THE ADMINISTRATION AND MANAGEMENT OF THE PATRIMONY OF RELIGIOUS INSTITUTES IN THE 2018 GUIDELINES ECONOMY AT THE SERVICE OF CHARISM AND MISSION

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THE NATURE OF ECCLESIASTICAL PATRIMONY

In Roman law, patrimony was very probably connected originally with inheritance, and later with foreclosures, or, in other words, with the responsibility of the debtor to the creditor. Classic or subjectivist theory on patrimony, inaugurated by the scholarly work of Charles Aubry (1803-1882) and Frederic-Charles Rau (1803-1877), relies on the idea that patrimony is a reflection of personality, and is therefore non-transferrable, just as personality in not transferrable. In French law patrimony contains rights and obligations that belong to one person, and that have monetary value.

Four characteristics are common to the different types of patrimony referred to in canon law:

1. Patrimony refers primarily to what has been received, rather than what is produced;
2. Patrimony has value;
3. Patrimony is permanent and enduring;
4. Patrimony is usually subject to restriction, to further its preservation.

Four types of patrimony are referred to in canonical texts:

- **Ecclesial patrimony:**

  CCEO can. 28 - §1. A rite is the liturgical, theological, spiritual and disciplinary patrimony, differentiated by the culture and the circumstances of the history of peoples, which is expressed by each Church sui iuris in its own manner of living the faith.

  CCEO can. 39 - The rites of the Eastern Churches, as the patrimony of the whole Church of Christ, in which the tradition which has come from the Apostles through the Fathers shines forth and which, in its variety, affirms the divine unity of the Catholic faith, are to be preserved and fostered conscientiously.

- **Anglican patrimony**

  Anglicanorum coetibus III: Without excluding liturgical celebrations according to the Roman Rite, the Ordinariate has the faculty to celebrate the Holy Eucharist and the other Sacraments, the Liturgy of the Hours and other liturgical celebrations according to the liturgical books proper to the Anglican tradition, which have been approved by the Holy See, so as to maintain the liturgical, spiritual and pastoral traditions of the Anglican Communion within the Catholic Church, as a precious gift nourishing the faith of the members of the Ordinariate and as a treasure to be shared.
Anglicanorum coetibus VI §5: In order to address the particular needs of seminarians of the Ordinariate and formation in Anglican patrimony, the Ordinary may also establish seminary programs or houses of formation which would relate to existing Catholic faculties of theology.

Complementary norms to Anglicanorum coetibus Art. 10: §1. Formation of the clergy of the Ordinariate should accomplish two objectives: 1) joint formation with diocesan seminarians in accordance with local circumstances; 2) formation, in full harmony with Catholic tradition, in those aspects of the Anglican patrimony that are of particular value.

§2. Candidates for priestly ordination will receive their theological formation with other seminarians at a seminary or a theological faculty in conformity with an agreement concluded between the Ordinary and, respectively, the Diocesan Bishop or Bishops concerned. Candidates may receive other aspects of priestly formation at a seminary program or house of formation established, with the consent of the Governing Council, expressly for the purpose of transmitting Anglican patrimony.

- Religious patrimony

  CIC can. 578: All must observe faithfully the mind and designs of the founders regarding the nature, purpose, spirit, and character of an institute, which have been sanctioned by competent ecclesiastical authority, and its sound traditions, all of which constitute the patrimony of the same institute.

  CIC can. 586 §1: A just autonomy of life, especially of governance, is acknowledged for individual institutes, by which they possess their own discipline in the Church and are able to preserve their own patrimony intact, as mentioned in can. 578.

- Economic patrimony

  What is the stable patrimony of a juridic person (c. 1291)?
  Who must give consent for the alienation of ecclesiastical goods, depending on the value of the asset to be alienated (c. 1292 §§1, 2)?
  What other requirements must be met for a licit act of alienation (c. 1293)?
  What rules must be observed in any transaction that can worsen the patrimonial condition of the juridic person (c. 1295)?

  “The stable patrimony is composed of the immovable and movable goods that guarantee the subsistence of the institute, the provinces, the legitimately erected houses and assure the realization of the mission.” CICLSAL, Guidelines Economy at the Service of the Charism and Mission, 6 January 2018 (Vatican City: Libreria Editrice Vaticana, 2018), p. 103.

Roles of administration and management within religious institutes

- The Roman Pontiff

  CIC can. 1273: By virtue of his primacy of governance, the Roman Pontiff is the supreme administrator and steward of all ecclesiastical goods.

- The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life

  “12. Can. 1292 establishes the requirement ad validitatem (for canonical effects) of
the Holy See's permission for the alienation of ecclesiastical goods, the value of which exceeds the maximum sum established by the Episcopal Conference (can. 1292, § 1). In canon law, permission (licenza) means the concession made by the competent authority to a subject to exercise a faculty or a right which he already possesses, but the exercise of which, for reasons of public interest, is subject to the control of an external authority. In reality, the permissions, and other administrative interventions of this type, do not imply the assumption of the content of the project for which the permission or clearance has been issued. When the Holy See grants the permission for an alienation of ecclesiastical goods, it does not assume any economic responsibilities related to the alienation, but only guarantees that the alienation is congruent with the purposes of the ecclesiastical patrimony. The responsibility derived from its intervention is based exclusively on the right exercise of the power of the Church. The permission, therefore, in question now is not an act of patrimonial dominion, but of administrative power aimed at guaranteeing the good use of the assets of public juridical persons in the Church.” Pontifical Council for Legislative Texts, “La funzione dell'autorità ecclesiastica sui beni ecclesiastici,” 12 February 2004; Communicationes 36 [2004] 24-32.

_Pastor bonus_ Art. 108: § 1. [The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life] deals with everything which, in accordance with the law, belongs to the Holy See concerning the life and work of the institutes and societies, especially the approval of their constitutions, their manner of government and apostolate, the recruitment and training as well as the rights and obligations of members, dispensation from vows and the dismissal of members, and the administration of goods.

- **The General Chapter**

- **General Superiors and Councils**

- **Provincial Superiors and Councils**

- **Treasurer**

“The option whether to elect or name a treasurer is left to the proper law of the institute. In both cases, however, the appointment must take into consideration the growing importance of the necessary professional skills appropriate to the nature of individual institutes (cf. can. 587 §1), the ability to collaborate with others, the appropriate attitudes for the task (cf. can. 636 §1), and no personal connection to the assets managed.” CICLSAL, Guidelines _Economy at the Service of the Charism and Mission_, 6 January 2018 (Vatican City: Libreria Editrice Vaticana, 2018), p. 95.

- **Council of Economic Affairs**

  CIC can. 1280: Each juridic person is to have its own finance council or at least two counselors who, according to the norm of the statutes, are to assist the administrator in fulfilling his or her function.

- **Legal Representative**

  CIC can. 118: Representing a public juridic person and acting in its name are those whose competence is acknowledged by universal or particular law or by its own statutes. Representing a private juridic person are those whose competence is granted by statute.
LIMITATIONS, ISSUES AND OPPORTUNITIES

- Record keeping
  - Required by canon law: archives, inventory

See: Pontifical Commission for the Cultural Patrimony of the Church, circular letter The Pastoral Function of Church Archives (2 February 1997): http://www.vatican.va/roman_curia/pontifical_commissions/pchc/documents/rc_com_pchc_19970202_archivi-ecclesiastici_en.html - “3.1 One should keep in mind that archives, unlike libraries, contain mostly unique documents. They represent principal sources for historical research because they refer directly to the particular events and deeds of specific individuals. Their loss or destruction means nullifying an objective investigation of the facts and impeding the acquisition of previous experiences and thus jeopardizing the transmission of cultural and religious values.”

- Administrative Procedures Manual

“The administrative procedures manual regulates, among other things, the content, the means, and the schedule about which the competent Superiors must be informed. It should include the activities as well about which they must receive the report. This is valid both for the internal functions of the institute as well as for activities of the civil works and institutions connected to it. Finally, it is essential to make sure that those who are responsible for the oversight of an institution’s activities regularly inform the competent Superior about the results of their work. In order to maintain its effective impact, the administrative procedures manual should be known within the institute and should be reviewed periodically through a process that also specifies the timing of such reviews.” CICLSAL, Guidelines Economy at the Service of the Charism and Mission, 6 January 2018 (Vatican City: Libreria Editrice Vaticana, 2018), p. 94.

- Internal controls

  - Relation between civil and ecclesiastical entities, and the application of civil laws
  - Works
  - Financial investments
  - Authorisations
  - Incurring debt
  - Alienation without proper authorisation

  CIC can. 1296: Whenever ecclesiastical goods have been alienated without the required canonical formalities but the alienation is valid civilly, it is for the competent authority, after having considered everything thoroughly, to decide whether and what type of action, namely, personal or real, is to be instituted by whom and against whom in order to vindicate the rights of the Church.

  CIC can. 1377: A person who alienates ecclesiastical goods without the prescribed permission is to be punished with a just penalty.