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THE BROTHERS AND THE NEW CODE OF CANON LAW

Most people are aware by now that a new Code of Canon Law has been promulgated in the church. As of November 1983, this has effectively replaced the 1917 Code in force up until then. The new Code is bound to make some impact on the Brothers, if not in their everyday life, at least in the manner and the meaning of the Institute's relationship to the church of which it is a part.

The part of the Code that most concerns the Brothers is Book II on "The People of God," Part III entitled "Institutes of Consecrated Life and Societies of Apostolic Life" covering canons 573 to 746. Thus there are three basic types of organized religious life in the church: institutes of consecrated life are either *a*) religious institutes; *b*) secular institutes; *c*) societies of apostolic life. The distinctive characteristics of a religious institute are the profession of public vows and life in common. The fundamental characteristic of a secular institute is that the members live in the world, possibly with their families, and not necessarily in community. They are bound by "sacred bonds," sometimes vows, to a life of poverty, celibacy, obedience and prayer. The fact that these institutes are called "secular" has led many to misunderstand their true character. Societies of apostolic life are composed either of Brothers or Sisters living a common life for an apostolic purpose but without religious vows or other sacred bonds. It seems obvious that most institutes of Brothers are, and presumably intend to remain, in the category of religious institutes.

In the new Code, the collective term "religious institute" suppresses the older distinction between a religious order with solemn vows and a religious congregation with simple vows. Suppressed, too, is most of the discriminatory legislation in the 1917 Code concerning religious institutes of women. As in other parts of the code, there are precise directives to guarantee subsidiarity, collegiality and accountability in the exercise of authority in religious institutes. Much greater emphasis has been placed on the autonomy of religious institutes to determine their own internal affairs: there are more than 60 places where these matters are referred to the "particular law" of each institute. On the other hand, the local bishop is given much greater control than ever over all institutes, including institutes of pontifical right, in matters of public worship and the apostolate.

Compared to the Code of 1917, the new Code gives a more theological and inspirational definition of religious life (Canon 607):

1. Religious life, as a consecration of the whole person, manifests in the Church a wonderful marriage brought about by God, a sign of the future age. Thus religious bring to perfection their full gift as a sacrifice offered to God by which their whole existence becomes a continuous worship of God in love.
2. A religious institute is a society in which members, according to proper law, pronounce public vows either perpetual or temporary, which are to be renewed when they have lapsed, and live a life in common as brothers or sisters.
3. The public witness to be rendered by religious to Christ and the Church entails a separation from the world proper to the character and purpose of each institute.

Notable also is the text of Canon 619 concerning the role of the superior:

Superiors are to devote themselves to their office assiduously and together with the members entrusted to them, they should be eager to build a community of brothers or sisters in Christ in

which God is sought after and loved before all else. Therefore, they are to nourish the members frequently with the food of the word of God and lead them to the celebration of the sacred liturgy. They are to be an example to the members in cultivating virtues and in the observance of the laws and traditions of the particular institute; they are to meet the personal needs of the members in an appropriate fashion, look after solicitously and visit the sick, admonish the restless, console the faint of heart, and be patient toward all.

Despite this pastoral and theological emphasis, however, it is not surprising that the structural elements traditional in religious institutes remain intact and are explicitly mandated in the new Code. Approval of the basic Constitutions of each religious institute requires that they contain both "spiritual and juridical" elements, including "fundamental norms about the governance of the institute and the discipline of the members, the incorporation and the formation of the members, and the proper object of the sacred bonds" (Canon 587). A group of Brothers is presently at work in Rome preparing a revised text of the Rules, Constitutions and Book of Government of the Institute that will conform to these norms. The Code also reaffirms the traditional legislation concerning the canonical year of the novitiate, obligatory perpetual profession, the role of superiors and councils at every level (with considerable emphasis on wide participation and consultation) and, finally, the wearing of the habit "according to the norm of proper law."

In addition, since the Brothers are lay persons in a lay institute they are by this very fact excluded from the "power of governance" (*potestas regiminis*) in the church, although, like all lay persons, they may "cooperate in the exercise of this power in accord with the norm of the law" (Canon 129). Several sections of the code specifically recommend that lay persons be called upon to contribute their expertise in the decision making process. In the exercise of the ministry of the word, lay persons, including the Brothers, may preach in the church but they are forbidden to give the homily at Mass.

One feature of the new Code that has received a great deal of attention and that has relevance for the Brothers is the totally new section on Catholic Education (Book III, Title III). Here the rights of the parents and the right and duty of the Church to educate are again set forth with great insistence on the importance of Catholic education and Catholic schools. An official description is given of a Catholic school (Canon 803):

"1. That school is considered to be Catholic which ecclesiastical authority or a public ecclesiastical juridic person supervises or which ecclesiastical authority recognizes as such by a public document.

2. It is necessary that the information and education given in a Catholic school be based on the principles of Catholic doctrine, teachers are to be outstanding for their correct doctrine and integrity of life.

3. Even if it be really Catholic, no school may bear the title *Catholic School* without the consent of competent ecclesiastical authority."

The Code goes on to say that the local ordinary (usually the bishop) has the right to appoint, approve, or remove religion teachers (Canon 805) and to supervise or visit Catholic Schools in his territory, even those established or conducted by religious institutes (Canon 806). It remains to be seen how this will be interpreted and applied in the various dioceses where the Brothers conduct schools.

Finally, it might be remarked that the promulgation of the new Code serves as a reminder to the Brothers that they are in fact members of a religious institute officially approved by church authority; that their personal identity as Brother is tied to the institutional form of the Institute and the church. On the other hand, this in no way contradicts the teaching of Vatican II, the new Code itself, to say nothing of St. John Baptist de La Salle, that for the Brothers the gospel is "their first and principal Rule." It likewise challenges the Brothers and the Institute to keep alive the specific charism of the Founder and the distinctive character and mission of their Institute.

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