Reconfiguration: A parable of decline or an opportunity for female Religious Institutes?

Sr. Tiziana Merletti, SFP

Sr. Tiziana Merletti is a Franciscan sister of the poor since 1986. She obtained her law degree at the University G. D'Annunzio in Teramo and her Phd in Canon Law at the Pontifical Lateran University in Rome. Among her various assignments in Italy, she worked in formation, she held courses of Canon Law at USMI schools for internoviciates and has been a member of the regional Leadership. She served as Congregational Minister between 2004 and 2013 based in New York.
She currently lives in Padua, in charge of canon law consultancies in the fields of religious life, formation (mainly for Italian and migrant women) and holds Enneagram courses. She is a board member of the Female Canon lawyers at the IUSG. She speaks fluent Italian, English and French.

Original in Italian

1. Introduction

A common practice in the western world is to deal with the reconfiguration of Religious Life Institutes when the situation becomes critical. It is no secret that one of the most tangible and evident consequences of the Institutes declining number of members, combined to the growing multiculturality of governments and of communities, is that the newly elected governments at General Chapters, are mandated to conceive new ways and forms of restructuring the Institute. Usually, the aim is to gain greater flexibility in the relationship between the government and its members, more participation of the latter in the life of the Institute as well as a reduced number of members in position of responsibility. This study intends to provide guidelines contributing to transform such a delicate task into a response to an appeal for transformation and evolution, rather than resulting in grim report on diminishing resources and ability to act. After all, it is the call of a Church invited not to be self-centered, nostalgic of a glorious past, but rather called to become the model of flourishing structures, as an example of open, adaptable and life-generating systems for its members and able to better reach out humanity wherever it lies. No matter for how long more, it is better to manage with diligence what we currently have. The same Pope Francis, during his recent visit to Milan on March 25, spoke in similar terms: "many grew up with the idea that religious families needed to occupy spaces rather than launching processes. We must initiate processes, not occupy spaces ".

2. Types of reconfiguration

Canons 581 and 585 define five actions which can be followed to reshape the institutes' structure[1] :

Division into parts: it refers to a first selection of aggregated houses to be grouped into larger units, the main entity being the *Province*.

Establish new parts : it refers to the creation of additional units, similar or different from existing ones.

---

[1] See D. ANDRÉS, (*Le forme di vita consacrata: commentario teologico-giuridico al Codice di Diritto Canonico)* The forms of consecrated life: a theological and legal commentary to the Code of Canon Law Rome, 2008, pg. 45.

<u>Fusion of established parts</u> : it refers to aggregating several units modifying their composition (i.e. several regions which become a Province), or preserving their set up but extending their territorial borders (i.e. the fusion of several provinces into one).

<u>Modification of established parts:</u> it refers to a different configuration of existing parts (i.e. a Region becoming a Province or viceversa, or changes in the territorial boundaries).

<u>Suppression of a part of the institute:</u> it involves the suppression of a circumscription, also in view of a transformation (i.e. a Province which becomes a region/delegation/single Generalate). Accidentally this action is not included in Canon 581 but in the following Canon 585, although it is one of the <u>main possible</u> needs during a reconfiguration.

In addition to the two above said Canons, the CCL 83 mentions parts of an institute in Canon 621, where a Province is described and in Canon 634 §1, in the section on temporal goods.

3. The "parts" of Consecrated Life Institutes

A deeper analysis of the work done by Commissions tasked with the revision of CCL 83, highlights some common elements :

1) All the attention is on the Province, as it is the most complete and comprehensive unit, having[2]:

    a territory
    a canonical recognition
    the union of more houses
    under the same authority

2) Preserve with certain consistency, the approach to enforce the principle of institutes' autonomy also in one's own structural organisation, and thus be ready to activate a reconfiguration process failing the conditions for the existence of a Province[3].

3) When dealing with other units which are not provinces generates a certain hesitation. In Canon 581 and Canon 620, "the parts of an institute" are often considered as units equivalent to a Province rather than units of a different type.

These are today, contrarily to provinces, the forms which are more flexible and adequate to interpret the current situation and better advocate for life, regardless numbers being limited.

The definition of the characteristics of a "part" (defined with different terms in Proper Law, such as : regions, delegations, inspectorates, districts, custodians, vice-provinces, etc.) different from a province, is usually done "by default" due to : lack of members, insufficient economic means and works, limited autonomy at least when the appointed superior has delegated power only by the Superior General or the Provincial, therefore is not a major Superior.

However, it is a "potential" public juridic person (*ipso iure* the provinces, with a formal act to

establish the other parts), of the "*universitas personarum*" category[4]. Although, it is not collegial[5], since the major Superior acts with personal powers (can. 115, § 2) connected with her office.

---

[2] During the IInd Session of the Coetus Studiorum De Institutis perfectionis, held on May 8-12, 1967, under the title *De domibus et provinciis religiosis* comes the definition of Province: *Communicationes,* 17 (1985), pg. 134.

[3] See F. G. MORRISEY, *The restructuring of Provinces in a Religious Institute*, in: *The Jurist,* 62 (2002), pg. 116.

4. Canon law requirements

Hereafter, a summary of requirements for a sound reconfiguration process according to universal law.

<u>Constitutions</u> must contain norms of law regarding the Institute's structure. In particular:

- Which are the potential parts foreseen in the Institute. A brief description: internal competent authority, procedures to be followed, rules, use of tangible and intangible assets[6]
- Which are the criteria defining the erection or suppression of one part of the Institute.
- Which is the competent authority for such decisions: General Chapter// Superior General collegially with the Council// Superior General with the consent of the Council.
- Which are the inspiring principles to preserve the patrimony, in its parts and in its whole.

<u>The Directory</u> must include detailed norms concerning the management of the various units:
- The number of houses and of members required in order to erect a province/another part.
- Sufficient and grounded reasons to undertake modifying the structure.
- Relationship between the Superior General and the Provincial Superior and how to exercise the different competences on the Province's houses and members.
- Relationship between the Superior General and the Superior with delegated powers and how to exercise the different competences on the units' houses and members. Viceversa, members need to clearly know who is the Superior competent for any incoming needs.
- Seat of the Noviciate and indications about initial and ongoing formation.
- Responsibilities of the various levels of authority concerning works and apostolic activities.

5. Principles for a vital and effective reconfiguration

When analysing the various experiences of reconfiguration of religious institutes, there are some theological and canon law[7] principles which allow to undergo a thorough and constructive study for such an important process of change, to serve the good of the institute[8].

---

[4] Under Roman law, <u>at least three members</u> (*tres faciunt collegium)* are required when constituting a juridic person, who *pursue a truly useful purpose* and who *possess the means which are foreseen to be efficient to achieve their designated purpose* (Can. 114 §3).

[5] "*The distinction between collegial and non-collegial persons is based on the mode of action of such juridic persons, whether decisions are made or not according to the agreement between individual members*". PONTIFICAL UNIVERISITY OF THE HOLY CROSS*, Commentary on the Code of Canon Law,* V ed. Rome 2004, pg 132. As well as the text edited by GIDDC, *The right of mystery in the Church (Il diritto nel mistero della Chiesa)* Vol. I, Rome, 1986, pg. 349 and THE CANON LAW SOCIETY OF AMERICA, *New Commentary On The Code Of Canon Law*, pg. 160) where religious institutes are considered collegial juridic persons since their participation is indirect through elected representatives.

[6] It would be regrettable to set extremely rigid and constraining criteria for the minimum number of members, an adequate level of autonomy to cater for staff, formation needs and economic resources. It would impact particularly the vitality and spreading of units in mission countries. See J. BEYER, *The right of Consecrated Life* (*Il diritto della Vita Consacrata*) Milan, 1989, pg. 77. As regards the aspect of territoriality: in general terms, houses under the same territory represent a same province, with a few exceptions concerning languages and rituals.

[7] See R. McDERMOTT, *External and internal reconfiguration of Religious Institutes (Canons 582 and 581 CIC),* in: CpR, 86 (2005), pages 57-81.

Governance Autonomy and Responsibility

CIC 83 acknowledges the great importance for institutes to enjoy an adequate autonomy, namely of governance, as stated under Can. 586 § 1. We herein underline that the Superior General and the Council are held liable to be aware of any situation of unease among members due to structures no longer fit to meet the needs of the people, the time and the place where one works. Signs of similar unease are often recorded in two extreme situations: an excessive presence of the government, involved in micro managing, or the opposite, absence/distance which produce lack of care and of governance. Accepting to face, to raise and to understand a problem, suggesting solutions to its members can inevitably cause concerns and anxiety. However, problems become greater when trying to dismiss or postpone them, since contradictions end up surfacing and require action, but then solutions are found under pressure and the outcome is not always the best.

- **Subsidiarity and Decentralization**

Subsidiarity can be defined as the guiding principle stating that if an inferior entity can adequately fulfil a duty, the superior entity does not need to intervene but merely supports its actions. If an institute promotes formation empowering its members, time will be ripe for a decentralization. An initial division into parts represents an important moment in the life of an institute, but also during the downsizing, members should be granted this opportunity. It should be linked to the principle of *accountability,* which is extremely widespread in the field of "governance" and which calls individuals to be accountable for their decisions, actions and results achieved[9]. In this specific case, such principle is enforced in a circular mode, since members are accountable to superior "minors", superior "minors" to superior "majors", superior "majors" to the entire institute, particularly during the General Chapter.

- **Principle of identity**

Each institute, in redesigning its organisational model, is called to keep into special account its own spiritual roots, to protect its patrimony, to encourage community life, to protect rights, to clearly define members' responsibilities and the institute's planned mission[10].

- **Communion and a sense of belonging**

The principle of communion applied to changing an institute's structure should not be understood as an exercise of "rotating people", because what is at stake is the possibility for its members to "meaningfully" continue living their communal life in mission. For instance, when uniting provinces belonging to a given entity but located in remote territories, the challenge is to make members still feel part of a reality that appears foreign and distant. What makes things worst is the fact that the Superior major/delegated will be less frequently in the houses and the middle level of governance could be less effective and forceful. Therefore, the government will have to put into place initiatives (at intermediate levels) to keep encouraging contacts among members.

---

[8] See B. DOLPHIN, M. PG. GARVIN, C. O'DWYER, L*eadership in consecrated life today,* in*: Studies in Spirituality,* 12 (2007), Leuven, pages 257-280. The authors describe a threefold dimension of leadership: administrative, pastoral and prophetic. It goes unsaid that during a reconfiguration process, all three dimensions come into play.

[9] Being accountable entails also transparency, that requires communicating decisions and motivations, and participation, that means creating opportunities to dialogue, criticize and contradict.

[10] R. McDERMOTT, *External and internal…*, "*Religious need to be clear to assert who they are and what they are about*" pg. 73.

- **Corresponsability of members**

All institutes' members follow the same call of the Holy Spirit, hence they all enjoy the same right-duty to participate in governing the congregation, particularly when it concerns the quality of community life and of ministry for the entire community of life. Canon 115 §2, stipulates that consecrated people are members of public juridic collegial persons, where the members decide their action, they *"are part of the decision-making process, with or without equal rights, under norms of law and of statutes"*. It is thus important to underline that members are involved in the government either directly or through a representative[11]. In practical terms, it means that all the members involved in the reconfiguration, are to be informed and can take part in the process. A coordination commission should design two/three models to be proposed. These should be approved by the leadership and then shared with members for comments and suggestions. In order to achieve a result, this process cannot be managed under time pressure: it requires patience, attentive listening, discernment, planning, decision-making, implementation, assessment[12]. A change in the structure can represent a major change in individual lives, hence before reaching the final decision, it is necessary to promote at least a survey or a consultative vote, if a unanimous vote is not envisaged.

- **Principle of ongoing formation**

In keeping with the spirit of Canons 592, 2 and 661, when changing a structure, it is necessary to verify who in the government, is in charge of this aspect of ongoing formation which concerns leadership formation, particularly for the youngest members, in this new scenario. Each member, on their side are committed to grow into the institute's spirit, in an effort to understand the motivations for change, while avoiding to live clinging to the past, they should provide a mature feedback on how the structure's change has a positive impact, or not, on individual and community life. Particular attention should be focused on the most vulnerable, the elderly and ill members who should be prepared – as best as possible – on spiritual, emotional and practical levels, and must be reassured that reconfiguration will not have negative consequences on their personal care.

- **Principle of apostolic mobility**

As regards the apostolic service, superiors must take care of all the implications due to the structure's change. It is indeed essential to clearly define the various levels of responsibility, authority, power of delegation with religious and civil authorities, particularly when works are concerned. Good governance can be seriously undermined by superiors of different levels, who intervene on members in charge, without a clear definition of roles, in a wearing ping-pong which creates confusion, resentment to the advantage of someone external who might profit from this situation.

- **Clear, consistent and distinctive levels of governance**

It can occur that a reconfiguration process is activated due to the lack of members, but it ends up requiring even more members to cover all governance needs. Moreover, it is necessary to thoroughly analyze the current system's organization, to avoid running the risk of leaving certain tasks unmanaged, namely at intermediate levels. Experience shows that certain

---

[11] Idem, pg. 76: *"Systems of government in religious institutes should respect and reflect this concept of collegiality which can be accomplished in various ways"*.

[12] See Idem, pg. 75.

omissions can increase the responsibility of the Superior General and of the Council, which inevitably leads to micro-managing[13].

The various models[14] can have different variables, let us consider a few cases:

The fusion of several provinces. The new province is likely to grow, to the extent that it will be difficult for the Provincial Superior to provide an effective management and animation, if ever, she still has the energy and the age to travel and to handle the rest. In that case, a possible alternative could be the Provincial Vicar, as provided by Canon 620. Due to her special status, the Vicar could share the responsibility with the Provincial Superior to manage sisters in particular conditions (i.e. in infirmaries or living in given geographical areas). The scope of her authority should be agreed and clarified at first, to avoid conflicts, specifying which functions are reserved to the Provincial Superior. When selecting delegates to Provincial and General Chapters, particular attention should be given to ensure an equal and proportionate representation of the various groups, now aggregated under the same unit. Some groups which are implementing this process, plead for a simplification of the entire governance and organization. In particular, managing works on behalf of the Institute often requires skills and competences beyond the possibilities of the members involved. No doubt, we are still in an experimental phase and it will take some years, to understand if it was worthwhile to choose a fusion, rather than other less disruptive solutions.

Provinces reconsidered as units with delegated powers: Other profiles, other than the Major Superior, manage governance with delegated powers in certain domains. The system becomes centralized and it is in the hands of the Major Superior and of her Council. This kind of solution requires a great administrative ability in identifying delegated matters and providing appropriate powers to avoid having to frequently rely upon the highest authority[15]. In practice, it will be vital for the delegated superior to decide what she will need, in terms of structures and of means, to fulfill her task. It must be fully compliant with members' rights and with the delegating authority. Should one of the two general councilors be delegated, it could create a problem since she would end up having two "identities" : one as a councilor called to assist the Major Superior for the good of the entire institute and another as the delegate for a specific unit. The government has the duty to avoid confusion in assigning roles, and to ensure a balanced exercise of distinct roles.

- **Open system/ Unity of the Congregation**

Pope Francis, in his Encyclical 'Laudato sì', reminds us that this universe is "shaped by open and intercommunicating systems"[16], which result in countless forms of relationship and of participation. Therefore, when referring to structures, we must keep in mind that there are multiple variables, there is no perfect abstract structure, nothing can be designed on the drawing board. Schneiders[17] utilizes quantum physics as a methaphor to express that religious life is not a mechanical reality but an organic one. It is not made of single parts operating with precision in

---

[13] Idem…, "Human beings, environments, and cultures do not stand still, and government structures must be flexible, adaptable, and resilient in order to revitalize the gifts of the Spirit in communal life and apostolic service", pg. 74.

[14] See MORRISEY, The restructuring.., pges. 118-121.

[15] R. McDERMOTT, External and internal…, "Both subsidiarity and delegation promote the human dignity and co-responsibility not only of officials but of each member as well", pg. 78.

[16] FRANCESCO PAPA, Encyclical: Laudato si', § 79, in: The Osservatore Romano, June 18, 2015.

[17] S. M. SCHNEIDERS, Finding the treasure, pg. 359-363.

order to produce a perfect and comprehensible whole. Religious life must be viewed in a holistic system where everything is interconnected and interpreted through relationships, open to be mutually influenced by the external world. If this is true for the entire institute, all the more so for each of its parts. The secret is to seize the reconfiguration as an opportunity to grow into open systems. It is an invitation to welcome an exchange of vulnerabilities and to be mutually enriched, in a dialogue unveiling the true identity of the single parts and of the whole. It is not with predefined rules, subject to control that one can discover new pathways, but rather accepting the risk of chaos linked to the unforeseeable future, to diminishing resources, to decreasing active members. This approach can bring about a new concept of unity that takes into account the fluctuating reality in constant change, the evolution of life in terms of interculturality and of transformations so typical of the Holy Spirit acting both inside us but also between us and our structures.

6. Procedures

a) How to manage a reconfiguration already established in Constitutions

- Define the reconfiguration goals [18]
- Greatest involvement of all members during the discernment and the assessment of the various options
- Use advisory and participatory bodies
- Define the new type of authority foreseen and clear levels of decision-making/proxy of powers
- Decide the unit's possible new seat, its name and logo
- Decision taken via decree by the competent authority
- Accurate schedule in terms of implementation and assessment. As for the calendar, it is reasonable to keep in mind the deadlines for General Chapters
- Communication of courtesy to local Bishops involved/Conferences of Major Superiors
- Communication to collaborators and consultants
- In case of fusion of units with the status as public juridic person, according to the agreement with the State, it will be necessary to extinguish the civil entities, fulfill the various procedures such as transfer of ownership, modified wills of members, etc. Otherwise consequences will be more severe in case of crossed fiscal checks between the new civil entities and the canon profile of the extinguished entities. Particular attention should be paid to the organization of archives and all their sensitive material stored (both in terms of the institute's history, as well as of the members' life).

b) How to manage a reconfiguration if not stated by Constitutions

Should Constitutions not mention the unit in question, once implemented the abovesaid steps and after members' discernment, it will necessary to do the following:

- Prepare a possible Plan "ad experimentum" with clear and comprehensive timing and instructions.
- Apply to the Holy See for the licence to pursue "ad experimentum" (can 583). The licence corresponds to one of many specific single administrative acts: a privilege, dispensation, rescript, decree. It should always be filed and granted in writing with a motivation and explanation on how the decision was reached as well as the timeline and term to end the experiment. Constitutions remain unchanged during this period of time.

---

[18] F. G. MORRISEY, OMI, *The Restructuring…*, pg. 127: *is its purpose to renew and strengthen the mission of the congregation, or to strengthen community life, or to simplify structures, or to facilitate administrative processes, or to reduce expenses, or simply to take the reality of declining numbers into account?*

- The Holy See issues a grant decree with no extension period, after which Constitutions are to be amended (can. 587, § 2).
- Possible assessment and monitoring of the experiment
- Vote at the General Chapter on the unit to be added to Constitutions
- Approval of the Holy See to amendments to the Constitutions
- Implementing changes.

7. Conclusion

The strong emphasis placed by the Church with the Vatican Council II on *communion* has produced a rich reflection on this theological aspect, central to interpret and build the Church. However, it also true that for some years now, the Church structures and its underlying laws are been questioned on how they should contribute in making communion truly visible and tangible in ecclesial life. Religious institutes are confronted with the same challenge : transform their structures into "a house and a school of communion", where members can fully live their vocation, in a mature atmosphere of mutual collaboration and support, where all resources and means are used to accomplish the institute's mission. Numbers should not influence the importance of a life devoted to proclaim God's mercy. Undertaking a reconfiguration is inevitably associated with a feeling of decline and of completion but not necessarily with a feeling of defeat and of uselessness. Finding a good process is considered almost as a right of both present and future members but also for past members who, in giving their lives, have taken over from the founding fathers and mothers : spreading the Word of the Gospel they received in the community of life. Here and now, as if we were again that "little flock" of the early times.