

# The Role of Consultation in the Governance of the Particular Church

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## Introduction

By the sacraments of baptism and confirmation, the faithful are consecrated to God in the mission of the Church. They participate in the three fold functions of Christ. Later on, they participate in the three fold functions of the bishop in the particular Church in their own way or according to their status in the Church. The Code of Canon Law draws important conclusions from these theological realities.

The Christian faithful have a duty and a right to participate in the inner life of the Church. This aspect is brought out by the communion that one has with the Church. By the sacraments we are called to participate in the mission of the Church. By participating and collaborating, we share the responsibility of the mission in the Church. In addition to this, we participate and collaborate in the inner life of the Church, because we have received the gifts from the Holy Spirit. By these theological realities, we come to know the basis for consultative bodies in the Church. It is rooted in the theological and magisterial teaching of the Church and it is well articulated in the fundamental principles found in the Law of the Church.

The principle of consultation, we understand that, the bishop in the diocese has to get consent or counsel for certain acts which the legislator has prescribed in the Code itself. In all these cases, the bishop is obligated to consult the matter with the college of Consultors or presbyteral council or financial council and with the various persons individually. When the law prescribes that a Superior needs to consult with these consultative bodies, he has to get the consent or counsel from the councils. This consultation is a requirement for the validity.

### 1. Origin and development of the principle of Consultation

This principle of consultation has its origin from the Holy Bible itself. Moses had seventy other elders to assist in his ministry and governance. This aspect was also emphasized in the council of Jerusalem where the apostles discussed and acted collegially for certain matters. After the apostolic period, the exercise of the governance of the people evolved around the bishops and the presbyters in the early Church. The presbyterium used to assist the bishop in the governance of the early Church. The ancient institution of presbyterium developed in course of time as the Church began to grow in number. The relationship between a bishop and the presbyters continued to exist in the Church as the Senate of the bishop. So, automatically they played an important role in the governance of the Church by offering their advice and assent to the matters that pertained to the Church.

This aspect was much emphasized by the bishop Cyprian of Carthage. He consulted all the matters with his presbyters

and the people. He considered the voice of the people as voice of God. He accepted their consultation as the Will of God. So, the presbyterium gained the importance in the governance of the Church. Unfortunately, the process of consultation declined after the fourth century. We could see here and there, some of the glimpses of the consultation process where all participated in the councils of the Church. During the middle ages especially at the time of Pope Gregory's reformation, this principle of consultation gained importance. It is the time of re-discovering the Roman law especially the law of Justinian. One of the legal principles applied for our concern is 'what touched all is to be judged by all'. This helped the Church to involve even the laity for the consultation in the Church.

It reached its climax during the development of the Cathedral Chapter. As the Church grew outside the city, the presbyters dispersed to different places. As a result, some of the priests resided along with the bishop. Later they participated in the governance of the Church. They acted along with the bishop who consulted them for certain matters. Slowly the invalidating laws appeared in the Cathedral Chapter. They gained importance in the Church especially at the time of Sede Vacante. But the council of Trent curtailed some of their functions in the Church. After the Gallican revolution, the institution of college of consultors served as an alternative for the Cathedral Chapter. This institution was developed where the Cathedral Chapter was absent. The members of the Chapter assisted the bishop in the governance of the diocese. As time passed by, this institution entered into the legislation.

## 2. Development of the Canon

It was in *Maxima cura*, a decree issued by then consistorial congregation in August 1910 to establish procedures for removing pastors from office for alleged misconduct, for the first time, the distinction was made between consent and counsel in the consultative process. Later on, the study of consultative acts, c. 105 of 1917 Code was a first attempt to put this principle in the canonical language. The legislator had in mind to give clear cut picture regarding the consultation. It is well organized in c. 105 of 1917 Code. The first line of the canon brings out this fact clearly: "When the law requires that a Superior, in order to act, needs the consent or advice of various persons". Here, the Superior has the juridical obligation to seek the consent or the counsel from the consultative organs.

Regarding the consent, c. 105 makes it clear. It enumerates that the Superior has to seek the consent from the college of consultors where the Cathedral Chapter is not established. But regarding the counsel, the canon remains ambiguous. The obscurity of this provision must be acknowledged. It amounts to saying that if only counsel is required, then nothing more than counsel is required. It is enough that the counsel is asked for. But it does not say that it is required for valid action. This led to the *dubim iuris*.

Later on, the Second Vatican Council discussed in detail regarding the consultation and the consultative organs in the diocese. These discussions appeared in the conciliar documents like *Lumen gentium*, *Christus Dominus*, *Presbyterorum ordinis* and *Ad gentes*. This point was also well brought by other post-conciliar documents, such as, *Ecclesiae Sanctae*,

*Ecclesiae Imago, Pastores Gregis and Apostolorum Successores*. As a fruit of the discussion, this problem was settled in the promulgation of the new Code in 1983.

Before the promulgation, the code had undergone three revision processes in the year 1977, 1980 and 1982 respectively. From the study of the schemata, we may conclude that this canon structurally modifies c. 105 of the 1917 Code in an improved pattern. In the 1977 Schema, c. 116, some of the new elements were added regarding the necessity of consent and counsel for the validity of a juridical act performed by a Superior. This canon highlights the responsibility involved in the decision making of a Superior. The canon deals separately getting consent and counsel. By this distinction, the legislator clearly displays his intention to solve the long debated question on the need of consultation for the validity of an act, when so required by law. In the 1980 Schema, the collegial consultation is explicitly mentioned in the c. 124. The fact of convocation of the collegium or coetus may be viewed as the unique occasion where the Superior is lawfully obligated to provide time for the college or group of consultors in order to express their opinion or give consent concerning the matter at hand. In the third Schema of 1982 the coetus added the clause, 'unless particular or proper law provides otherwise' for asking counsel. This addition is important as it uniquely involves the functions of the consultative organs in general. The Superiors who wish to be assisted more frequently by their consultative bodies, may find their own way of assembling their consultors in a convenient manner.

The perfective elements, that are added to c. 127 of the revised code, give due relevance to the consultative right of

participation pertaining to the Christian faithful in matters of common concern, which appear to be of particular importance in the teaching of the canon. C. 127 of 1983 Code clearly enumerates that both getting consent and counsel are for validity. It also makes a clear distinction between the collegial and non-collegial acts. Even though, the 1917 Code made a distinction between the collegial and non-collegial acts, the distinction was not clear.

C. 127 also explores the ways in which the Superior has to seek the counsel or consent from the consultative bodies for the governance of the particular Church. When the law prescribes that some of the acts must be consulted, then, in the diocese, the bishop has to convoke the consultative bodies as per c. 166. He has to send the information prior to the meeting. After convoking, the matter must be settled by a deliberate or consultative voting. The quorum of the minimum member to be present at the meeting was not specified in the canon. But in the light of c. 119, 2°, we know that majority of those who must be convoked, and it is required for the quorum.

The bishop must get the majority of votes of those present in the meeting. If there is any urgent necessity or any other pastoral difficulties, the statutes must envisage the other ways of seeking the consultation or consent, like teleconference or any other modern techniques that are available in our time. After receiving the consent, the bishop cannot act contrary to the given consent. Since it has the binding character, the bishop may delay the process without acting upon it. If counsel is needed from the consultative organs, the bishop may receive and act upon or he may even go against their opinion unless he has overriding reasons for it. Here the members also have the obligation to keep secrecy

and to offer their suggestions or opinions validly. In some cases, the bishop also has to seek the consent or counsel from the individual persons. They also should be consulted individually.

Thus, c. 127 has become a basis for other canons on consultation. The Code has envisaged five consultative bodies to assist in the governance of the diocese. Among the consultative bodies, college of consultors, presbyteral council and finance council are mandatory for the diocese. The other two i.e., diocesan synod and diocesan pastoral council can be established, if the pastoral circumstances suggest it.

When we apply this principle of consultation in the governance of the particular Church, we could see the laws are spread out in various books of the Code. There are many laws, which are prescribed by the Code, require either consent or counsel from the consultative organs like college of consultors, presbyteral council, and the finance council. Besides that, the law also prescribes some of the acts which need the consent or counsel from the concerned parties or persons. Apart from these acts, there are numerous acts in the Code, which are left for the individual discretion of the bishop in the diocese. If need be, the bishop may ask the opinion or assent of these consultative organs in the diocese.

### **3. Consultative Organs**

#### **3.1. College of Consultors**

The college of consultors plays a vital role in the governance of the diocese. The diocesan bishop has to consult them before placing the juridical act which requires consent or counsel from the college of consultors. The members of

the college of consultors, as per c. 502, are freely appointed by the bishop from among the members of the presbyteral council. This consultative body has to be gathered by the bishop as a college as defined by law and then he proceeds with the matters that require consent or counsel from the members.

### **3.1.1. Giving Consent to the Diocesan Bishop**

The requirement for obtaining the consent of the college of consultors is more serious than for simple consultation, particularly when the validity of episcopal acts are at stake. Three separate situations where the consent is mandatory will first be considered.

#### *3.1.1.1. Acts of Extra-Ordinary Administration (C. 1277)*

The diocesan bishop is the administrator of temporal goods owned by the diocese. The bishop's role in regard to diocesan property, then, is far greater than his supervisory role in regard to the administration of other ecclesiastical goods within the diocese. Yet, the law of the Church does not allow a diocesan bishop, in his administration of diocesan financial matters always, to act alone. Consultation with others, and at times even obtaining their consent, is required of him in important matters.<sup>1</sup>

In this connection, let us try to understand about the ordinary administration prior to the extra-ordinary administration. Ordinary administration could be considered to be determined by the purpose and the manner of the transaction. The words are retained in c. 1281, §1. The purpose or object would refer to the maintenance, productivity and improvement of property; the mode or manner would refer to the way in which the acts are performed. To perform acts of ordinary administration, then, administrators do not need

special authorisations on each occasion. Carrying out these acts is part of their regular duties. This is probably the simplest criterion to find out which acts are to be considered as 'ordinary'.<sup>2</sup>

The last part of the c. 1277 raised the issue of extraordinary administration. It refers to a number of instances when the diocesan bishop needs the consent of the finance council and the college of consultors. In such instances, he may not act without their consent, but is not bound to act even if the consent is given. Three such categories of acts are mentioned in c. 1277:

- i) Acts of extraordinary administration;
- ii) Acts where the universal law requires the consent of the finance council and of the college of the consultors; and
- iii) Acts relating to a foundation where such consent is required.

As regards the first of these categories, it is for the Conference of Bishops to determine which acts fall under this heading. Cases foreseen by the second category, where the common law requires such consent, among others, those requirements for foundations put line in the particular statutes governing each one. The validity of the act would depend in part upon the giving of the required consent by the appropriate organs (Cf. C. 127, §1).<sup>3</sup>

In the 1977 draft, it would have been the duty of each diocesan bishop to determine what constitutes an act of extraordinary administration for the diocesan public juridic person. At the final consultation several bishops urged that the Conference of Bishops be charged with spelling out what

constitutes extraordinary administration for the diocese.<sup>4</sup> The present canon does provide for this, thereby encouraging more uniformity in administrative regulations in each region and, one would hope, more objectively as well.<sup>5</sup> The requirement of consultation in significant matters becomes a requirement for the consent of the college of consultors, when this is called in the universal law or the founding documents or when the action is one of extraordinary administrations.<sup>6</sup>

The CCBI determines that any act of administration by the diocesan bishop, involving an expenditure of Rs. 15, 00, 000 or more is to be considered as an act of extraordinary administration.<sup>7</sup> Donations or bequests which have recurring long term obligations (of 20 years) are also to be considered acts of extraordinary administration. This was approved in Bombay, in the year 1994.<sup>8</sup>

### 3.1.1.2. Alienation of Church Property (C. 1292)

The Latin verb *alienare* means 'to make something another's'.<sup>9</sup> Alienation of temporal goods is the transfer of property or of rights over property from one person to another.<sup>10</sup> The person from whom the transfer proceeds is said to alienate the property or rights involved. In a strict sense, alienation applies to real property and to invested funds which are similar to immovable property. The latter funds are termed as stable capital or fixed capital and consist of funds invested for a specified purpose.<sup>11</sup> So alienation of temporal goods means transfer of ownership may be total or partial. It is effected nearly always by sale, gift or exchange. As a juridic act, alienation differs radically from administration either ordinary or extra-ordinary which has the purpose as the preservation, proper use of improvement or enhanced productivity of

temporal goods; acts of alienation have their purpose as the termination of ownership.<sup>12</sup>

The 1983 Code does not explicitly regard alienation as an act of extraordinary administration. At a meeting on June, 1979, the consultors, examining the 1977 Schema on the patrimonial law of the church, added the right to alienate to the list of rights. This list of rights were already contained in c. 1495, §1 of the 1917 Code, i.e., the right to acquire, to retain and to administer temporal goods. The addition was made for the very reason that alienation was not considered of its nature to be an act of administration.<sup>13</sup> Recognition of this difference is made in the Code where specific legislation is enacted for alienation, different from that regulating acts of extraordinary administration (Cc. 1291, 1292; 638, §3).<sup>14</sup>

C. 1292, §1 then distinguishes public juridic person subject to the diocesan bishop (e.g. parishes, certain diocesan foundations), from those not subject (supra diocesan entities such as regional seminaries or national universities). For the latter, c. 1292, §1 remits to their statutes the designation of authorities competent to authorise alienations above the minimum level. For public juridic person subject to the diocesan bishop, c. 1292, §1 designates as the authority competent to authorise alienations above the minimum level. The diocesan bishop must seek the consent of the college of the consultors before proceeding with the acts. This consent is required for valid alienations by the diocesan bishop of stable patrimony of the diocese above the minimum level.<sup>15</sup>

Here, the fourth para of the canon sets forth the sensible directive that all whose advice or consent is required are not to offer their advice or consent unless they have been thoroughly informed both of the overall financial condition of

the public juridic person involved and of the previous alienations of the juridic persons' stable patrimony. The law seeks informed, not *pro forma*, advice or consent, and therefore calls for accurate and thorough information to be given among others, to finance councils, college of consultors and other interested parties. While the directive of para four refers explicitly only to consultation on occasion of proposed alienation, the principle of informed consultation and consent is a principle of sound governance applicable, by analogy, to all situations of consultation.<sup>16</sup>

The CCBI establishes that the approved minimum sum for the alienation ecclesiastical goods is Rs. 15, 00, 000 and maximum sum for the alienation of ecclesiastical goods is Rs. 1, 50, 00, 000<sup>17</sup> If the amount exceeds Rs. 1, 50, 00, 000, the bishop has to approach the Apostolic See.<sup>18</sup>

### *3.1.1.3. Transaction Affecting Patrimonial Condition (C. 1295)*

The principal concern of the canon is to place restriction upon another category of financial transactions, distinct from the acts of alienation. C. 1295 would apply for variety of contracts and other financial transactions. These transactions may pose the risk to stable patrimony of the public juridic person and to its overall economic growth of the juridic person. Sometimes the diocese may be rooted in stable patrimony like the property on which the financial future of the public juridic person depends. This is the meaning that the c. 1295 referred to 'stable patrimony'. Besides that, we should note here that this concept is relative, since each diocese or the parish may differ from one another in their financial condition. According to the financial condition, the transactions which could affect the stable patrimony of the person differs.<sup>19</sup> Here, the canon applies the cc. 1291-1294 to these types of

transactions. So, the bishop has to seek the consent of the consultors regarding this financial transaction in the diocese.<sup>20</sup>

### **3.1.2. Counsel to the Diocesan Bishop**

The occasion for calling for consultation of the College of Consultors is a few in number. The two occasions where counsel is specified, deal with the financial administration.

#### *3.1.2.1. Appointment or Removal of Financial Administrator (C. 494, §1)*

According to c. 494, §1, in every diocese, after having heard the college of the consultors, the diocesan bishop would appoint the financial administrator. This appointment would be for a term of five years<sup>21</sup> for more stability and the growth of the diocese. Here, we should note that even when the See becomes vacant, the financial administrator's office would continue till the new bishop assumes the office in the diocese.<sup>22</sup> Meanwhile, if the financial administrator was elected as a diocesan administrator, he cannot be the financial administrator. Since both the offices are incompatible, he has to resign from the office. In those circumstances, the diocesan financial council will elect the financial administrator.<sup>23</sup> Likewise if there is a grave reason, the diocesan bishop may after hearing the college of consultors, can remove him from the office and appoint any other priest as a financial administrator.<sup>24</sup>

#### *3.1.2.2. Acts of Major Importance (C. 1277)*

Although the 1917 Code spoke of acts of major importance, the previous legislation did not provide any criteria for the determination of such acts. The new Code remedies that situation somewhat by establishing criterion as the financial situation of the diocese.<sup>25</sup> While in one diocese a

given act could be routine, in another it could have very serious consequences.<sup>26</sup> For an example, in a diocese of two lakhs of Catholics, an act might be considered to be ordinary, while of five thousand Catholics the same act or expenditure would be quite extraordinary because of the effect it would have upon the financial situation of the diocese. It would seem that, because of the wording of the canon, the basic criterion to be applied in such instances would be the amount of money involved in the transaction and not the manner of proceeding with the transaction.<sup>27</sup>

On this occasion, the diocesan bishop needs the consultation with the college of the consultors. According to the general principle of the law, the bishop is not bound by the advice given by the members of the body. Nevertheless, c. 127 provides that the bishop should not act contrary to it, especially when there is a consensus, unless there be a reason which, in his judgement is overriding. If such advices were not sought, the action would be invalid.<sup>28</sup>

### **3.2. Presbyteral Council**

Presbyteral Council is a representative body of the entire *presbyterium* in the diocese. This council is composed of priests who assist the bishop in the governance of the diocese in order to promote the pastoral welfare of the people of God. From the c. 495, §1, we could derive that this council is to aid the bishop in the governance of the diocese, in order that the pastoral welfare may be promoted as effectively as possible.<sup>29</sup> So the diocesan bishop will consult the presbyteral council about those matters in which he must consult them. They are already prescribed in the universal law. They are as follows:

**3.2.1. Convoking the Diocesan Synod (C. 461, §1)**

The synod is described from the outset in terms of its essential characteristic namely, a group or assembly of the people of God.<sup>30</sup> The primary description of the synod is consistent with contemporary understanding of the Church as the people of God and the diocese as portion of the people of God. The functional and organisational elements of the Synod flow from its basic constitution.<sup>31</sup> The diocesan bishop has to exercise his prudent judgement when the circumstances suggest convening a Synod. So as a part of his prudential judgement, the bishop has to seek the counsel from his presbyteral council. This consultation is consistent with the primary function of that advisory body to assist the bishop in the governance of the diocese.<sup>32</sup>

**3.2.2. Establishing, Modifying, and Suppressing the Parish (C. 515, §2)**

The canon established certain elements<sup>33</sup> of the parish. It is a certain community of Christ's faithful stably established within a particular Church. The pastoral care is entrusted to the pastor as its proper pastor under the authority of the diocesan bishop. The parish is not an individual entity rather it is a part of the diocese. It is the diocesan bishop who leads the Church and has the authority over the pastor of each parish.<sup>34</sup>

The Code identifies the diocesan bishop as the competent authority in the particular Church to erect, modify and suppress parishes. To erect a parish means to bring into existence in the particular Church by the decree. To suppress a parish is to end its existence. To modify a parish admits number of possibilities. For example, to join two parishes as one parish or to divide the parish and make the other portion as new parish or to extend the boundaries.<sup>35</sup>

The diocesan bishop erects, suppresses, alters or modifies the parishes only after having heard the presbyteral council;<sup>36</sup> otherwise his action is invalid. He is not however obliged to follow the counsel of the council.<sup>37</sup> Here, we should also mention that this prescription will apply to quasi parish.<sup>38</sup>

### **3.2.3. Destination of Use of Offerings (C. 531)**

C. 531 concerns the occasion when a cleric other than the pastor performs a certain parochial function. It requires the offerings received by him are to be put into the parochial account, unless in the case of voluntary offerings the donor's contrary intention is clear. The diocesan bishop after hearing the presbyteral council, is competent to establish prescripts for the allocation of these offerings and for the remuneration of the clerics who fulfil these functions.<sup>39</sup> C. 281 also treats the remuneration of all clerics, which certainly includes the pastors, parochial vicars, and the other clerics who devote themselves to the sacred ministry.<sup>40</sup> This remuneration must be befitting to their condition and their roles and circumstances of the places and times.<sup>41</sup>

### **3.2.4. Declaring the Parish Council as Mandatory (C. 536)**

The parish pastoral council is another consultative body in the parish along with the parish finance council. In 1917 Code, there was no such provision made in the law. The current universal law also does not require its establishment in the parish. But, the code made the provision to the diocesan bishop to make the parish pastoral council as obligatory in all the parishes of his diocese.<sup>42</sup> This could be done only after having consulted with the presbyteral council.<sup>43</sup> This parish pastoral council is to assist the parish priest in the governance of the parish.<sup>44</sup> Moreover, it fosters the lay co-operation in the parish level and the Christ faithful would get the chance to

participate in the participatory structures in the parish.<sup>45</sup> This was already mentioned in the circular letter, issued by the Congregation for Clergy.<sup>46</sup>

### **3.2.5. Authorization to Build the Church (C. 1215)**

Church is the sacred place or building for divine worship, where the faithful have the right to access for the exercise of the public worship. The principal juridical element of the defined Church is the right of the faithful to go there. Since the oratories and the chapels are meant for a particular group of people and the individuals like that of bishop's chapel, the faithful with the permission of the Superiors, can enter the oratories for the divine worship. They have the right to access into the Church because the Church has a public character. These Churches are subject to the authority and oversight of the diocese.<sup>47</sup>

Here, the consultation is necessary on the part of the bishop for both building up of a new Church and the canonical establishment of a Church in a place where an oratory or chapel already exists. The bishop after consultation with presbyteral council may authorise the building. This consultation is a requirement for the validity of the act.<sup>48</sup>

### **3.2.6. Converting Church Building (C. 1222, §2)**

The decision to convert the Church to profane use pertains to the diocesan bishop, even if the Church is owned by the juridic person other than the diocese or parish. Since the diocesan bishop grants the permission to establish the Church, he is the competent authority to issue the decree that removes its dedication or blessing and it is converted to secular purpose.<sup>49</sup>

This may be due to some damages which could not be repaired or due to lack of funds to restore the architectural

quality and for other reasons the diocesan bishop could do it. But he has to fulfil certain requirements that are mentioned in the law itself. One of the requirements is that the bishop should listen or consult with the presbyteral council,<sup>50</sup> before making such a decision.<sup>51</sup>

### **3.2.7. Imposing Tax on the Faithful and Public Juridic Person (C. 1263)**

The canon has two parts. The first part confers on the diocesan bishop who has the right to impose a moderate tax proportionate to the income upon the juridic persons subject to his governance. Can. 1263 does not give any grave necessity nor does it designate the tax as 'extraordinary'. So in the first part the tax is an ordinary one, made to raise the fund. This may be also recurring event of every year. Here, we need to observe that the bishop should first seek the advice of the presbyteral council. Consultation must include matters for which the tax is to be imposed, the meaning of moderate and what qualifies as taxable income. So, the consultation should be included in the various levels and the percentages to be used.<sup>52</sup>

As we have mentioned earlier, if the taxation is of every year's affair, in that case the bishop should consult each time the consultative body.<sup>53</sup> While the bishop is not obliged to follow the advice of the council, failure to consult the council would invalidate a tax, relieving those upon whom it had been imposed of the obligation to pay it.<sup>54</sup> There is also a confusion regarding the term 'public juridic persons subject to his authority'. Whether it includes the schools of the religious institutes of the pontifical right which exist in the diocese or not? The authentic interpretation was sought in this case. The Pontifical Council for Authentic Interpretation of Legislative Texts replied in negative.<sup>55</sup> The Council said that the schools

that exist in the diocese, will not come under the authority of the diocesan bishop. In fact, these schools are not public juridic persons. It belongs to the institute and the bishop has to respect and protect the internal autonomy of the institute.<sup>56</sup> So, the taxation will not apply to those schools which are run by the religious in the diocese.<sup>57</sup>

The second part of the canon empowers the diocesan bishop to impose the extraordinary tax upon the other physical and juridic persons. It also explicitly says that the extraordinary tax cannot be regularly recurring one. This tax has to be levied in cases of grave necessity. Although these may also be the needs of the diocese, they are limited to this, they could relate to famine, refugee relief, etc., if these are judged to be of 'grave necessity'.<sup>58</sup> As it is mentioned in the canon, the term 'under the same conditions' includes the moderate, proportionate to income. Before imposing such a tax, the bishop must consult the presbyteral council.<sup>59</sup> It is not clear regarding the imposing the tax on the other public juridic persons. In this point, the canonists hold their own views. The practical conclusion could be that we can follow as in the ordinary tax. If need be, the institute can offer voluntary offerings to the fund raising appeal.<sup>60</sup>

### **3.3. Diocesan Financial Council**

Diocesan Financial Council is composed of at least three of Christ faithful, expert in financial affairs and civil law, of outstanding integrity, and appointed by the bishop. In order to place a valid juridical act, the members must be informed well in advance about the proceedings and the matters that concern the governance of the diocese.<sup>61</sup> The members also should honestly participate and give their valuable counsel

and the consent.<sup>62</sup> Here the bishop has to get the consent for the following causes:

### **3.3.1. To Give Consent to Bishop**

#### *3.3.1.1. The Acts of Extraordinary Administration (C. 1277)*

To place the extraordinary administration, the diocesan bishop requires the consent of the finance council in the diocese. Since these acts are incurring in an irregular basis in the diocese, the bishop has to convene and seek the consent of the council before placing the act validly.<sup>63</sup>

#### *3.3.1.2. Alienation of Church Property (C. 1292)*

To alienate the property that belongs to the diocese or to any other public juridic person subject to the governance of the diocesan bishop, he has to observe the norms regarding the amount fixed by the Episcopal Conference. The CCBI has established the maximum Rs. 1, 50, 00, 000 and minimum Rs. 15, 00, 000 which we have noted earlier, without applying to the competent Roman Congregation.<sup>64</sup> Therefore, the bishop has to get the consent of the finance council to alienate the church property.

#### *3.3.1.3. Transaction Affecting the Patrimonial Condition (C. 1295)*

As we have mentioned above, to carry out any transaction by which the patrimonial condition of a juridical person may be jeopardised, the diocesan bishop has to seek the consent of this council.<sup>65</sup>

### **3.3.2. To Give Counsel to the Bishop**

Here there are some of the circumstances, where the bishop has to seek the counsel from the financial council. These situations were explicitly given in the Law. They are appointing or removing the financial administrator, imposing

the tax on the faithful and the public juridical persons, determining the acts that go beyond the ordinary administration and the acts of major importance.

*3.3.2.1. Appointment and Removal of Financial Administrator (C. 494)*

The bishop can freely appoint the financial administrator and can constitute the financial council. Here, prior to the appointment or the removal of the financial administrator, the bishop has to seek counsel from the council, especially at the time of removal from the office before the expiry of the term.<sup>66</sup>

*3.3.2.2. Imposing Tax (C. 1263)*

The bishop has to seek the consultation from the council to levy a tax for the needs of the diocese on public juridical persons subject to the bishop and to levy an extraordinary and moderate tax on other physical and juridical persons on grave necessity.<sup>67</sup> Since the finance administrator is having known the annual balance sheet of the various juridical persons, he may be in a better position to offer his expertise knowledge in fixing the tax, which is moderate to the income of the juridical persons.<sup>68</sup>

*3.3.2.3. Determining Acts Beyond Ordinary Administration (C. 1281, §2)*

The financial administrator has to see the day-to-day affairs of the public juridic person. He has to carry out the acts according to the instruction and guidelines of the bishop and the council. The second paragraph of c. 1281, remits to the statutes of individual public juridic persons the determination of what kind of financial transactions (e.g.,

purchasing, borrowing, renovating), and above the monetary limits, are regarded as extraordinary administration. Only where the statutes fail to do so, the bishop is the competent authority to determine the acts for his public juridic persons after having heard the financial council.<sup>69</sup>

#### 3.3.2.4. Acts of Major Importance (C. 1277)

As we have cited above, the diocesan bishop can administer the day today affairs with the help of the financial administrator. If the monetary value goes beyond the ordinary administration, then it would be called as an extraordinary administration. Likewise, some of the cases are mentioned as acts of major importance. Here the canon leaves to each diocese to determine the acts as fitted to the economic condition of the diocese. So these acts should be mentioned in the statutes. If there is a mention of these things in the statutes, the bishop has to seek counsel from the financial council, before placing the act.<sup>70</sup>

To sum up, we see in the Apostolic constitution, *Sacrae disciplinae leges*, the notion of collegiality. It is emphasized by the Pope as legislator in promulgating the Code, which is particularly present in those canons which deal with diocesan administration.<sup>71</sup> The law itself demands for consultation in certain cases. As it is mentioned above heads, if consent or advice is required by law, then the consultative bodies whose consent or advice is sought must be convened in accordance with c. 166. This canon ensures that those who are entitled to attend are informed of a meeting, though if someone overlooked then the procedure is valid, unless it is otherwise. If the consent is required the Superior i.e. bishop in our concern, acts invalidly if he does not seek consent, or if he acts against the vote of all or any of them (C. 127, §2, 1°).

On the other hand, advice is required; the act is invalid if the bishop does not hear those persons entitled to be consulted. He is not bound to accept their vote, even if it is unanimous one (C. 127, §2, 2<sup>o</sup>). Naturally the bishop will not go against the mind of the consultors or council members, unless he has overriding reasons.<sup>72</sup>

In all these aspects, bishop is not acting collegially with the consultors or with the various council members. The consultative bodies are for him to assist in the governance of the diocese. He is not part of the structure. So he receives the vote from the consultative bodies in the diocese.

### **3.4. Consultation with the Various Persons**

The other part of the consultation envisaged in c. 127, §2, the bishop has to consult with the persons who are concerned or interested parties in the acts. In order to place the acts validly, the bishop has to seek their consent or counsel according to the requirement of the law. The following two cases the bishop has to get the consent:

#### **3.4.1. To Obtain Consent from the Persons**

##### *3.4.1.1. Consent of those Who Legitimately Claim Rights (C. 1222, §2)*

C. 1222, §2 covers the situations of grave need when the Church still is able to be used for divine worship or when it is possible to restore it to such use. Before relegating such a Church to profane use, the diocesan bishop has to observe certain requirements of the law. The bishop must determine, whether there is a grave reason for doing so. Secondly, he has to seek the counsel from the presbyteral council, which we have mentioned above. Thirdly, the bishop has to obtain the consent of the persons who legitimately claim their rights

for themselves in the Church. Obtaining their consent is necessary for the validity of the act. Then he has to see that the good of souls should not be harmed and the proposed use of the place will not be sordid.<sup>73</sup>

#### *3.4.1.2. Consent from the Concerned Parties (C. 1292)*

In the act of alienation, as per c. 1292, if the amount crosses the minimum level, the competent authority i.e., the bishop has to obtain consent from both the parties of college of consultors and the financial council. Along with these bodies, the bishop has to seek the consent of the parties those who are concerned with the goods that could be alienated.<sup>74</sup> The concerned parties may be founders, donors, beneficiaries, and others whose rights might be affected by the proposed alienation. Likewise the bishop has to obtain the threefold consent even for alienating the stable patrimony of the diocese above the minimum level.<sup>75</sup>

#### **3.4.2. Obtaining the Counsel**

##### *3.4.2.1. Hearing the Vicar Forane (C. 524)*

It is the diocesan bishop who provides priests for the ecclesiastical offices by free conferral. The exercise of the power of the bishop however is not absolute. Such limitations may be included in the prescripts that require of the bishop to seek consent or counsel of some persons before making an appointment or determine specific qualities on the part of those to be appointed to particular office. This circumscription of the exercise of the diocesan bishop's power is obvious in the appointment of a parish priest. On the one hand the Code recognises the diocesan bishop as the sole authority to appoint a parish priest (C. 523), on the other hand it specifies certain

requirements which are to be met for the legitimacy of such an appointment. C. 524 is a good example of this situation.<sup>76</sup>

Here the canon enumerates various elements. For our concern, the canon also elucidates that the bishop has to hear the Vicar Forane before appointing the parish priest. Here there is a question arises that which of the Vicar Forane is mentioned in the Code? Whether the Vicar Forane of the place where the vacant parish is situated or of the place where the suitable priest is exercising the ministry. Although the text is not clear, the views of the commentators are somewhat unanimous. Almost all agree that the Vicar Forane is to be heard by the bishop before making the appointment is of the territory in which the parish is situated.<sup>77</sup>

F. Coccopalmerio provides a detailed response to this question. He says that the Vicar Forane of the place where the vacant parish is situated, can give the information regarding the parish and the qualities which are required of from the suitable priest. Moreover the 1977 Schema mentioned that the bishop has to see the pastoral care of the parish. So it is obvious that the bishop has to seek the consultation from the vicar forane of the place where the vacant parish is situated.<sup>78</sup>

F. Coccopalmerio deals at length with this issue. He suggests that the purpose of hearing the Vicar Forane is twofold: first to gather information of the concrete circumstances of the parish; second to learn more about possible candidates suitable for the office (does the Vicar Forane have some presbyters in mind suitable for the office? What does the Vicar Forane think about the suitability of presbyters whom the diocesan bishop already has in his mind?).<sup>79</sup>

Is this appointment of a parish priest invalid if the Vicar Forane is not heard? Coccopalmerio's answer to this question depends solely on the application of c. 127, §2, 2° to this situation. Therefore, he says "the response is given in c. 127, §2, 2° which reads: When it is established by law that in order to place acts, a superior needs the consent or counsel of certain persons as individuals: ... 2° if the counsel is required, the act of a superior who does not hear those persons is invalid ...."<sup>80</sup> So the bishop has to seek the counsel of the Vicar Forane. Hearing Vicar Forane means precisely, seek his counsel or, only, seek from him the elements of knowledge? According to Coccopalmerio, it is both. Since hearing the Vicar Forane is an obligation, the diocesan bishop needs the counsel of the Vicar Forane. Therefore, we can conclude that the act of a superior who does not hear those persons is invalid.<sup>81</sup> It is clear from this idea that the hearing Vicar Forane prior to the appointment of a parish priest is an obligation to be fulfilled in accord with the prescript of c. 127, §2, 2°.<sup>82</sup>

#### *3.4.2.2. Rectors of the Neighbouring Churches (C. 1215)*

The term 'rector' refers to the pastor, religious superior, chaplain, or anyone in charge of the neighbouring churches. It is unlike the rectors who are mentioned in c. 556. The neighbouring churches are only those churches in the sense of c. 1214, not oratories, shrines, or private chapels. The bishop has to listen to the rectors of the neighbouring churches, before giving the consent to establish or built a new Church.<sup>83</sup> He has to see whether the new Church will serve the pastoral good and whether it has adequate financial prospects. In this case, the bishop has to seek the counsel from those rectors of the neighbouring churches. Besides this, it is for validity of the act the bishop has to seek the counsel from them.<sup>84</sup>

### 3.4.2.3. *Transfer or Removal of Pastors (C. 1742)*

A pastor possesses stability in office and therefore the diocesan bishop should appoint him for an indeterminate or indefinite period of time, unless the conference of bishops issued a decree permitting the appointment of pastors for a determinate or specific period of time (C. 522). The immediate source of this canon on stability stems from *Christus Dominus*, 31. So there is no question of irremovable rather removable or transfer of the pastor. A pastor could cease from office by removal, transfer, resignation made by the pastor and accepted by the bishop or by lapse of time if he had been appointed for a definite period of time (C. 538 §1). The last canons in the Code of Canon Law deal with the procedure in the removal and transfer of pastors (Cc. 1740-1752). These are applicable only in the case of pastors who are appointed for an indeterminate time or even though appointed for a definite period of time, have not completed their term of office. In the procedure, c. 1742 states that the bishop has to discuss this matter with two parish priests who are already assigned and approved by the bishop. The bishop can ask these two priests or can ask the personnel board in the diocese. Here the canon does not specifically added the term 'consult'. So many would ask the question i.e., is the discussion with the two pastors required for validity? However, as a development at a later stage of the process, which is foreseen in can. 1745, the discussion with the two pastors is required for validity. As per c. 127 §2, 2° the bishop has to discuss with two pastors and get the counsel. The two priests were also well-informed about the situations before consulting them. Likewise the two priests also should offer sincere opinion respectfully<sup>85</sup>

## Conclusion

To conclude, as the conciliar document *Presbyterorum ordinis*, no. 7 states “bishops, because of the gift of the Holy Spirit that has been given to priests at their ordination, will have to regard them as their indispensable helpers and advisers in the ministry and in the task of teaching, sanctifying and shepherding the people of God. [...] They should be glad to listen to their priests’ views and even consult them and hold conference with them about matters that concern the needs of pastoral work and the good of the diocese”.

In accordance with c. 212, §3, all must acknowledge that they have the right, indeed at times the duty, in keeping with their knowledge, competence and position, to manifest to the sacred Pastors their views on matters which concern the good of the Church. They have the right also to make their views known to others of Christ’s faithful, but in doing so, they must always respect the integrity of faith and morals. They should show due reverence to the Pastors and take into account both the common good and the dignity of individuals. The lay people who are outstanding in the requisite knowledge, prudence and integrity, are capable of being experts or advisors, even in councils in accordance with the law, in order to provide assistance to the Pastors of the Church.

### (Endnotes)

<sup>1</sup> Robert T. Kennedy, “The Administration of Goods,” in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, Bangalore, TPI, 2003, p. 1478; L.Y., Medroso, “Administration of Temporal Goods of the Church and Transparency, in *Philippine Canonical Forum*, 6 (2004), p. 244; J. Hite, “Church Law on Property and Contracts,” in *The Jurist*, 44 (1984), p. 124.

- <sup>2</sup> Francis G. Morrissey, "Ordinary and Extra-Ordinary Administration: Canon 1277," in *The Jurist*, 48 (1988), pp. 715-716; K. E., McKenna et al. (eds), *Church Finance Handbook*, Washington, D. C., CLSA, 1999, pp. 192-193.
- <sup>3</sup> Francis G. Morrissey, "Ordinary and Extra-Ordinary Administration: Canon 1277," pp. 716-717.
- <sup>4</sup> *Relatio.*, pp. 285-286.
- <sup>5</sup> John J. Myers, "The Administration of Goods," in James A. Coriden et al. (eds), *The Code of Canon Law - A Text and Commentary*, p. 873.
- <sup>6</sup> Francis G. Morrissey, "Challenges for the Administration of Temporal Goods in the Light of Changing Circumstances," in *Studies in Church Law*, 6 (2010), p. 31.
- <sup>7</sup> Oswald Gracias, *Letter to All Member Bishops Conference of Catholic Bishops of India*, 25 sep, 2012, [CCBI archive in Bangalore].
- <sup>8</sup> Conference of Catholic Bishops of India (LR), *Complementary Legislation to the Code of Canon Law*, New Delhi, CCBI Secretariat, 1994, p. 14.
- <sup>9</sup> Antony Samy, S., "Concept of Alienation and Extraordinary Administration of Temporal Goods At the Diocesan Level," in *Canonical Studies*, 20 (2006), p. 45; Robert T. Kennedy, "Contracts and Especially Alienation," in John P. Beal et al (eds), *New Commentary on the Code of Canon Law*, p. 1493.
- <sup>10</sup> Francis G. Morrissey, "The Alienation of Temporal Goods in Contemporary Practice," in *Studia Canonica*, 29 (1995), pp. 294-295; Joseph R. Binzer and William J. King, "Alienation and Acts of Extra-ordinary Administration," in *CLSA Advisory Opinions, 2001-2005*, p. 337.
- <sup>11</sup> Robert T. Kennedy, "Contracts and Especially Alienation," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1493.
- <sup>12</sup> Robert T. Kennedy, "Contracts and Especially Alienation," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1494.
- <sup>13</sup> *Comm.*, 12 (1980), pp. 395-396.
- <sup>14</sup> Velasio P. De Paolis, "Quaestiones miscellaneae," in *Periodica*, 73 (1984), p. 453.
- <sup>15</sup> Robert T. Kennedy, "Contracts and Especially Alienation," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, pp. 1498-1499.
- <sup>16</sup> Thomas J. Green, "Shepherding the Patrimony of the Poor: Diocesan and Parish Structures of Financial Administration," p. 712.
- <sup>17</sup> Oswald Gracias, *Letter to All Member Bishops Conference of Catholic Bishops of India*, p. 1
- <sup>18</sup> *Complementary Legislation to the Code of Canon Law*, p. 15; John Paul II, Apostolic Constitution, *Pastor Bonus (=PB)*, June 28, 1988 in AAS, 80 (1988),

pp. 841-912. English translation in E. Caparros (ed.), *Exegetical Commentary on the Code of Canon Law*, vol. 5, Montréal, Wilson & Lafleur, 2004, pp. 32-127.

<sup>19</sup> Robert T. Kennedy, "Contracts and Especially Alienation," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, pp. 1502-1503; S. S. Karambai *Structures of Decision-Making in the Local Church*, p. 124.

<sup>20</sup> William H. Woestmann, "Advice and Consent of the College of Consultors," in F. Stephen Pedone and James I. Donlon (eds), *Roman Replies and CLSA Advisory Opinions 1999*, Washington, D. C., CLSA, 1999, pp. 47-49.

<sup>21</sup> Barbara Anne Cusack, "The Finance Council and the Finance Officer," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 651.

<sup>22</sup> *ibid.*

<sup>23</sup> C. 427, §1 of CIC 1983; John Hannon, "Diocesan Consultors," pp. 166-167.

<sup>24</sup> John Hannon, "Diocesan Consultors," pp. 166-167.

<sup>25</sup> *Comm.*, 12 (1980), p. 414.

<sup>26</sup> Francis G. Morrissey, "Challenges for the Administration of Temporal Goods in the Light of Changing Circumstances," p. 31.

<sup>27</sup> Francis G. Morrissey, "Ordinary and Extra-Ordinary Administration: Canon 1277," pp. 716-717.

<sup>28</sup> *ibid.*

<sup>29</sup> James H. Provost (ed.), *The Church as Communion*, Washington, CLSA, 1984, p. 19.

<sup>30</sup> *Comm.*, 12 (1980), p. 315.

<sup>31</sup> Barbara Anne Cusack, "The Diocesan Synod," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 611.

<sup>32</sup> Luigi Chiappetta, *Il Codice di Diritto Canonico: Commento giuridico-pastorale*, vol. 1, Roma, Edizioni Dehoniane, 1996, p. 588; Barbara Anne Cusack, "The Diocesan Synod," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 613.

<sup>33</sup> Here the canon gives two main elements of the parish. At the same time many other authors vary in their opinions on the elements of the parish. For an example S. Euart says the parish has four fundamental elements: (1) community, (2) stable basis, (3) pastor, (4) diocesan bishop. S. Euart, "Parishes Without a Resident Pastor: Reflections on the Provisions and Conditions of Canon 517, §2 and Its Implications," in *The Jurist*, 54 (1994), p. 314.

- <sup>34</sup> John A. Renken, "Parishes and Pastors," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 676.
- <sup>35</sup> James Provost, "Some Canonical Considerations on Closings Parishes," in *The Jurist*, 53 (1993), pp. 362-370; James Coriden, "The Vindication of Parish Rights," in *The Jurist*, 54 (1994), pp. 32-34.
- <sup>36</sup> *ES*, I, no. 21, 3°; Luigi Chiappetta, *Il Codice di Diritto Canonico*, vol. 1, p. 654.
- <sup>37</sup> C. 515, §2 of CIC 1983; Ian B. Waters, "The Obligation of the Diocesan Bishop to Hear the Presbyteral Council Before Altering a Parish," in *CLSA Advisory Opinions, 2001-2005*, p. 153.
- <sup>38</sup> Luigi Chiappetta, *Il Codice di Diritto Canonico*, vol. 1, p. 655.
- <sup>39</sup> John A. Renken, "Parishes and Pastors," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 702. Luigi Chiappetta, *Il Codice di Diritto Canonico*, vol. 1, p. 671.
- <sup>40</sup> C. 281 of CIC 1983.
- <sup>41</sup> A. Rayappan, "The Right of the Clerics to Remuneration and the Obligation to Simplicity," in *Canonical Studies*, 20 (2006), p. 63.
- <sup>42</sup> Vatican Council II, Decree on the Apostolate of Lay People, *Apostolicam actuositatem* (=AA), no. 26, 18 Nov 1965, in *AAS*, 58 (1966), pp. 834-864. English translation in Austin Flannery, (ed.), *Vatican Council II: The Conciliar and Post Conciliar Documents*, pp. 697.
- <sup>43</sup> Luigi Chiappetta, *Il Codice di Diritto Canonico*, vol. 1, p. 678.
- <sup>44</sup> John A. Renken, "Parishes and Pastors," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 708.
- <sup>45</sup> Congregation for Clergy, Instruction, On Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of the Priests, *Ecclesiae de Mysterio*, 15 August 1997, in *AAS*, 89 (1997), pp. 852-876. English translation in *CLD*, vol.8, pp. 287-288.
- <sup>46</sup> *ibid.*
- <sup>47</sup> John M. Hules, "Sacred Places and Times," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, pp. 1428-1429.
- <sup>48</sup> Luigi Chiappetta, *Il Codice di Diritto Canonico*, vol. 2, p. 473; John M. Hules, "Sacred Places and Times," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1429.
- <sup>49</sup> John M. Hules, "Sacred Places and Times," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1432.
- <sup>50</sup> C. 1222, §2 of CIC 1983.
- <sup>51</sup> Luigi Chiappetta, *Il Codice di Diritto Canonico*, vol. 2, p. 478.

- <sup>52</sup> K. E. McKenna et al. (eds), *Church Finance Handbook*, Washington, D. C., CLSA, 1999, pp. 80-81; Robert T. Kennedy, "The Acquisition of Goods," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1463.
- <sup>53</sup> James H. Provost, "Right of the Diocesan Bishop to Levy Tax on a Juridic Person Subject to Him," in *CLSA Advisory Opinions, 1984-1993*, p. 409.
- <sup>54</sup> Robert T. Kennedy, "The Acquisition of Goods," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1463.
- <sup>55</sup> Pontifical Commission for Authentic Interpretation for the Code of Canon Law, Response to the Posited Doubt, in *AAS*, 81 (1989), p. 991; Lawrence Wrenn, *Authentic Interpretations on the 1983 Code*, pp. 57-58.
- <sup>56</sup> C. 806, §1 of CIC 1983.
- <sup>57</sup> Lawrence Wrenn, *Authentic Interpretations on the 1983 Code*, pp. 57-58.
- <sup>58</sup> James H. Provost, "Right of the Diocesan Bishop to Levy a Tax on a Juridic Person Subject to Him," in *CLSA Advisory Opinions, 1984-1993*, p. 410.
- <sup>59</sup> Luigi Chiappetta, *Il Codice di Diritto Canonico*, vol. 2, p. 523.
- <sup>60</sup> Robert T. Kennedy, "The Acquisition of Goods," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, pp. 1464-1465.
- <sup>61</sup> C. 934, §3 of CCEO 1990.
- <sup>62</sup> Adrian Farrelly, "The Diocesan Finance Council: Functions and Duties According to the Code of Canon Law," pp. 152-153.
- <sup>63</sup> Thomas J. Green, "Shepherding the Patrimony of the Poor: Diocesan and Parish Structures of Financial Administration," p. 715; S. S. Karambai, *Structures of Decision-Making in the Local Church*, p. 177; Adrian Farrelly, "The Diocesan Finance Council: Functions and Duties According to the Code of Canon Law," pp. 156-157; John Myers, "The Diocesan Fiscal Officer and the Diocesan Finance Council," p. 184.
- <sup>64</sup> Oswald Gracias, *Letter to All Member Bishops Conference of Catholic Bishops of India*, p. 1.
- <sup>65</sup> S. S. Karambai, *Structures of Decision-Making in the Local Church*, p. 179.
- <sup>66</sup> AS, no. 192; Adrian Farrelly, "The Diocesan Finance Council: Functions and Duties According to the Code of Canon Law," p. 165.
- <sup>67</sup> C. 1263 of 1983 Code.
- <sup>68</sup> Adrian Farrelly, "The Diocesan Finance Council: Functions and Duties According to the Code of Canon Law," p. 155; S. S. Karambai, *Structures of Decision-Making in the Local Church*, p. 176; Thomas J. Green, "Shepherding the Patrimony of the Poor: Diocesan and Parish Structures of Financial Administration," p. 717.

<sup>69</sup> Robert T. Kennedy, "The Administration of Goods," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1483; S. S. Karambai, *Structures of Decision-Making in the Local Church*, p. 176; Adrian Farrelly, "The Diocesan Finance Council: Functions and Duties According to the Code of Canon Law," p. 158.

<sup>70</sup> Robert T. Kennedy, "The Administration of Goods," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1478; Adrian Farrelly, "The Diocesan Finance Council: Functions and Duties According to the Code of Canon Law," p. 156.

<sup>71</sup> John Paul II, Apostolic Constitution, *Sacrae disciplinae Leges*, 25 January 1983, in *The Code of Canon Law (English Translation)*, London, Collegial Liturgical Publications, 1983, p. xiii.

<sup>72</sup> Thomas J. Green, "The Diocesan Bishop and the Revised Code: Some Introductory Reflections," in *The Jurist*, 42 (1982), p. 333.

<sup>73</sup> John M. Huels, "Sacred Places," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, pp. 1432-1433.

<sup>74</sup> Joseph R. Binzer and William J. King, "Alienation and Acts of Extraordinary Administration," in *CLSA Advisory Opinions, 2001-2005*, p. 337.

<sup>75</sup> John M. Huels, "Sacred Places," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1499; Herbert Thurston, "Property Ecclesiastical," in Charles G. Herbermann et al. (eds), *The Catholic Encyclopaedia*, vol. 12, p. 471.

<sup>76</sup> Augustine Mendonça, "The Requirement of Hearing the Vicar Forane before Appointing the Parish Priest," in *Studies in Church Law*, 2 (2006), pp. 381-382.

<sup>77</sup> Augustine Mendonça, "The Requirement of Hearing the Vicar Forane before Appointing the Parish Priest," p. 383.

<sup>78</sup> Francisco Coccopalmerio, "Quaestiones de paroecia in novo Codice (pars III)," in *Periodica*, 77 (1988), p. 232; Antonio S. Sancez-Gil, "can. 524," in Ángel M et al. (eds), *Exegetical Commentary on the Code of Canon Law*, vol. II/2, p. 1306; Dexter S. Brewer, "Canon 524 and the Systematic Participation of the Laity in the Selection of Pastors," in *Studia Canonica*, 29 (1995), p. 485.

<sup>79</sup> Francisco Coccopalmerio, "Quaestiones de paroecia in novo Codice (pars III)," p. 122.

<sup>80</sup> Responsio datur a can. § 2, qui recitat: "Cum iure statuatur ad actus ponendos Superiorem indigere consensus aut consilio aliquarum personarum, uti singularum:[...] 2º si consilium exigatur, invalidus est actus Superioris easdem personas non audientis [...]" Coccoplamerio, "Quaestiones de paroecia in novo Codice (pars III)," p. 232; Augustine

Mendonça, "The Requirement of Hearing the Vicar Forane before Appointing the Parish Priest," p. 386.

<sup>81</sup> Francisco Coccopalmerio, "Quaestiones de paroecia in novo Codice (pars III)," pp. 232-233; Augustine Mendonça, "The Requirement of Hearing the Vicar Forane before Appointing the Parish Priest," p. 386.

<sup>82</sup> Gordon Read, "Commentary on C. 524," in Gerard Sheey et al. (eds), *The Canon Law, Letter & Spirit: A Practical Guide to the Code of Canon Law*, Dublin, Veritas, 1995, p. 20; Francisco Coccopalmerio, "Quaestiones de paroecia in novo Codice (pars III)," pp. 232-233; Augustine Mendonça, "The Requirement of Hearing the Vicar Forane before Appointing the Parish Priest," p. 388.

<sup>83</sup> Luigi Chiappetta, *Il Codice di Diritto Canonico*, vol. 2, p. 473.

<sup>84</sup> John M. Huels, "Sacred Places," in John P. Beal et al. (eds), *New Commentary on the Code of Canon Law*, p. 1429.

<sup>85</sup> Victor George D' Souza, "The Procedure for the Removal and Transfer of Pastors: Balancing the Rights," in *Studies in Church Law*, 4 (2008), pp. 317-318.