

RELIGIOUS SUPERIORS AND GOVERNMENT

By ELIZABETH McDONOUGH

ONE CAN approach the canons on governance of institutes in various ways. Even a cursory and superficial glance shows some key changes from the former law. One such change is a substantial reduction in the number of canons, twenty-four in the 1983 Code as compared to thirty-nine in the 1917 Code. Another is the reorganization of material, dealing with superiors and councils, chapters, temporal goods in the 1983 Code as compared to superiors and chapters, confessors and chaplains, temporal goods in the 1917 Code. Still another is the great number of times in which the 1983 Code mandates or allows specification in the proper law of an institute for matters on which the universal law touches in a more general way. For example, the 1917 Code limited non-major superiors to six consecutive years in office (c. 505), while the corresponding canon of the 1983 Code mandates a limited time in office leaving the specific duration to each institute's own law (c. 624).

Although this comparative overview approach to the canons on governance — or to any section of the new Code for that matter — is functionally informative, it is not very revealing. Looking a little below the surface it is obvious that the substantial reduction in canons is primarily the result of deleting the chapter on confessors and chaplains (a full thirteen canons in the 1917 Code!) from the section on consecrated life. Likewise, although according to the new Code each institute's own law must specify the residence of a superior in his or her own house (c. 629), the remainder of the canon is identical in wording — and therefore comparable in interpretation — to the parallel canon of the former Code (c. 508).

A truly meaningful treatment of the topic of superiors and government must look deeper and address at least briefly the topic of authority and law in the Code itself. In keeping with this premise, the following remarks are divided into two main areas: (1) the understanding of authority and law in the Code and (2) the consequent role of superiors and governmental structures in religious institutes. It is hoped that the fundamental soundness of the first will shed light on the canonical entities of the second, and that such an approach will place the entire topic within an accurate and meaningful context in a practical manner.

Authority and law in the Code

The notion of law used in the Code, although not defined or contained therein, is that of Aquinas which states that law is an ordinance of reason formulated by one who has care of the community and promulgated.¹ This situates canon law squarely in the rational and teleological mindset which perceives all humans as acting for ends — the ultimate of which is God — and as being aided in the attainment of such ends by the internal means of grace and the external means of law. The precepts of law impinge, if you will, upon the understanding and behaviour of persons, by proposing reasonable norms of action capable of being both understood and put into practice by intelligent, free and responsible people. Prescinding from whether or not this *should* be the legal basis for the Code and bowing to the reality that this definition *is* its legal basis, one ought to ask how law has the ability to impinge so upon the understanding and actions of people. The search for an answer leads to reflection on the notion of authority as contained in the Code or, rather, as contained in the rational and teleological philosophical mindset of Aquinas.

In summary form Aquinas considers authority as the influence of morally good ends on the total person. Thus only God *is* authority since he — as *the* morally good end — impinges entirely on the totality of our being, perfecting us and making us whole. All other persons merely have or exercise authority, and have or exercise it only in so far as they participate by prudence in the providence of God. Prudential participation in the providence of God helps in realizing morally good ends for individuals in concrete situations.² In doing so such prudential participation requires an examination of the elements at hand, a judgment of conscience regarding the impending action and the decision to act in one manner or another. The proper examination of the elements at hand (*consilium*) is based in part on the combined assessments of previous experience, growth from inter-personal relationships, intellectual knowledge, native intuition and reasoning. The decision to act in one manner or another (*praecipium*) is based on foresight, solicitude, circumspection and caution.

In this context it cannot but be noted that authority is basically personal, that is, it only resides in and is truly exercised by persons. Likewise, some people can freely choose to place themselves within the ambit of the authority of others in so far as they individually judge this to be helpful in achieving a morally good end by this particular means. In this sense — and *precisely* in this sense when considering the realm of consecrated life — the exercise of authority is a service of mediation or, rather, of deciding which particular means are most effectively suited to a particular goal for the good of

all concerned. The source of authority in making such decisions and commanding actions in accord with them is not from within any person, since all persons are of equal dignity, but from without. In particular all such authority is indirectly derived from divine authority through ecclesially approved structures which both recognize the existence and circumscribe the function of this derived authority. Obedience then, as the correlative to authority, is one's free submission to the practical demands of a morally good end as manifest by the counsel, judgment and decision of someone functioning in the service of mediation within an ecclesially approved structure. Law, in service to authority, is a means by which actions can be better ordered to the attainment of the good of each individual and of all. In order to fulfil its function, law articulates norms that protect the values which are sought by individuals and by groups of individuals. It does so principally by clarifying objectives and by indicating prudently chosen means that have been demonstrated as efficacious in attaining those objectives. It also articulates fundamental rights and obligations, mandates required procedures and urges certain attitudes or orientations. As a limited human system, however, formulated and implemented by limited humans, law does these things quite imperfectly. It is, *in fact* and *merely*, an ordinance of reason formulated by one who has care of the community and promulgated.

So, in seeking a response to our question we have come full circle to the definition of Aquinas. But the circle is an important one because in consecrated life each individual has already consented by profession, usually in a group with other individuals, to the existence and exercise of authority as has just been briefly described. Thus each individual has in fact already assented to certain clarified ends and certain chosen means. Consequently those exercising authority with proper ecclesiastical approbation according to and within the limits of law are, objectively speaking, worthy of obedience; and authority when so exercised aptly preserves and strengthens the inviolability of individual conscience.

Religious superiors

The canons of the new Code dealing with superiors are perfectly in keeping with the above comments on authority and law. It is clear in the Code that superiors have personal authority. It comes from God through the Church and is to be exercised in a spirit of service. In their governing roles superiors themselves need docility towards God and must recall that those whom they govern are children of God. They are to have reverence for each person, to promote voluntary obedience, to listen willingly and to foster co-operation for the good of all (c. 617). It is only at the end of this lengthy canon that the right

of the superior to decide and command what is to be done is simply but firmly stated. This right is elsewhere strictly limited, however, by norms requiring the exercise of authority only in accord with the laws of the universal church and of each particular institute (cc. 601 and 617). Which superiors function in what capacity with respect to provinces, houses, members or an entire institute is also carefully circumscribed by the law (cc. 620-622). In addition, to prevent perpetual possession of power and to control possible abuses, superiors are ordinarily limited by law in the duration of time for which they may govern and may be removed or transferred from office for reasons specifically indicated in the law of a particular institute (c. 624). Immediately one can grasp in these legal affirmations the hierarchical derivation of authority, its personal modality and its teleological orientation.

The values undergirding these norms presume that superiors will take counsel by proper examination of the elements at hand using the combined assessments of previous experience, growth from interpersonal relationships, intellectual knowledge, native intuition and reasoning. Taking counsel is legally assured, however, by requiring superiors to have a council (c. 627 n 1), by requiring its consent or advice in some circumstances (c. 627 n 2), and — while maintaining the right of a superior to act contrary to non-binding advice — by cautioning that such ought not be done without an overriding reason (c. 127 n 2). In order that one might have some previous experience and opportunity for growth from interpersonal relationships, the universal law requires the norms of each institute to specify an appropriate period of time, after perpetual or definitive incorporation into an institute, before a member can function in the role of superior at any level (c. 623). In an attempt to ensure that one might have the appropriate knowledge, intuition, foresight, circumspection and caution for making prudent decisions, members as well as superiors are urged to elect or to appoint to offices only those persons they know to be worthy and fitting, always keeping in mind God and the good of the institute (c. 626).

Obviously this combination of canons does not guarantee that any superior will be properly experienced, knowledgeable, cautious and dedicated, or that any superior in the exercise of authority will be docile towards God, reverent towards members, good at taking counsel or prudent in making decisions. All that the canons can and do guarantee is that certain time-tested means of assuring these results have been clearly articulated, are sometimes mandated and can be adapted to particular circumstances of time and place.

There is another lengthy canon which indicates both the extensive responsibilities superiors have towards members of the institute and an attitudinal orientation that is in itself fundamental to and

indicative of religious community life (c. 619). This canon states that superiors are to strive to build up community in Christ, to nourish members with the word of God, to lead members to celebration of liturgy, to be an example in virtue as well as in observance of law and preservation of the institute's traditions, to render assistance to members' personal needs, to care for and visit the sick, to correct the disorderly, console the weak, and be patient with all. One could easily, and perhaps somewhat simplistically, infer from this rendition of responsibilities a merely maternalistic or paternalistic approach to both the position and function of superiors. But a closer reading of the canon, along with recollection of the previous comments on authority and law, can produce a very different and much more meaningful inference — namely that there are certain values related to the primary objectives of religious life and the ordinary means to attain them that are too important *not* to be protected by the articulation of a legal norm of action and a specific responsibility to act in their regard. It is noteworthy in the canon's context that superiors are to strive to build up community in Christ *together with* the members. They are not given this obligation as isolated from or in addition to others in the institute.

Also noteworthy is the specifically person-oriented nature of the other obligations by which the norm seeks to guarantee the right of every member to be shown respect, reverence, good example, spiritual nourishment, physical aid and personal concern. It does so by placing a special obligation for such attitudinal orientation and action on superiors. Although such respect, reverence, example, concern and the like can and should ordinarily be expected from each or any member of the institute, the motivating reason for the norm may very well be the experiential knowledge that such expectations are often unfulfilled to a greater or lesser degree, if the values behind them are not articulated somewhere, and the actions fostering them are not attributed responsibly to someone in the institute. It is partially in this sense that the norms on visitation to all houses and members (c. 628) and on residence in a specific house (c. 629) are included among the obligations of superiors. The values undergirding the responsibilities of superiors could scarcely be accomplished well, if at all, by regular non-interaction or by a total absence of contact among superiors and members during a term of office.³

It goes without saying that the norms regarding superiors can be interpreted as, or can degenerate into, a mere functional maternalism or paternalism if the underlying values are forgotten, if the exigencies of actual community life are ignored, or if members and superiors alike settle for the comfortable mediocrity of the *status quo* rather than the demanding challenges of the gospel. Again the

canons do not guarantee that such will never be the case, nor — it might be well to point out — do they condemn situations in which such things happen for whatever reason. They merely attempt to guarantee that the structures and functions militating against such results are clearly stated, sometimes mandated and can be adapted as needed to particular times and circumstances.

Government in religious life

We have seen that a central element in religious government is the personal authority of the superior, an authority that is ongoing and executive, carefully circumscribed in duration and exercise, and humanly limited in its possession and implementation. The right of a superior to command, in other words — or even to make basic executive decisions — is not equivalent to the ability to maximize one's potential in positively influencing the practical understanding and behaviour of others. The obligation of seeking counsel is one legal attempt to balance the personal executive authority of the superior by other persons. A more fundamental balance for that authority, however, is the occasionally exercised but fundamentally substantive authority of the general chapter.

The Code attributes supreme authority to the general chapter (c 631 n 1). Such authority is not supreme, in competition with or in contradiction to that of superiors, but rather in the substantive nature of its responsibilities: protecting the patrimony of the institute (its nature, purpose, spirit, character and sound traditions as described in c. 578); electing the supreme moderator; handling matters of great importance and issuing binding norms for the institute. These responsibilities are not envisioned as requiring frequent and closely scheduled meetings of general chapter, but they are envisioned as important enough to the entire institute such that any general chapter should represent the whole community, should be a true sign of unity in charity and should be open to the free submission of wishes and suggestions by all members of the institute individually or collectively (c. 631 nn 2,3).

As a governmental structure the general chapter is truly unique in nature and function. There simply is no other ecclesial body — including even an ecumenical council — that combines elective representation, consultative and deliberative participation, normative authority and the right to choose the person who will implement its decisions. It is clearly an instrument of shared participation and co-responsibility. Initiated as a means of monastic structural reform in the early twelfth century, and mandated for all institutes approximately one hundred years later, the general chapter quickly became the nexus of a centralized representative form of government among the emerging mendicant orders of the thirteenth century.⁴ Since

then, respecting the truly autonomous nature of each institute — and, in contemporary times we would add, incorporating the principle of subsidiarity — the church has never legislated extensively or in great detail regarding general chapters. The current law is no exception. Although general chapters were given demanding responsibilities in revising constitutions as a consequence of the call of Vatican II for institutes to return to the spirit of their founders or foundresses while adapting to the signs of the times and always remaining faithful to the gospel,⁵ the actual current legal responsibilities of such chapters are very few but very fundamental, with the underlying values of subsidiarity, co-responsibility, participation and accountability quite clear. However, because the structures of government, the processes of decision-making and the styles of interaction in religious life have themselves been greatly altered in the years intervening since Vatican II, the new law also recognizes the need for other chapters and consultative bodies (c. 632) and clearly affirms the participative and consultative functions proper to them (c. 633).

As in the case of general chapters the Code says little about these other assemblies except that each institute should determine the nature, authority, composition, procedure and time of meeting; that they are to express the care and participation of all members for the good of the whole, and that they should be established and used in conformity with the character and purpose of the institute. These other assemblies have the potential of being effective means of decentralization, subsidiarity and accountability, but, in order to do so, the previously mentioned governmental entities — superiors, councils and general chapters — must also function effectively in their respective areas of responsibility, since different values are fostered and balanced by different modalities of having and exercising authority within the structure. The personal authority of superiors is balanced by councillors and by general chapter as well as by law. Councillors would not be necessary at all if superiors had no personal authority at all, and general chapters would scarcely be required if supreme moderators were also supreme legislators, with no accountability for interim government and administration of the institute. Councillors in turn are accountable to both superiors and members for the key function of giving counsel and for participation in making certain decisions requiring their deliberative vote, while general chapters are accountable to the community at large by their elective membership and participative processes, with their supreme authority being balanced in turn by their infrequent functioning and limited duration.

Completing the canons on governance of institutes are several norms regarding temporal goods and administration. Since this

topic is extensive and complex in itself, it is mentioned here only in so far as it represents another area of responsibility for superiors and institutes, where certain values are perceived as important enough to be protected by legislation affirming particular rights and obligations attributed to the overall governing function in religious life.⁶ Thus the right of institutional acquisition, possession, administration and alienation of goods is noted, but at the same time there is added a caution against the appearance of luxury, excessive gain and the accumulation of goods, while generosity for the needs of the church and support of the poor is encouraged (c. 640). Furthermore, it is required among other things that superiors have the assistance of financial administrators (c. 636) and that the limits of ordinary and extraordinary administration be carefully established in each institute's own law (c. 638). Important for our purposes is that superiors, in addition to being spiritual persons with somewhat mature discretion, are also envisioned by the Code as at least minimally capable administrators, and that good governance in religious life also includes prudential care for the exigencies of material reality.

Concluding observations

Note well that no one individual in the ordinary course of human events is really capable of possessing and implementing all the qualities desired in order to make the operative values underlying the articulations of the law become practical realities.⁷ Note well also that no one objective structure in religious government can infallibly guarantee attainment of the objectives, or even at all times of the means, envisioned by the Code as fundamental to religious life. The primary responsibility in religious life is that of each individual member to find his or her supreme rule in following Christ as proposed in the gospel and as expressed in the constitutions of one's own institute (c. 622). At the end of the canons on the numerous responsibilities of superiors is one which requires them to respect the freedom of conscience of all members, while it simultaneously encourages members to be spontaneously open and trusting with superiors (c. 630). The two canons (cc. 622 and 630) are perfectly correlative and perfectly in keeping with the ideas of authority, law, obedience, superiors, government and the living of consecrated life in the new law. Each superior, by exercising hierarchically derived authority, is to fulfil his or her office in a spirit of service, and is to be directed and limited by numerous articulated legal boundaries, the ultimate of which is — and which is also most fundamentally a moral one — the threshold of the individual's conscience. Each member, by free personal commitment, is to seek God as the one most loved, and is to be directed and helped by various

constitutional boundaries, not the least of which ought to be a certain openness, spontaneity and trust with one another — including with superiors.

Clearly people are of primary value in the christian dispensation. As intelligent and free, active and responsible, fallen and redeemed each person is capable of prudential participation in the providence of God, of making judgments in the freedom of conscience and of exercising authority. There is in religious life a certain hierarchy of authority, in that an initial choice has already been made at profession regarding some acceptable means to some previously recognized and affirmed ends. Certain additional choices are then made the right and responsibility of specific persons with derived authority holding various offices within the governmental structures of religious life. The structures themselves represent an attempt at both a unified balance of interdependent values and an effective separation of and accountability for functions. But nothing replaces the importance of the individual — member, councillor, superior, chapter delegate — as the indispensable, personally free and responsible 'living stone', if you will, of the complexus of consecrated life. The service of authority is not *merely* a possessed extra entity of superiors. Co-responsibility is not *merely* an infrequent operational modality of chapter delegates. Dialogue is not *merely* a limited occasional exchange of information by councillors. And participation is not *merely* a minimal expression of mandated presence by members. But law, canon law in general and that for superiors and government in religious life in particular, *is merely* an ordinance of reason formulated by one who has care of the community and promulgated. Law is relatively meaningless unless put into meaningful action in the lives of those to whom it is directed. Just as charisms do not live in constitutions but in the lives of the members of each institute, so too the values and goals intended by the law do not exist in it — but in the lives of those who direct their being towards the Lord, aided but not burdened by legislation.

No functionally informative comparative overview of the law can contribute to its being an aid without being a burden in religious life; one must look deeper — both into the law and into one's self. And so, again, we have come full circle. It is hoped, however, at this point in the journey that some knowledge of the underlying philosophy of the law has given it a more meaningful context for the reader; that some awareness of the values the law seeks to ensure and protect makes it a more understandable instrument of government, and that a responsibly nuanced interpretation of the law's articulations might make the exercise of authority a more fruitful service in religious life.

NOTES

¹ The definition is contained in Aquinas's *Summa Theologiae*, 1-11, q 90 a 4, but questions 90, 92, 95 and 96 are also quite pertinent to the thomistic notions regarding the reality, purpose and functions of law in human society.

² *Ibid.*, II-II, q 47 a 2 in particular, with questions 48 and 49 dealing at length with the material mentioned here in summary form.

³ It is not being suggested according to this author's interpretation that these canons require every house no matter how small to have a superior who resides there permanently. The canons are clear in that common life is essential to religious life (c. 607), that religious communities are to live in houses under the authority of a superior designated according to law (c. 608), that members are to reside in their own houses with the possibility of certain exceptions (c. 665), and that superiors are to reside in their own houses (c. 629). It is also clear that the values underlying these canons are those of community in the Lord, the interaction of authority and obedience (as mentioned in the first part of this article) and the rights of members as related to the responsibilities of superiors with respect to them. These values could certainly be preserved in the case of very small communities by grouping houses in geographical proximity under the authority of a superior who resides in one of them. Proper interpretation of these norms requires looking behind the letter to the purpose, circumstances and intention of the law (c. 17). In this context it should be obvious that responsible fulfilment of the law might be accomplished better by the grouping of several houses, each with a few members, under the authority of a superior residing in one of them. This method — although not following the letter of the law according to some canonists — can surely fulfil the purpose and protect the values behind the law. It would be well to recall, however members are grouped in communities, and however superiors are designated with respect to them, the ancient rule of law that states: action according to the letter of the law in contradiction to the intent of the law is really breaking the law (*Regula iuris* 88, V, 12, ult., in VI).

⁴ Significant legal recognition of chapters, although various types existed in various degrees before this, can be noted in the cistercian *Carta caritatis* approved by Calixtus II in 1119, in canon 12 of Lateran Council IV in 1215 and in the dominican Constitutions of 1228. See Knowles, David: *From Pachomius to Ignatius: A study of the constitutional history of religious orders* (Clarendon Press, Oxford, 1966) for a development of this and other key legal aspects of religious life.

⁵ The assertions of *Perfectae caritatis* nn 2-3 and *Ecclesiae sanctae II* nn 1-6 were profound and far reaching in their consequences precisely because they were willingly received and fervently implemented. The present legislation must be received and implemented in the same manner but always in the context of those key documents and of the nearly two decades of intervening experience and evolution in consecrated life.

⁶ All the norms of Book V (*The temporal goods of the Church*) apply to the administration of temporal goods of religious institutes except where there is a contrary provision, and institutes themselves must establish norms for aptly administering goods in accord with the poverty proper to their character. Basically any administrator of ecclesiastical goods is required by Book V to fulfil his or her function with the diligence of a good householder (c. 1284), which in itself is very much in keeping with the notion of superiors and governance in religious life.

⁷ Almost twenty years ago, relying on the then recent conciliar documents, it was noted that superiors in religious life could well be expected to exhibit good judgment, broad vision, sound theological knowledge, humble awareness of their own limitations, genuine reverence for people, a healthy respect for reality, and a certain closeness to God. The legal articulations resulting from those same conciliar documents, often incorporating the exact words of the documents themselves, can be seen to envision these same qualities as the fundamental values underlying the norms of the code. See Örsy, Ladislav: 'Government in religious life', *The Way Supplement* 2 (1966), pp 90-107.