

Temporal Goods and Pastoral Governance

Fr. Sebastian S. Karambai, Diocese of Thanjavur,

E-mail: kasebastians@yahoo.co.in

Introduction

Apostle Peter, the first supreme pastor of the Church, intently looking at the crippled beggar who asked him for alms, declared, "Look, I have no silver or gold, but what I have I give you: in the name of Jesus Christ of Nazareth, stand up and walk". This response is in accordance with the radical teaching of his Master: "You can not serve God and wealth" (Mt 6:24); "None of you can become my disciple if you do not give up all your possessions" (Lk 14: 33); "Take no gold, or silver, or copper in your belts, no bag for your journey, or two tunics, or sandals, or a staff; for labourers deserve their food" (Mt 10: 9-10); and "Sell all that you own and distribute the money to the poor, and you will have treasure in heaven; then come, follow me" (Lk 18:22). A literal understanding of these teachings would, on the one hand, forbid his disciples from all kinds of material possessions and, on the other, dictate them to depend upon the power of the Risen Lord alone, as exemplified by the first bishop of Rome and other disciples and saints.

There are, however, other relevant passages in the sacred scripture that would lay a theological foundation to own material goods by the Church. For instance, Jesus and the apostles seem to have a common fund under the management of Judas, out of which they meet their own needs and those of the poor (Jn 4:8; 12:6; 13:29). The early Christian communities freely dispose their possessions including lands and houses for the benefit of the needy (Acts 2:44-45), especially for the widows and orphans (Acts 6:1-6). Apostle Paul solicits material support from churches in order to aid poor communities (1Cor 16:1-3; Rom 15:25-28).

Through the centuries, the magisterium has insisted, on the one hand, the practice of evangelical poverty and, on the other, the right of the Church to own material goods for the service of a kingdom that is not of this world. It has, moreover, enacted laws and norms designed to ensure honest and proper disposition of the temporalities, and to guard against improper acquisition, excessive accumulation, and imprudent administration. Book V of the 1983 Code of Canon Law treats the subject quite comprehensively from canons 1254 to 1310. This paper attempts not to cover all those vast amount of material or to present anything new, but to highlight few canonical principles and provisions that would ensure the governance of the temporal goods for the maximum benefit of the Church's mission and apostolate.

Temporal Goods of the Church

By "temporal goods of the Church" is meant all the property that belongs to different public juridic persons that are lawfully established by competent authorities, such as dioceses, parishes, schools, hospitals, religious congregations, societies of apostolic life, etc. A public juridic person is the one that fulfills a mission in the name of the Church in view of the public good (c. 116, §1). A private juridic person (e.g. Society of St. Vincent de Paul), while having due recognition from ecclesiastical authorities, carries out its activities in view of a public good in the name of its members, not of the Church. Similarly, properties of individuals like those of bishops, priests and sisters, which they may acquire generally by inheritance or personal gifts, unless they renounce them by vow of poverty, are not designated as Church property.

Temporal Goods of the Church are of various kinds that are instrumental in fulfilling its mission. They generally include all non-spiritual assets, movable or immovable, fixed or liquid, sacred or artistic: land, buildings, furniture, liturgical things, vehicles, securities, funds, stocks, bonds, pious foundations, legacies, and other categories of properties.

Purpose of Temporal Goods

Church's fundamental right to own and use temporal goods is based on the purpose or finality for which it acquires them. According to Vatican II, ecclesiastical properties must always be applied to those purposes for the achievement of which the Church is allowed to own them (PO, 17). By conciliar definition, apostolate is all activity of the Church directed to bringing the world to Christ (AA, 2). The pastoral constitution on the Church in the Modern World states that the Church utilizes temporal realities in so far as the triple ministries of teaching, sanctifying and shepherding (which are together called *munus pascendi*) require them (GS, 42 & 76). Reflecting the conciliar teaching, paragraph two of canon 1254 enlists the following four principal objectives for which Church has the inherent right to own temporal goods:

- **To organize divine worship.** It includes construction and maintenance of churches, chapels, oratories, cemeteries, etc and provision of all the materials and things required for the celebration of the sacraments and the sacramentals.
- **To provide decent support for the clergy and other ministers and employees.** This is in accordance to the teaching of the New Testament: "Those who proclaim the gospel should get their living by the gospel" (1Cor 9:14); "The labourer deserves to be paid" (Lk 10:7); and "To one who works, wages are not reckoned as a gift but as something due" (Rom 4:4). Employees in the Church administration are to be paid just and decent wage so that they are able to provide fittingly for their own needs and those of their dependents (c. 1286).
- **To exercise works of the apostolate.** It mainly consists of the diverse provisions required for the exercise of the ministry of teaching such as proclamation, catechesis, evangelization, Catholic education, formation of ministers, communication media, construction of schools, colleges, seminaries, etc.

▪ **To engage in charity especially toward the needy.** Vatican II states, "The spirit of poverty and of charity is the glory and authentication of the Church of Christ" (GS, 88). This involves the different activities and initiatives to promote social justice and equality with the preferential option for the marginalized and the underprivileged, to look after the sick, old and the orphans, etc.

The above purposes are not listed in order of priority. While circumstances may dictate that one or another purpose be given priority at a given time, but none of the purposes becomes so dominant as to preclude fulfillment of the others.

How does the Church acquire temporal goods?

After mentioning the above four purposes the code already in Book I teaches that all the Christian faithful are obliged "to assist with the needs of the Church" (c.222, §1). Clerics (bishops, priests and deacons) are to use any extra income to provide for the good of the Church and for charitable purposes (c. 282, §2). Institutes of consecrated life give "collective witness of charity and poverty" and are to contribute from any surpluses for church works and for the poor (c. 640). The laity are obliged to assist with the needs of the Church, to promote social justice and, mindful of the precept of the Lord, to assist the poor from their own resources (c. 222).

In fact, the obligation to contribute generously for the good of the Church has a solid biblical foundation. The Israel people were obliged to pay the Lord a tithe of all that they reaped from the field (Deut 14:22). They made freewill offering of cash and kind to the Lord (Ex 35: 20ff). The early Christian communities found themselves blessed to give than to receive (Acts 20: 35). Owners of lands or houses sold them and laid the proceeds at the apostles' feet and distribution was made to each as any had need (Acts 4:32-37). Apostle Paul stipulated that on Sundays everyone should put aside whatever he has been able to save (1Cor 16:1-3), for God loves a cheerful giver (2Cor 9:7). He appealed to the Christian communities he founded to

transfer the abundance to the mother Church in Jerusalem (2Cor 8:14). Generous financial support for the mission of the Church would remain a theme of preaching and exhortation up to the present day. Canon 1260 articulates the Church's right to require the faithful to give financial support to meet the temporal needs.

The Church has the innate right to acquire temporal goods "by every just means" (c. 1259). In the Indian context, the following are the common ways by which the Church acquires temporal goods either in cash or kind:

- Collections during Mass on Sundays and holy days of obligation;
- Fees and offerings for the administration of sacraments and sacramentals;
- Voluntary offerings by the faithful;
- Donations either voluntary or on request of cash or movable or immovable properties from the people;
- Funds from donor agencies for various projects;
- Pious foundations by which a person freely disposes his/her goods to public juridic persons for works oriented generally to piety, charity or apostolate;
- Solicitation of funds through appeals for particular apostolic works;
- Levies or subscriptions, monthly or annual, from individuals, families and public juridic persons such as the religious institutes, schools or colleges;
- Revenue from fields, rented buildings, shops, etc;
- Income from deposits, stock, investments, etc.

Administration of Temporal Goods

A public juridic person (diocese, parish, school, hospital, religious institute/house) is a legal fiction given "personhood" by law and is considered a minor. In legal parlance, a minor is not capable of

exercising her/his own rights and obligations. A juridic person, therefore, needs human agents to act for and in its name (c. 98, §2). In so far as juridic persons in the Church are concerned, physical persons on whom the task of governance and decision rests must represent them (c. 118). These physical persons, whether clerics or laity, designated according to law, act in the name of the juridic persons and are their voices and minds. They are the lawful representatives of the real owner – the juridic person - and must administer the temporalities under their care with the full powers of an owner without at the same time losing sight of the fact that the properties under their stewardship are not really their own.

The administration of ecclesiastical goods pertains to the person who has direct power of governance over the juridic person to which the temporal goods belong, unless particular law, statutes or legitimate customs state otherwise, and without prejudice to the right of the ordinary to intervene where there is negligence on the part of the administrator (c. 1279, §1). In accordance to these principles, the administrator of the parish property is the parish priest and no particular law, statute or custom can derogate from this universal law (c. 532). Similarly the bishop is not the administrator of the goods of other public juridic persons subject to his authority such as a shrine, school, or seminary. In regard to the administration of such goods the bishop's role is supervisory which mainly consists in providing norms and instructions, insisting on the observance of all laws, demanding financial reports, and intervening when abuses or negligence creeps in (cc. 392, §2; 1276).

The administrator of the temporal goods that belong to the diocese is the diocesan bishop (c. 393), but he has to appoint a financial administrator who is to perform the direct and immediate administration under his authority (c. 494, §3). Even if the bishop happens to be an expert in financial management, he has to appoint another expert as financial administrator in order to devote himself "to prayer and to serve the word" (Acts 6:4). In *Pastores Gregis*, Pope John Paul II makes particular mention of the "appropriateness of entrusting the

financial administration of the diocese to individuals who are competent as well as honest, so that it can become an example of transparency for other similar Church institutions” (PG, 45).

In view of canon 1284, administration of temporal goods would refer to those acts or sets of actions that are principally directed to:

- preserving ecclesiastical property also by civilly valid methods;
- collecting the income accurately and on time;
- improving the resources of the juridic person with the diligence of a good steward;
- applying the income/resources to the proper purposes designated for ecclesiastical goods;
- doing expenditures within the limits of law;
- investing the surplus resources for the benefit of the juridic person;
- keeping accurate records and properly reporting income and expenditures.

Provisions for Honest and Efficient Administration of Temporal Goods

In order to make the governance of temporal goods prudently, efficiently and with responsibility, the code has prescribed important procedures. The most important among them are prior consultation, accountability and remedial measures for errant administration.

a) Consultation

Administrators of temporal goods are obliged to consult the appropriate finance council before taking valid decisions and placing valid acts of administration. A finance council for every diocese and parish and a finance committee for every public juridic person are obligatory. Consultation consists in obtaining either the counsel

(hearing) or the consent of the pertinent finance committee following the procedures prescribed in canon 127. The finance councils must be constituted with the members expert in financial affairs and civil law (c. 492, §1). Since lay persons are generally experts and experienced in financial matters, they should be given importance and priority in the appointment to the finance councils. Vatican II teaches to solicit the participation and cooperation of the laity not only in the ministries of sanctifying and the Word of God, but also in the administration of the goods of the Church (AA, 10).

Canon 1277 makes a distinction between different acts of administration and requires corresponding mode of consultation. The acts mentioned in the canon are acts of ordinary administration, acts of major importance and acts of extraordinary administration. To perform acts of ordinary administration, no prior consultation is required for validity. Such acts would fall under the regular and recurring items such as day-to-day financial transaction, preparing the annual budget and financial report, etc.

To place acts of major importance hearing the advice of the finance council (+ the college of consultors in the case of diocesan temporal goods) is mandatory. The canon does not further specify the acts of major importance, other than to state that they depend upon the financial condition of each diocese. This is to respect once again the conciliar principle of subsidiarity. The diocesan bishop should respect this principle and specify in the statutes or elsewhere what acts fall under this category. The code has, however, determined in other canons the bishop's obligatory hearing of the finance council, as for instance:

- to fix the limits of ordinary and extraordinary administration for juridic persons subject to him (c. 1281, §1);
- to impose a tax upon public juridic persons (c. 1263);
- leasing of properties (c. 1297);
- investment of fixed capital (c. 1305);

- to alienate goods of the diocese or of the juridical person subject to the bishop the value of which is between the minimum and maximum amount fixed by the episcopal conference. For the Latin dioceses in India it is between Rs. one lakh and ten lakhs.

These instances may perhaps serve as samples for the bishop to determine the acts of major importance in his diocese. The code does not require any consultation on his part to determine them, "though it would be advisable that he consults both bodies" (O. Gracias, *Canonical Studies*, October 1998, p. 102). Such determination serves to remind the diocesan bishop, the finance council, and the college of consultors of the need for consultation, an exercise of shared responsibility without which the administration of diocesan property and finance may be qualitatively flawed (*New Commentary on the Code of Canon Law*, CLSA, p. 1479).

For placing acts of the third category of administration, which is extraordinary, the bishop is required to obtain prior consent of the finance council and the college of consultors. Getting the consent means the majority of the members of the two bodies, convoked separately, must give their approval to execute the bishop's proposal. The bishop cannot decide in favour of his proposal and perform the desired administrative act when the members had denied consent.

In general, acts of extraordinary administration are those which are non-recurring or whose financial consequences are considerable. The episcopal conference has to determine the criteria. The CCBI has decreed that any non-recurring expenditure by the bishop involving an amount of Rs. 4 lakhs or above is considered an act of extraordinary administration. Similarly donations or bequests which have long term obligations of over 20 years are considered acts of extra-ordinary administration in the universal law. Accepting donation with conditions attached, leasing of immovable property, or borrowing large sums of loans may also fall in this category. Alienation of properties that belong to the diocese or another public juridic person under the management of the diocese, although not treated as an act of extraordinary

administration in the code, requires the consent of both the college of consultors and the diocesan finance council.

The different types of consultation for placing different acts of financial transaction could *mutantis mutandis* be applied to and made mandatory in the statutes for administrators of temporal goods subject to the authority of the bishop such as the parish priest, school director, or shrine rector.

b) Accountability

Accountability is another important provision of the Church to ensure honest management of the temporal goods. It serves not only to safeguard the image of the Church, but also to build trust and credibility among the faithful to contribute more for the apostolate. The following could be mentioned as the most significant provisions:

- Administrators of ecclesiastical goods must prepare a budget of anticipated income and expenditure for the forthcoming fiscal year (cc. 493; 1284, §3). Budgeting by which resources are allocated is necessary not only for self-reliance but also to uphold pastoral values.

- Administrators must keep well organized books of receipts and expenditures (c. 1284, §2, 7?). In issuing receipts, what matters is not the quantity of the amount, but the integrity of the administrator. Hence, for every income, however small the amount may be, the administrator should issue a receipt. Likewise, expenditures must be supported with authentic and orderly vouchers and bills.

- Administrators must submit to the bishop at the end of each financial year an account of income and expenditure. The bishop should present them to the finance council for examination (cc. 493; 1284, §2, 8?; 1287, §1).

- Bishops must submit an annual financial report of the diocese to the Apostolic See (Congregation for the Evangelization of Peoples, Letter, 15 November 1989). Nothing prohibits them to present such report to their priests, who are their cooperators and co-workers.

▪ Administrators are to render an account to the faithful concerning the goods offered by them to the Church (c. 1287, §2). The scope of this mandate could be understood in a broad sense and the entire annual financial reports of dioceses, parishes and other public juridic persons could be published in a manner correctly understood by the faithful. The argument that someone with evil motive might contest the content of the report in the media or court of law may not altogether justify withholding of publication. The positive effects of transparency must take precedence over all other considerations.

▪ Administrators must maintain accurate, clear and up-to-date inventory of the immovable property, movable objects, or other goods of the public juridic persons (c.1283, 3?).

The best provision of accountability has been given by Apostle Paul: “We intend that no one should blame us about this generous gift that we are administering, for we intend to do what is right not only in the Lord’s sight but also in the sight of others” (2Cor 8: 20-21). This precept has been reiterated and applied to priests by Pope John Paul II: “... the priest should also offer the witness of a ‘total’ honesty in the administration of the goods of the community, which he will never treat as if they were his own property, but rather something for which he will be held accountable by God and his brothers and sisters, especially the poor” (*Pastores dabo vobis*, n. 30).

c) Corrective Measures for Errant Financial Management

Despite stringent canonical provisions and best of intentions, irregularities and transgressions, especially misuses of income and expenditure, frequently occur in financial management, thereby causing scandal among the faithful and grave damage to the image of the Church. In the New Testament we find one apostle and another couple as prototypes of embezzlement of Church property: Judas and Ananias and his wife Sapphira. Being very critical of Maria’s anointing Jesus’ feet with costly perfume Judas pretends to be perhaps the first theologian of preferential option for the poor. But evangelist John

reveals aside Judas' real intention: "He said this not because he cared about the poor, but because he was a thief; he kept the common purse and used to steal what was put into it" (Jn 12:18). Ananias and Sapphira sold a piece of property and gave the proceeds to the Church, withholding part of the price. Both of them fell dead when Apostle Peter charged them with falsehood (Acts 5:1-11). But today, punishment for dishonesty or irregularities is not death, but application of remedial measures in accordance to lawful procedures.

There are basically three courses of action available for addressing irregularities in the administration of temporal goods. One course of action is the use of an appropriate penalty; the other two are non-penal administrative actions which either remove the person from office or impose on the person a precept in order to correct the harm that has been inflicted. For instance, a person who alienates ecclesiastical goods without the prescribed permission is to be punished with a just penalty (c. 1377). Likewise, a pastor can be removed from office for poor administration of temporal affairs (c. 1741, 5?).

Conclusion

Laws are given for observance. Ecclesiastical laws governing the administration of temporal goods are no exception. In India, ecclesiastical public juridic persons (dioceses, parishes, institutions) are also registered as trusts, societies or companies and operate as per civil law regulations. One important civil law requirement is to get the annual financial statement of the society/trust approved by the members and filed at the office of registration. This civil law compliance does not in any way obliterate the obligations under canon law, as many administrators seem to erroneously believe and operate. Ecclesiastical juridic persons are primarily theological entities established for a supernatural purpose, namely, salvation of souls. While civil law treats a diocese and its parishes and institutions as single unit, canon law seeks each parish and institution within the diocese as separate unit with its own money and assets. They are registered as a single unit under civil law not just to do charitable works with income

tax exemption, but to protect canonical ownership and titles of temporal goods of the Church as obliged by canon law (cc. 1274, §5; 1284, §2). Hence, incorporation of ecclesiastical institutions as societies/trusts under civil law in no way alters their juridic personhood under canon law. In consequence, administrators have the serious obligation to administer the ecclesiastical goods according to the prescriptions of canon law as well.

Canon law has provided several principles and procedures governing temporal goods in order to ensure, on the one hand, efficient and honest administration and, on the other, immunity against irregularities and misuses. In this article we have highlighted consultation, accountability and remedial measures against errant administrators as the most important canonical provisions. In the final analysis, the rationale for these provisions is not so much to keep a check on the integrity of the administrators as to realize the conciliar values of communion, participation and co-responsibility in the temporal affairs of the Church. To overlook these underlying values and, subsequently, to ignore the canonical provisions would mean to regard the canonical legislations as mere formalistic prescriptions, which is equivalent to saying that there is no need for canon law in the Church.