregation of the Sisters of N.N., are you willing to become a member of the [new] Congregation of X.X?

44. Obtaining letters of support from each Diocesan Bishop.

I. PROCEDURES WITH THE HOLY SEE

45. Once everything is complete, it is appropriate to inform the Holy See of the developments and of the application of the arrangements previously agreed upon. This applies even in the case of a diocesan institute.

If the location or address of the general administration is to be changed, the Holy See must be notified (in the case of pontifical institutes).

46. Formal presentation of request to the Holy See (six copies to be presented). There are also chancery fees for this examination (usually around €500 or its equivalent in local currency).

The file should contain the following elements:

- the petition of the Superior General to the Holy See to have the institute united with others (or, in the case of a merger, to have the institute join another existing one);
- brief history of the institute(s), including a description of the charism, spirituality and the apostolic activities of the community;
- statistics: number of members in perpetual and temporary profession; number of novices, postulants; age of the perpetually professed members, academic qualifications (if applicable), ministries carried out; number of local communities in which the members live, and the name of the diocese(s) in which they are established;
- motives for requesting the union (or the merger);
- acts of the general chapter approving the union;
- in the case of a merger, a letter from the Superior General and Council of the receiving institute expressing its willingness to accept the community, if the Holy See so approves;
- results of the voting that took place (both for and against), at the pre-chapter level, at the general chapter, in the letters of intent;
- opinion letters from the diocesan bishops involved;
- an indication of the arrangements to be made for those (if any) who do not wish to join the re-configured institute, and who intend to transfer to another institute,



or request a dispensation from their vows, or a transfer to another canonical state (such as consecrated virginity). In the case of an eventual transfer, it should be clearly determined what would be the intention of these religious if they were not admitted to profession in the receiving institute, or if they refuse to make this profession.

47. In the case of a proposed union, additional documentation to be included in the file for the Holy See:

- an explanation of the process followed in preparation for the request;
- a preliminary agreement regarding the disposition of temporalities;
- title, purpose, spirituality and, if applicable, religious habit of the new institute;
- place and diocese of the principal seat of the new institute;
- draft copies of the new Constitutions, accepted tentatively by each institute involved, pending the decision of the general chapter of the new institute; or, at least, some provisional norms on which the members can regulate their consecrated life in the new institute – such as, the plan of government, formation procedures, and special agreements made between or among the institutes involved;
- indicating the name and contact information of the religious who will be leading the group provisionally in the period leading up to the first general chapter of the new institute.

48. Granting of indult by the Holy See.

J. **IMPLEMENTATION OF INDULT**

49. Establishing a transition team (if not already determined).

50. Determining a date for it to go into effect.

51. Proclamation of Vatican decree.

52. Holding of first general chapter; election of officers.

53. Selecting leadership if the institute is not to be absorbed, and adjusting the civil corporate documents accordingly

54. Although it is not a case of a union or fusion, very often, when an institute is being cared for by another community, the original institute still needs to have its own leadership for legal purposes. At times, in the case of pontifical communities, the intervention of the Holy See will be required, to allow for members of the other institute to assume leadership roles.

It is sometimes easier to make changes concerning the members (and, possibly, the directors) of the civil corporation. In such instances, it will be essential to make certain that the articles of incorporation and the by-laws do not restrict membership to persons belonging to the original Congregation, but, at the same time, do not contradict the provisions of the Constitutions.

55. In the case of a union, if possible, acceptance of new Constitutions and Directory for approval by the Holy See (in the case of a pontifical institute).

Sometimes, new institutes are not yet in a position to present Constitutions for approval. In the meantime, the Chapter would then agree to follow the interim text referred to above.

56. Implementing changes in corporate documents; identifying intentions of donors and benefactors; determining if there are restrictive clauses, etc.

Sometimes, it is more appropriate and even necessary to have the Government approve an entirely new corporate structure, combining elements from all existing corporate documents.

#### K. (ALONG THE WAY) RECOGNIZING POTENTIAL OBSTACLES

57. Recognizing potential blackmail by those who won't go along with the proposal; they will write to ecclesiastical authorities complaining about what is going on; it will be important to make certain that they don't take over and control the process.
58. Addressing, if possible, lingering distrust over past actions.
59. Undue haste in pushing the change, before persons are ready.
60. On the other hand, delaying unduly so that there are few if any viable elements to be contributed by all the parties. For instance, some do not see any need for new structures, and claim that there will be new vocations next year!
61. Unwillingness to share data, especially regarding "skeletons".

62. Insistence on juridical preparation, while neglecting spiritual and psychological preparation.
63. Neglecting to prepare documents in time, so that there is a vacuum after the formal step is taken.
64. Recognizing that not all unions or fusions are successful, and that sometimes they have to be undone.

### III. SPECIAL SITUATIONS

#### A. SPECIAL PROCEDURES IN THE CASE OF A MERGER (FUSION) WITH ANOTHER INSTITUTE

In the case of a merger or fusion, as distinct from a union, the smaller institute is simply absorbed by the other, and the members of the institute that is disappearing make profession in the new community.

Although this method is much less expensive (because the corporate documents and land titles, etc., of the receiving institute do not have to be changed), emotionally, however, it is more difficult, because it spells the death of the former institute.

Given today's situation, except where there the union or merger takes place among families of institutes (such as Congregations of the Sisters of Mercy, St. Joseph, or Presentation, Dominican or Franciscan groups, and the like), it often happens that the receiving institute would be almost in the same situation as the other one, except perhaps that it might have five more years or so before having to face it. So, a fusion, and indeed, a union, is sometimes a stopgap solution.

Similar procedures, but somewhat less formal (because of the smaller numbers involved), could be applied when it is question of one autonomous monastery joining with another one.

#### B. ENTERING A FEDERATION

Federations, at this point in time, are probably also a temporary stopgap measure. Each participating institute remains as a community. Although there can be a greater sharing of services, the weakened situation of all or most of the participating entities still remains.

Technically, federations allow for joint formation programs. However, in many of the cases under consideration, no new candidates will be accepted.

C. SUPPRESSION OF AN INSTITUTE OR AUTONOMOUS MONASTERY

Ordinarily, although the term is used rather loosely to cover all instances of "disappearance", "suppression" is a canonical penal act. It is usually brought about because of a lack of compliance with the Constitutions.

D. DISSOLUTION OF THE INSTITUTE OR OF AN AUTONOMOUS MONASTERY

On the other hand, through "dissolution", an institute or an autonomous monastery is dissolved, ordinarily upon the request of the members. Only the Holy See can dissolve an institute, even a diocesan one, or an autonomous monastery (canon 616.4). According to canon 584, the same Holy See makes provision for the disposition of the temporal goods of the institute.

This action is taken usually upon the request of the members, or after a canonical visitation, or some similar intervention, when it has been judged that the institute or autonomous monastery is no longer viable, perhaps because it has become so polarized.

In such instances, however, particular concern is shown for each member. The members will either transfer, on an individual basis, to another institute, or will request a dispensation from their vows. Difficulties arise when no community wishes to receive certain "problem cases". This is particularly true in the case of smaller monasteries, where it is difficult to absorb someone who is quite dysfunctional. In some instances, indefinite exclaustation has to be envisaged, with appropriate financial arrangements.

E. INTERMEDIATE MEASURES – COVENANTS AND OTHER ARRANGEMENTS

Today, it is found that unions and fusions are difficult when there are no apparent or historical ties between the institutes. It can be something like a forced marriage.

Also, older members find it difficult to consider making a new profession after 50 or more years in one community.

So, what is sometimes happening is that there is an agreement or "covenant" with a larger institute, which is willing to accept the other members into their community and infirmary, look after their financial matters, and provide a reasonable form of leadership. In this way, the religious remain members of their original institute, but they are cared for thanks to the kindness of the other community.

Property that is no longer being used by the community that is being received is disposed of.

If such has been approved by the Holy See, upon the death of the last member, the receiving institute receives the assets of the former community, unless other provisions were made beforehand. Such arrangements could include setting up a foundation to support a work originally undertaken by the absorbed community, or making special donations to particular works of charity, and so forth (more on this later).

To avoid difficulties along the way, such arrangements are usually made in advance with the approval of the Holy See, while there are still members available to participate in the decision-making process. Clear consultation with diocesan authorities and competent legal experts is strongly recommended to avoid disappointments or misunderstandings later.

In the case of a diocesan institute that is seeking the protection of a larger one, without there being question of a union or a fusion (merger), it is the diocesan bishop of the principal house who can authorize such arrangements. He can also arrange for the Constitutions to be suspended in part, or even revised, to address the new situation.

This method seems appreciated by those institutes that have adopted it. It avoids having someone else put a belt around you and leading you where you do not want to go!!! It respects the autonomy of the religious in question. However, we must keep in mind that not every institute is in a position to absorb other ones, even if there is no canonical fusion or union.

The following press release can be used as an example of a "covenant" agreement:

The Sisters of Service and the Sisters of St. Joseph  
enter a Sponsorship Relationship

Toronto – On January 25, 2012, after dialogue and consultation and with the approval of Toronto Archbishop, Cardinal Thomas Collins, the Sisters of Service (SOS) and the Sisters of St. Joseph of Toronto (CSJ) signed a sponsorship agreement at the CSJ Administration Centre in Toronto. According to this agreement, the Sisters of St. Joseph will be responsible for the management and governance of the congregation of the Sisters of Service as long as a Sister of Service lives.

This sponsorship agreement represents a complex, mutually binding set of responsibilities and expectations freely entered into so that the apostolic and community life of the Sisters of Service can carry on. It will ensure that the care of the Sisters of Service and stewardship of their corporations and other resources are carried out in a manner that is consistent with the charism, mission and values of the Sisters of Service.

"The Sisters of St. Joseph provided leadership and formation in the founding stages of the Sisters of Service," said Marilyn MacDonald, SOS, Community Director of the Sisters of Service, who signed the agreement on behalf of her congregation. "The Sisters of Service are deeply grateful to God, to our sisters and the Sisters of St. Joseph of Toronto who have made this commitment with courage and trust."

"This agreement reflects many hours of work, of dialogue, of listening to one another and of articulating needs," said Thérèse Meunier, CSJ, Congregational Leader of the Sisters of St. Joseph of Toronto, who signed on behalf of the Sisters of St. Joseph. "It also reflects a relationship of trust, of mutual respect and of collaboration."

The Sisters of Service have appointed one of their sisters as an animator for a period of two years. She will support the Sisters of Service in remaining independent and managing their community life and ministries.

The Sisters of St. Joseph are a Catholic congregation of women religious dedicated to nurturing community with the neighbour, especially with the homeless, the alienated, the economically poor, women at risk and our wounded earth. This mission has led them to found ministries in social, pastoral, educational, health and spiritual fields in their over-160 years in Canada.

The Sisters of Service are a Catholic congregation of women religious founded by Catherine Donnelly in 1922 in Canada in order to respond to the spiritual and educational needs of recent immigrants living in isolated settlements in the Canadian west. Guided by their motto "I have come to serve" the Sisters were teachers, catechists, nurses and social workers among those most in need.

#### F. A CONTRACTUAL ARRANGEMENT

In England, a number of Congregations have decided to proceed in the slightly different way. They have been separating their nursing home requirements from the ordinary needs affecting the life and mission of the institute.

At the time of writing (August, 2016), some 11 institutes have entered into a contract with "Saint John of God Hospitaller Services" for the operation of their congregational nursing homes (by whatever name they are called).

These hospitaller services are part of a pontifical PJP covering the various ministries of the Saint John of God Brothers in Ireland, England, and in parts of the USA.

The "Services" see to the hiring (and firing) of employees, needs for equipment, needs for a higher form of medical services in certain instances, and so forth.

Although this does not directly apply to the Congregations involved, it relieves the leadership of direct ("hands on") responsibilities in relation to the sick and elderly members, although the responsibility for their well-being remains, obviously, with the congregational leadership.

#### G. CONGREGATIONAL WILL

Although a corporation cannot make a "will", many religious institutes have begun making preparations for the eventual disposition of their temporal patrimony, so that these are in place when the last sister dies.

Usually the assets are divided into four (or more) parts, with one part going to support works previously undertaken by the Congregation, another part going to special papal, international, national or local charities. A third part is usually given to the community (or entity) that took care of the members during their declining years, and the fourth part goes to the diocese where the institute was founded – often to the priests' compensation fund, in recognition of the services received from chaplains through the years.

Of course, if an institute was working in more than one diocese, appropriate adaptations are made to this formula.

#### IV. A NEW PONTIFICAL PUBLIC JURIDIC PERSON FOR RELIGIOUS INSTITUTES UNABLE TO PROVIDE FOR THEMSELVES

##### A. THE CONTEXT

Over the past number of years, the Holy See has taken a number of practical steps to ensure the continuity of various ministries carried out in the name of the Church, especially ministries that were originally sponsored by religious institutes. One of the more popular ways to do this was through the establishment of pontifical public juridic persons (PJPs) to assume the sponsorship responsibilities of institutes in the areas of healthcare, social services, and education. This mechanism has been used more particularly in the USA, Canada, Ireland, and Australia. In other countries, foundations and trusts were established to look after the temporal goods involved.

But, while creative steps were taken in regard to the continuity of the apostolic works, little was done to assure the life and continuity of the institutes themselves and the appropriate care of their members. In a certain number of instances, we witnessed fusions and unions of various institutes. But this method has not always worked out as expected. At times, it almost had the characteristics of a forced marriage. Not every community was really ready and willing to give up its heritage and the practical expressions of its charism.

##### B. NEEDS TO BE ADDRESSED

In Canada, where there are a number of smaller institutes, it was felt that something significant should be done (1) to assure that the members of these communities would be well protected, (2) to provide for good stewardship of their temporal goods, (3) to make certain that the personnel hired to care for the sick members would be duly



organized, (4) to ensure that all applicable labour laws would be respected, and (5) to take steps to provide that even certain apostolic works which were not part of one of the new PJPs could be carried on, if these works still responded to a need in society and in the Church.

For this reason, conversations were undertaken with the Holy See to see what could be done for communities that badly needed assistance, but did not feel called to merge with another institute, and to determine how best to protect their assets, particularly when it became opportune or necessary for them to divest themselves of properties and buildings that were no longer in use, or were too large for present-day needs.

### C. NEGOTIATIONS WITH THE HOLY SEE

The means that was eventually considered appropriate was the establishment of a new pontifical PJP to assume some of these responsibilities and to assure the proper stewardship of Church assets.

For this reason, a representative number of institutes – male and female, pontifical and diocesan, English and French-speaking, priests, brothers and sisters, communities with provinces and those that were directly under a Superior General – presented a joint request to the Holy See for the establishment of a new PJP (these institutes became known as the “participating entities”).

After lengthy discussions because of the novelty of the proposal, and with the constant assistance of the Holy See, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life on December 8, 2010, granted pontifical juridical status to a new PJP to be known as “*Canadian Religious Stewardship*” (CRS). This would appear to be the first time that such a juridic person has been established. Time will tell whether the intended goals can be met expeditiously and whether this was the appropriate canonical means to be used. Because of the civil ramifications of such an undertaking, CRS carries out its apostolic works through various civil entities, and more particularly through a civil corporation originally known as “*Canadian Catholic Congregational Management*” and now operating under the canonical name, “*Canadian Religious Stewardship*”.

It might be time to consider similar arrangements in other countries.

### D. THE PURPOSES OF CANADIAN RELIGIOUS STEWARDSHIP

One of the particular characteristics of this PJP is that participation in its activities is entirely voluntary. A community that wishes to become a participating entity of *Canadian Religious Stewardship* can opt to make use of one or more of the services it offers. The PJP has five major purposes:

- to assist religious institutes by managing and safeguarding their ecclesiastical temporal goods and assuring their proper administration in accordance with canon and civil law;
- to provide personal care programs and services for the membership of these institutes;
- to accept ownership of ecclesiastical temporal goods in those instances where the Institute wishes to divest itself of property, in accordance with the requirements of canon law;
- when opportune, to accept governance responsibilities for any or all healthcare, educational, religious and social service ministries presently supported by the institute;
- with the consent of the relevant diocesan bishop, and if appropriate, to accept sponsorship of a ministry of an institute.

One of the points that can be noted is that provision was made to accept governance responsibilities for services offered by religious institutes – services that did not fit into any of the more traditional categories, healthcare, education, social services. In particular, thought was given to retreat houses, publication works, and similar undertakings.

It is obvious that one delicate point that will have to be kept in mind when *CRS* assumes one or more of these responsibilities, is the establishment of good relations with the diocesan bishop, since, in many instances, we are dealing with apostolic works carried out in the name of the Church. In order to support the request, letters from a significant number of bishops who had motherhouses or provincial houses in their dioceses were part of the proposal presented to the Holy See.

#### **E. THE PROVISION OF SERVICES**

A participating entity can avail itself of one or more the services of the PJP for a given period of time. There is no question of the institute itself becoming integrated into the PJP. It is a stewardship entity, not a new religious institute or a part thereof.

Because this new entity has as its focus the support of religious institutes, of their members, and of their mission, we should not be surprised to see in the statutes the provision that the President of the Members shall be a perpetually professed member of an institute of consecrated life or society of apostolic life. The other members are to be in full communion with the Catholic Church, but may be religious or lay persons.

The members are selected by representatives of the participating entities. Once they were duly appointed, they began initial work on a number of inter-congregational projects, including, more particularly, establishing appropriate residences for religious who need a certain level of medical care and assistance. Not surprisingly, *CRS* has already received a number of requests for assistance.

As is the case with most of the other approved PJPs, the Statutes provide that members of *Canadian Religious Stewardship* shall satisfactorily complete an initial formation process and participate in a continuing formation process, the content of which shall be determined by the participating entities. This has been one of the best outgrowths of the new PJPs – a continued emphasis on the formation of those involved as members or sponsors. The number of persons who have completed such formation processes now creates a very significant pool of committed people who, in virtue of their baptism and confirmation, are willing to assume additional responsibilities in the Church, and carry them out faithfully.

As is also the case with other PJPs, the Holy See is asking for an annual report of the activities of *Canadian Religious Stewardship*. Since this is a new type of undertaking, it will be important that clear and precise reports be presented.

Although the foundational documents do not specify that *CRS* can operate anywhere, or that its activities are restricted to Canada, these documents refer consistently to institutes carrying out their ministry in Canada. It might be possible for religious institutes in other countries to consider requesting some similar type of entity for their own country.

The major advantage of such an undertaking is that it provides that members of religious institutes that are diminishing or are even in their final stages, will be duly protected and provided for. It also means that even if certain institutes are no longer able to find qualified treasurers to oversee the proper administration of their temporal goods, there will be another mechanism available to assure that these responsibilities are carried out in an appropriate manner. Given the fact that, today, taxation and employment laws are becoming more and more complicated, it is opportune and even necessary for institutes to make certain that they are observing all applicable legislation, so that the ownership of goods and their civil status, as well as that of their lay employees, is not jeopardized.

This new entity constitutes a leap of faith. It is a sign of the concern of the Holy See for the well-being of institutes and their members, and also provides a possible model that could be considered elsewhere.

### CONCLUSION

As can be seen, the dissolution or re-structuring of a religious institute is an important event. It cannot be improvised, but must be carefully prepared.

Experience shows that it usually takes three or four years to complete the process. The major difficulties will not be canonical, but emotional or psychological. Steps must be taken to develop among the members a sense of ownership of the project. There will always be hold-outs.

But we must also recognize that not every institute is called to enter into a union or fusion (merger) with another one. This is why the establishment of *Canadian Religious Stewardship* can be of importance for these communities in Canada that wish to live their final days in peace and tranquillity, without going through all the procedures for a re-configuration. Again, the same could certainly apply to other countries.

We must also keep in mind that even these new structures do not have the promise of everlasting life. There will be further changes along the line – perhaps in totally unforeseen ways.

As with any other juridical transaction, the purpose of these moves is to contribute, in various ways, to the continual building up of the body of Christ, and to safeguard, where possible, the apostolic and community life of the members.

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