

The Religious and the Local Church

***Fr. Y. Irudayaraj DCL, Emeritus Professor of Canon Law,
St. Paul's Seminary, Tiruchirapalli***

Introduction

Before the Second Vatican Council, the relation between bishops and religious was maintained with a mentality of bishop with his own Episcopal authority building up a local Church of his own and the religious with their own exemptions or non-exemptions building up 'their own Church' in the diocesan territory. The exempt religious remained withdrawn from the jurisdiction of the bishop except in those cases prescribed by the law.

The Second Vatican council gave a new direction to the issue of bishop – religious relation. The central teaching of the Council in this regard is to be found in *Lumen Gentium*, 45 and in *Christus Dominus*, 33-35.

The following documents published by the Apostolic See gave the guidelines for implementing the teaching of the council.

- a) *Cum Admotae*, Paul VI, 6 Nov. 1964.
- b) *De Episcoporum Muneribus*, Paul VI, 15 June 1966
- c) *Ecclesiae Sanctae*, Paul VI, 6 Aug 1966
- d) *Directorium de pastoralis ministerio Episcoporum* (Congregation for the Bishops, 22 Feb. 1973)
- e) *Mutuae Relationes* (Congregation for the Bishops and Congregation for the Religious) 14 May 1978.

Of these post-council documents, *Mutuae Relationes* (MR) gives fundamental and practical guidelines for more fruitful relation

between bishops and religious in the light of the ecclesiology of Vatican II.

1. The Church is both hierarchic and Charismatic

The Church has both hierarchic and charismatic structures. They are of divine origin (LG4, CD7). Hierarchic and charismatic elements in the Church are the two sides of the same coin. They are so mutually related, inclusive and inseparable of one another that their polarization or placing each other on oppositional dimensions would be defective and unfortunate.

In the perspective of this mutual relatedness and complementarity of hierarchy and charism, bishops and religious are called upon to constant and effective relations so that the integral objective reality of the Church may be more perfectly made comprehensible.

The doctrine of the Church as “communio” also should determine the relations which are to exist between all the members of the Church, particularly between bishops and religious. Bishops and religious, the hierarchic and charismatic structures in the Church-communio, do not become as such hostile, antagonistic or mutually exclusive. The Church is the “Mission” of Christ and has the mission of Christ to be carried out in the world. This mission of the Church is one and unique (MR 15).

In the Church there are diversity of ministries and functions, but unity of mission (AA 2). Bishops and religious are two essential components, structures of realising the mission of the Church in a diocese. The mission carried out by the Episcopal ministry is fundamental [MR 6]. Religious, through the vigor of their particular consecration, have their own role to play in carrying out the mission of the Church [LG 43].

Consequently, there is no question of standing alone and working aloof, building up “islands of bishop’s Church” or ‘religious’ Church”. The one mission, which the Church is entrusted with, calls for mutual

relationship by common efforts and working together in harmony and in coresponsibility, by mutual collaboration, cooperation and coordination.

It would be a serious mistake to make the two realities – the religious life and ecclesial structures – independent one of the other, or to oppose to the other as if they could subsist as two distinct realities, one charismatic, the other institutional. Both elements, namely the spiritual gifts and the ecclesial structures form one, even though complex reality [MR 34, LG 8].

2. Autonomy of Religious Life

Having underlined the close link that exists between the bishop and the religious in carrying out the mission of Christ, this article expounds the canonical norms that govern the relation between the diocesan bishop and the religious.

One of the true functions of the law is to acknowledge, protect and promote the rights, and to indicate the concrete ways of getting such rights achieved or realized in day-to-day life.

Accordingly can. 586 states a true autonomy of life, especially of governance. It is recognised for each religious institute and the local ordinaries have the responsibility of preserving and safeguarding this autonomy. The autonomy acknowledged by can. 586 is the right of each religious institute to make norms for itself so that it is a self governing community and can preserve the charism of the institute. Interference in the governance of the institute by persons outside, by external authority, can create a constant problem to the life and to the development of the very institute. Hence autonomy of governance is emphasized.

Bishops, along with their clergy, should be convinced advocates of the consecrated life, defenders of religious communities, promoters of religious vocations, firm guardians of the specific character of each religious family both in the spiritual and in the apostolic field [MR 28].

Religious autonomy is not an absolute, unrestricted and unlimited autonomy, but a just autonomy. A just autonomy signifies an autonomy within the limits of the common laws and proper laws duly approved by the competent authority of the Church. It is not independence from the hierarchical authority of the Church [CD.35, MR 13]. But such a right is to be exercised in dependence on the Church and her hierarchy according to the norms of law. Autonomy and dependence must be harmoniously blended together.

3. Diocesan Bishop and Pontifical Religious Institutes

In addition to a just autonomy, especially of governance which all religious institutes enjoy [can. 586], Pontifical Institutes are withdrawn from the governance of local ordinaries [can. 591]. The Major Superiors of Pontifical Clerical Institutes are considered "Ordinaries in law".

However, all religious, including Pontifical Institutes, are subject to bishop's power in those matters which involve the care of souls, public exercise of divine worship, and other works of apostolate in the diocese [can. 678].

Respecting the purpose of specific apostolate for which the house of an institute is erected in the diocese [can. 612], a diocesan bishop can entrust works of apostolate to the Pontifical Religious Institutes. Such works are subject to his authority and direction [can. 681§1].

It is the competence of the diocesan bishop to appoint religious to an ecclesiastical office in the diocese [can. 681§1, 557§2]. He can also remove the religious from such an office [can. 682§2].

The diocesan bishop has the power to visit churches, schools and other religious and charitable works carried out in his diocese by the religious of Pontifical Institutes [c. 683§1, c. 397].

The previous written consent of the diocesan bishop is necessary to found a house [can. 609§1]; for the suppression of such a house, prior consultation with the diocesan bishop is required [can. 616§1];

the consent of the diocesan bishop is also required if a religious house is to be used for apostolic works other than those for which it was founded [can. 612].

There is required the prior consent of the diocesan bishop or the local ordinary of the diocese where a clerical religious of perpetual vows must remain [can. 686], when he is given the exclaustation. The diocesan bishop has the power to incardinate into his diocese or to take on probation the exclaustated religious [can. 693], or those who received an indult of departure from the institute [cc. 693, 701].

A diocesan bishop has the power to prohibit a religious to remain in his diocese for a very grave reason [can. 679].

The diocesan bishop has the right to preach the word of God also in the churches and oratories of religious of Pontifical Institutes [can. 763].

The diocesan bishop has to appoint the rector of the Church belonging to the clerical religious of pontifical institutes [can. 557§2].

4. Diocesan Bishops and Religious Institutes of Diocesan Right

The bishop of the diocese where the generalate is located has the competence to approve the constitutions [can. 587] or the modification introduced into them, and to deal with matters of major concerns which relate to the whole institute and which lie outside the authority of its superiors, while consulting the other bishops beforehand, if the institute has spread to several dioceses [can. 595§1]. He presides over the elections of the supreme moderator of the institute [can. 625§2].

Every diocesan bishop, in whose territory the house is situated, can grant the members of that house dispensations from the constitutions in particular cases [can. 595§2].

He has the right and duty to visit, even with respect to internal and external religious discipline, the individual houses of such an institute situated in his diocese [can. 628§2].

The bishop has to watch over the administration of goods [can. 1276§1] and the house is obliged to render the annual account and report of its finances and administration to the bishop [can. 637].

A written consent is required for alienation of the properties of the institute [can. 638]. It is reserved to the diocesan bishop to grant the indult of excommunication for more than three years to the members [can. 686§1].

The bishop has the power to impose or enforce excommunication for a grave reason on a member at the request of the supreme moderator with the consent of the council [can. 686§3].

He can grant the indult to leave the institute to a religious after the perpetual profession, who has petitioned it and is residing in a house located in his diocese, requested through the supreme moderator of the institute [can. 691§2].

For the validity of a decree of dismissal of a religious from the institute of diocesan right, it is necessary that it be confirmed by the bishop of the place where the house, to which the religious is assigned, is located [can. 700].

5. Concurrence of Dual Powers of a Diocesan Bishop and Religious Superiors

A diocesan bishop is the head and leader of a diocese entrusted to his ordinary, proper, immediate and personal care [cc. 369, 376 & 381]. Religious superiors of an institute have their own ecclesial power and are responsible for their institute [cc. 617-619; MR 35&13].

Religious dedicated to apostolic activities are subject to both the powers. Thus on the same persons [Religious who do works of apostolate] and on the same thing [apostolic works] there is a dual authority, a concurrence and convergence of the competence of dual powers of a diocesan bishop and religious superiors.

Can. 678, in prescribing obedience of religious to the diocesan bishop and their own religious superiors as well, presupposes the existence of such dual authority on religious.

6. Contracts Between the Bishop and the Religious Institutes

A lot of misunderstanding arises because of the lack of precision in entering into contracts. Secondly there is also confusion between the various types of Apostolate of the religious carried out in the diocese.

Catholic Bishops' Conference of India [CBCI] and the Conference of Religious of India [CRI] have jointly issued a document entitled "Mutual Relations, Bishops and Religious" in 2006. This document will be of great help in fostering mutual relation between the Bishops and the Religious. No.30 of this document differentiates the apostolate of the Religious at three levels.

A. Autonomous Works of the Institute [Form No.30A]

Autonomous works of the Institute depend on the religious superiors according to their constitution, even though subject to the over all supervision of the bishop. This apostolate, even though carried out in the diocese, is not part of the diocese. Of course, the consent of the diocesan bishop is required for this type of autonomous apostolate by cc. 609 & 611.

B. Diocesan Foundation Entrusted to the Institute by the Diocese [Form No.30B]

The Diocesan Bishop can entrust a specific ministry to the congregation [e.g. a parish, diocesan school]. In this case the bishop must clearly specify the terms and conditions of this commission and should make an official contract incorporating the terms and conditions. This contract must expressly and accurately define the work to be done, the persons to be assigned to it and the financial arrangements [cf. can. 520§2]. Both sides may terminate the contract with mutual consent according to the conditions stipulated in the contract.

C. Diocesan Works in which Religious Give Service [form No.30c].

The diocesan bishop can entrust works and offices to **individual religious** for which a **written convention** may be

necessary [e.g. for pastor, deans, directors of catholic colleges etc] in view of the necessity of stability for those in office. The Bishop and the Major Superior will act in common accord.

The religious can be removed from the office by the bishop with prior notice to the religious superior, or by the religious superior with prior notice to the Bishop. Neither requires the consent of the other [cf. can. 682§2].

7. Property Rights

It is regrettable that the Bishops and the Religious engage themselves in endless disputes over property rights and at times both sides do not hesitate to have recourse to civil courts seeking for solution.

The document "Mutual Relations" mentioned earlier gives practical guidelines in No.31 regarding property disputes. "It is of vital importance that both religious and diocesan authorities respect each other's autonomy and property rights. When conflicts of a serious nature arise which are not resolved at the diocesan level, they shall have recourse to:

- a) A regional committee consisting of three bishops, three major superiors and a catholic judge or a practicing catholic civil lawyer. After enquiring into the matter, and studying its details, the committee makes a decision on the issue.
- b) If the decision does not satisfy one or both parties, they have the right to appeal to the National Committee of Bishops and Major Superiors and a Catholic Judge.
- c) The decision of the National committee is final, subject to the right of appeal to the Holy See.

These guidelines of the CBCI and CRI are to be strictly followed in the face of conflicts between the bishop and the religious.

Conclusion

There will be always a tension between the hierarchical institutions and charismatic elements in the Church. As a result there will be also a tension between the bishops and the religious. This tension can be a healthy tension provided each one respects the other's autonomy and charism. In concrete, the religious need to foster "the sense of the Church", that is, sense of belonging to the Church and the bishop and his clergy need to respect and promote the charism of the religious.

It is said that the Religious are in the Church, but they are not of the Church. But the truth is that the religious are in the Church, by the Church and for the Church. There is no church without a mission and there is no mission without the Church. The apostolate of the religious is exercised in the name of the Church and by its command, and it is to be carried out in communion with the Church [cf. can. 675§3]. Hence the religious need to be organically inserted into the local Church. "Religious, from the novitiate on, should be brought to a fuller awareness and concern for the local Church" [MR 30, a]. The religious must resist the temptation of running a parallel church within the local Church.

Any religious institute which does not realise that it is part and parcel of the Church will eventually lose its vitality and will meet with its own disintegration.

The Bishop and his clergy must respect the consecrated life of the religious as a divine gift to the Church [Lg 43]. In the history of the Church, both universal and local, the religious have carried out yeoman apostolates which need to be commended.

When the bishop and the clergy need the collaboration of the religious, they need to respect their charism and constitutions. They cannot ignore the religious given their numerical strength and dynamism. Bishops should see to it that the diocesan clergy understand well the current problems of religious life [MR 30, b].

Both the clergy and the religious need an attitudinal change. Without this attitudinal change, legal prescriptions will not be of any avail. Both of them must have the attitude of Christ "Who came not to be served but to serve" [Mk 10:45].

No.37 of "Mutual Relations" will serve as a fitting conclusion to this article. "Efforts should be made to renew the bonds of fraternity and cooperation between the diocesan clergy and communities of religious. Great importance should therefore be placed on all those means, even though simple and informal, which serve to increase mutual trust, apostolic solidarity and fraternal harmony".