

HIERARCHY AND RELIGIOUS: RESPONSIBILITIES, RIGHTS AND DUTIES

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VATICAN COUNCIL II solved many issues; it left unsolved many others. During four years of study and prayer, reflection and discussion, the Fathers developed a common vision and presented it to the Church through their constitutions, decrees, and declarations. Their visionary purpose was to bring about a practical transformation in the Church. Much of that remains to be achieved.

Ever since the end of the Council, canon lawyers have been engaged in the work of revising the law: that is, in building a new body of intelligent prescriptions for action. A monumental task! If only those responsible for it could remain within the limited field of law! But the world of canon law originates, in so many ways, in that of philosophy and theology. No serious reform is possible unless the reformers come to grips with our newly-acquired knowledge of man and our developing understanding of God's mysteries. Without such renewed vision, there will be no law suitable to the new age. Small wonder that there appears to be no end to the work.

The code of canon law has its own norms for regulating the relationship between the hierarchy and religious. It is a complex picture. There are institutes of diocesan right, in nearly all matters subject to the local bishop. There are institutes of pontifical right, in several matters directly under the Holy See. There are exempt orders and congregations, with a more universal mission in the Church. Legal relations exist at different levels.

At this point of history, the laws regulating the relations between hierarchy and religious must be revised as well. But we cannot go straight from old laws to new ones. It is necessary to retrace our steps to the theological foundations of laws, and thence to take our inspiration for practical reform.

The purpose of this essay is not so much to discuss the laws, old or new, but rather to present a foundation on which new legislation can be built. We shall proceed in three stages: first, to achieve a better understanding of the role of hierarchy and the role of religious in the Church; secondly, to learn more about their responsibilities in the service of the whole body; lastly, to inquire how spiritual and internal obligations could or should be translated into legal rights and duties. In all this, it is well to remember that the draft of the revised law for Institutes of the consecrated life leaves these questions substantially unanswered.

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A vision of the Church

Both hierarchy and religious are part of the Church: of a community blessed with divine gifts and beset with human limitations. Ever since its foundation, the community has been steadily growing into a deeper knowledge of God's mysteries. Its members progress in the understanding of the Word spoken to them by God, in Jesus Christ. For this community is the pilgrim Church, growing in grace and wisdom, always moving, and yet never coming to the end of its journey, not until the end of time. It is thus animated by the Spirit of Christ at every point of history. It displays substantial signs of life even when it all too visibly suffers from some illness or decline.

This community is equally beset with human limitations. It is composed of human persons who have learned to know good and evil. In them, the gift of holiness is in continual tension with the fact of their sinfulness. It is a community that lives on God's mercy. In such a complex community, both hierarchy and religious play their part. They share, throughout, its qualities and defects, its holiness and sinfulness.

We need, then, to avoid at the outset a possible misunderstanding. Here, at any rate, we do not intend to contemplate, except in passing, the picture of an ideal Church, where all bishops are perfect and all religious are saintly. No such Church exists. Rather we must focus our attention on the earthly Church, where hierarchy and religious are steadily lifted up by the grace of God, and commonly pulled down by their sinful condition. They are good, and they know evil. In such a Church, which is at once heavenly and earthly, both groups live and die; both can be faithful or unfaithful to their calling.

Our interest lies, not in any relationship between the purified and abstract essence of hierarchy and religious, but in the real Church, in real people, on both sides. It is here that the law of the Church should be operative.

Understanding the terms

First let us clarify and give precision to our terms. The word hierarchy is universal and abstract. Since we are trying to use plain English, we had better speak of bishops. Who are they? They are members of the christian community who have been chosen to serve the people in a special way. They have been ordained for their task by the Church. They have been consecrated for the sake of others, by the Holy Spirit. Their gift is a grace freely granted for the good of others, not for themselves: *gratia gratis data*.

In many ways, they are the trustees of the word of God. They have to keep it, and to give it. They have a mandate towards all. Such a divine mandate, though, does not change their human condition. Lofty as their task is, they will be marked by grace and sin. In their speech, wisdom and understanding may alternate. Holiness and selfishness can reveal themselves, side by side. When it is necessary for the sake of the Church, the Spirit of God will speak through them; at other times, much will depend on their own virtue and

intelligence. Indeed, it could not be any other way, at least, not in our economy of salvation. If this sounds shocking to some of us, we would do well to reflect on the history of the Church. There is no period in which what we have said does not find ample confirmation.

The word religious also must be demythologized. Once the haze of unwarranted idealism is dissipated, we find real people, and the real state of things in their communities. Religious are christians with a special vocation, usually manifested by three aspects of their life. They give their humanity, in some exclusive way, to God's service; hence they live in celibacy. They want to anticipate something of that mysterious kingdom where all are equals and brothers in the Lord; hence, they lead a common life, in simplicity or real poverty. They also wish publicly to profess their faith in the visible Church; hence, in obedience, they accept a mandate from the Church. Indeed, they are lifted up by God's grace. Somewhere, at some time, through the fidelity of their founder or foundress, they received a call; hence their vocation. But they received no promise that, at the moment of making their vow or promise, they would be lifted up — into an angelic existence. They, too, know good and evil; they can live up to a high ideal, or they can, gradually or suddenly, fall from grace.

The relationship between these two living groups, bishops and religious, cannot be simple. It cannot be determined by metaphysical or theological deductions, in spite of repeated efforts to do just that. Most of us can recall discourses on the relationship of the office of the bishop and the charism of religious, in which both sides, and their mutual relation to each other, appeared as clear, transparent and sublime. In our hearts we all knew that the doctrine bore little resemblance to the real state of things. Throughout christian history the real relationship between the two groups has been much more down to earth. At times, they supported each other; at other times, they were in conflict. Our interest is in the future of their real relationship; what is it that both should do, in order to support the whole body of the Church? First, their responsibilities. Such obligations are always attached to persons: to a bishop, to a religious; or to a group: to the bishops' college, to the episcopal conference, to a synod; or to a community of religious, a local house, a province or to a worldwide organization. Responsibility means a moral duty, binding in conscience. It can be a duty to act for the good of the whole Church? What are the moral duties of bishops and religious towards each other. How can such responsibilities be determined? How can they be put into practice? Here we have a genuine issue of christian moral theology, where primacy should always be given to charity.

When we begin to speak of rights and duties, we move into the field of law. We begin to seek intelligent norms for structuring a community, for setting guidelines for action: in general, we seek to determine and to crystallize external and social relationships. Of course, the field of law never

quite matches up to reality. It is never perfectly adaptable to all situations. What is required is that it should be able to keep a social equilibrium. The question, often, is not, 'What is best?', but, 'What is feasible and useful for the health of the social body?'

This essay, then, will move through three different worlds: first, the world of theological understanding; secondly, the world of moral norms, binding in conscience; thirdly, the world of laws governing the external life of the community.

I. SEEKING UNDERSTANDING OF THE MYSTERIES

We need to achieve a deeper understanding of what bishops are, what religious are, and what their relationship is. In catholic tradition, we speak of bishops as the successors of the Apostles. Deep as the meaning of such an expression is, we cannot enter into the complex issue of apostolic succession. We can build our understanding on the analogy of the mandate of the bishops with that of the Apostles. The Apostles, sinful and fragile men, were chosen by the Lord to be trustees of his teaching, to be witnesses of his resurrection, and thus to bring the good news to all nations. They were given the Spirit to strengthen them, so that they could comfort their own brethren. On them, as on a foundation, the Church was to be built; they had to become the source of unity for the whole Body. That mandate has not come to an end. It is, indeed, inherited by those who are chosen and ordained to be bishops in the Church.

We speak also of the bishop's office, one that is stable and permanent within the community. But office should not be understood in a purely legal sense. Bishops, too, have their charism, originating in the founder of their 'order', who is none other than the Lord himself. That charism of the episcopate is given at their ordination, yet it is not given in fulness. Bishops, too, are human beings who must grow into a gift given by God; they will display strengths and weaknesses. The Spirit does not guarantee that they will be perfect, but that, imperfect as they are, at some crucial points of history and when it is necessary, they will have the capacity to remain faithful to the word of God.

The gift of religious is a specification of christian life, a gift that springs from their baptismal grace. Religious communities do not have any life of their own. All life that is in them originates in the Church. It is, indeed, the life of the Church. For this reason, they must be organically united to the bishops. They are subject, like anybody else, to the great law of *communio*. When we look at their way of life, we find that each great religious movement in the history of the Church somehow specializes in bringing to life one aspect of the gospel message. The monks undertook the task of building cities of God among the cities of man, where they offered their praise

and thanksgiving to their Creator. Through the franciscan movement, the humanity and poverty of Christ were revealed anew to the christian community. In the persons of the dominican friars, the disciples announced again the good news. The Jesuits, all through their activities, pointed to the Church built on the Rock. Through the reformed Carmelites, the silent prayer of Christ was continued in our midst. And through those who followed St Vincent de Paul, the compassion of Jesus towards the poor, the sick and the lame was again made present.

We speak of the specific charism of a religious community. Indeed, in all these graced movements, there is a specific gift from God, although the term 'charism' has been inflated to a point where it is in danger of losing its meaning. At any rate, religious do not take possession of their charism overnight. The resistance in human nature is strong against God's great gift. They must grow into it, slowly, painfully; for them, too, resurrection comes after the agony of the passion.

The relationship between bishops and religious

Once we understand something of what it means to be a bishop and to be a religious in the Body of Christ which is the Church, we are in a position to understand better their mutual relationship. It is certainly a relationship in the Spirit. Both the episcopate and the religious state are gifts to the Church. Both have an institutional character, though in very different ways. The episcopate belongs to the permanent structure of the Church. The religious state is permanently found there in different forms and shapes. In both groups, there are christian and human beings who are growing into the greatness of God's gift. Accordingly, there are different types of relationships between them.

There is the relationship between the Institutions: the sacrament of order in the form of the episcopate, and the non-sacramental but grace-filled movement of religious. We can speak of the relationship that arises among persons; they mutually interact with each other. That relationship develops as much as the persons grow into God's gift. In them, the spirit must overcome the flesh.

While the abstract metaphysical relationship is, obviously, faultless, the historical reality has always been marked by tension or conflict between divine grace and human limitation. In no moment of history has the spirit totally overcome the flesh, and it will never do so. In no moment of history will bishops or religious be fully what they should be. They are growing into the stature of Christ. Consequently, the real relationship between the two groups must always be considered in its historical context. It was never anything else than imperfect, evolving; never the best, but never the worst either. No legal system is true to its name, unless it is built on this realistic vision.

Indeed, reflecting on the history of the Church, we find that, at times, there was much harmony between bishops and religious. They both worked for

the good of the whole Church on the basis of a common understanding, a common purpose. At the time of the cluniac reform, the monks lived and worked under the protection of the Holy See, and with sympathetic help from many bishops, even if others were opposed. There were times and places where the attitude between bishops and religious could be best described as a kind of cool aloofness. The history of the Church in eighteenth-century Europe illustrates such a situation. In different countries, the relationship between the bishops and religious was not particularly cordial. Yet in some way each group wished to care for the Church. There were times when conflict developed between bishops and religious. We say this as a simple statement of fact, without any intention of imputing blame to one side or the other. After all, no one ever has a full vision of the gospel; and, when the visions are partial, conflicts can develop, even among men of goodwill.

History certainly helps us to grasp the potential strength and also the precariousness of this relationship. Once we have done so, we are in a better position to speak of the responsibilities of bishops toward religious and *vice versa*.

II. RESPONSIBILITIES

We move now into the world of moral responsibilities of both bishops and religious in the Church. In other words, our purpose is not to understand the mystery of the two vocations, but rather to see what should be the right norms of action for each group in living out its vocation. How should they serve the Church, through serving each other? How must this service be enacted?

In christian ethics, the primacy is always with charity. And charity means to give. It is clear that the demands of generous giving cannot be put into legal norms. Law can never ask for so much. We are presently concerned with giving in a greater measure than law can prescribe.

(a) What can bishops (pope, conference of bishops, the bishop of the diocese) give to religious?

Bishops should do all that follows from their own mandate and task. Bishops are sent to bring the word of God to religious. Indeed, Vatican Council II spoke to religious. Pope Paul VI has addressed them many times since then. National conferences of bishops, or diocesan bishops, have the task of speaking to religious: an immense opportunity to be used for comforting their brothers and sisters in their faith. Bishops must give the strength of the Spirit. Religious who become priests receive their ordination from a bishop. From time to time, there should be opportunities for religious to celebrate the Eucharist, presided over by their bishop. Faculties to absolve God's people from sins come from

the bishop also; he should be generous in granting them to religious. No unnecessary limits should be imposed on God's mercy.

Bishops should support religious in their specific way of life, not try to have them change it for some utilitarian purpose. They should respect the autonomy of religious communities in living out their own perception of the gospel, provided it is within the limits set by the Church. Bishops should give all the help they can to religious to enable them to carry out their apostolic mandate in the Church. Where it is necessary, bishops should not recoil from confronting religious when they appear to be unfaithful to the demands of the word of God, or when they seem unresponsive to the crying needs of people around them. Religious may need this challenge, whether from the Holy See, the episcopal conference, or the individual bishop.

The practical implementation of such a task is far-reaching. Certainly, much wisdom is required. A bishop should not use his mandate of care for the good of the universal Church to foster unduly some particular aim. The aim is always *communio* in mutual love and respect.

(b) What can religious give to the bishops?

The answer must come in a similar pattern: all that follows from their vocation, all that is the fruit of their specific gift. They must present the bishop and the people with their own forceful interpretation of the gospel, whether it is opportune or inopportune. This is no easy task. History seems to confirm that religious communities live as long as they fulfil their own specific purpose. When that vanishes, the community either dies or, worse still, stagnates for a long time.

By publicly acknowledging, in the bishop, an apostolic mandate, the religious can help him greatly to be a centre of unity for the whole diocese. In a similar way, they can also support the pope in his solicitude for all churches. Apostolic religious Institutes must take to themselves a share of the concern for God's people, certainly according to their own specific vocation, but also according to local needs, through education, caring for the sick, and so forth. If the bishop does not fulfil his task as well as he should, religious can demonstrate to people that the only christian attitude is to uphold the *communio* with him, have faith in the Church, and understanding and compassion towards all involved. Bitterness and revolt tear the body further apart.

Many more rules could be given, but the ones we have formulated can indicate sufficiently the quality of charity religious should demonstrate toward the bishops. What emerges from these considerations is that the relation-

ship between bishops and religious must be created anew all the time: a permanent task, a permanent responsibility for both sides.

III. RIGHTS AND DUTIES

Here we are concerned with legal relationships, or rights and duties. 'What are, or what should be, the legal structures concerning the relationship between bishops and religious?'

The world of canon law is a limited one. It does not investigate mysteries. It merely creates a framework in which it is somewhat easier and more comfortable for man to live with God's mysteries. Nor is it responsible for primary responsibilities in conscience. It merely sets up structures and formulates some norms that can be called the minimum amount of charity required for orderly living, and for the peace that is indispensable for a christian community. It follows that canon law has its own built-in limitations.

The structure of a house does not explain the mystery of the christian family, nor does it determine the primary responsibility for the external or the interior life of each of the members. It gives a structure for orderly living, in which the mystery of family can be understood and enjoyed, and its responsibilities discharged. The analogy may not be perfect, but it is good enough to explain what law is about, why its scope is so limited; and at the same time, why it is so indispensable. Put that family out in the wilderness, without any shelter, and you will see how difficult it is for them to relish the mysteries and to carry out their responsibilities.

The law speaks of rights and duties, of freedoms and powers. The understanding of those legal terms should be based on the theological perception of an objective reality, and on the vision of moral obligations. It is the law's humble task to formulate rights and duties with clarity and precision.

The rights and duties of bishops towards religious

Historically, most religious communities do not owe their origin to a specific call by a bishop, or even by the pope; they arose out of an inspiration of the Spirit, and the dedication of the first members. But it was the right and duty of the pope and the bishops to judge the authenticity of the inspiration in a fledgling community. They could confirm it and praise it, and thus give public recognition to a new group given to God's service. They could withhold their approval, and thus refrain from giving public standing to the group. This right of the episcopate is acknowledged by the Code and will remain in any new legislation.

The Holy See or the bishop of a diocese, depending on the nature, character and legal standing of the congregation, gives the mandate to

a religious community for the carrying out of an apostolic task in the Church. Thus, the group does its work in communion with all the churches around it. We stated earlier that a religious community has no life of its own, that its life originates in the Church: a specific manifestation of the strength of the Spirit in the Church. It is the right and duty of the episcopate (pope, ecumenical council, synod, individual bishop, as the case may be) to judge the continuing presence of the word of God in the religious community, the continuing presence of the Spirit with them, by upholding the approval originally given, or by withdrawing it, if unfortunate events and unmistakable evidence so warrant.

The bishop of a diocese grants permission to a community (in fact, to any community) to enter his diocese and to work there. However, once this permission is granted, the religious are entitled to carry out their work according to their own specific vocation.

The diocesan bishop has the right to supervise any apostolic work in his diocese. In a similar way, the pope has the right to supervise any apostolic work throughout the universal Church; his solicitude for all the churches may require his intervention.

These are some fundamental rights and duties on the part of the bishop. They are not to be exercised simply at his good pleasure. He must perform them for the good of the whole Church.

Every 'right and duty' situation involves at least two parties. Therefore, whenever the bishop has a right toward religious, they have a duty. Whenever he has a duty, in some way the religious have a right.

(b) *The rights and duties of religious*

These are not so easily determined, precisely because we are not dealing with an office, but with voluntary associations in the Church, with the free and willing dedication to the service of God's people. In other terms, religious life is based on free acts of generosity, and it is difficult to prescribe to people how to be generous. They have a right to give and to be magnanimous in their own way, even if, at times, others would like to see it in some other way.

Religious have the freedom of christian people. They have a right to be themselves. They have a right to write their own constitutions, rules and norms, and to live according to them. They have a right, that follows from their baptism, to announce the good news and to bring the strength of the christian message to those who need it. Such basic freedom should somehow be written into legal rules.

A detailed list could be composed of the rights and duties of religious toward the Holy See, toward episcopal conferences, toward the diocesan

bishop. It should be a technical list, easily available in any good manual of canon law.

As in the case of the bishops, rights on one side generate duties on the other side; and duties on the one side correspond to rights possessed by the other side.

Let us recall, however, that no matter how precisely these legal relations are formulated, they stand or fall on the solidity of the moral responsibility of charity, and on the understanding of the mystery of different vocations within the Church.

(c) *Rights and duties through contract*

Rights and duties can be established through statutory laws. But law is a norm made for typical cases, presented in an abstract form independently of the persons involved. In real life there are only particular cases, existing concretely, and involving individual persons. Hence there will always be a gap between law and real life. Bishops and religious can often gain substantial help by ordering their relations in the form of a contract concluded between the diocese and a given religious community. Thus, when charity and love falters, and common sense fades, the rules for justice are still there. Such contracts have been used extensively in mission territories.

Difficulties may well arise from the overwhelming power that Vatican Council II attributes to the bishops, in anything concerning apostolic work:

All religious, exempt and non-exempt, are subject to the authority of the local Ordinaries in those things which pertain to the public exercise of divine worship (except where differences in rites are concerned), the care of souls, sacred preaching intended for the people, the religious and moral education of the christian faithful, especially of children, catechetical instruction and liturgical formation. Religious are subject to the local Ordinary also in matters of proper clerical decorum as well as in the various works which concern the exercise of the sacred apostolate. Catholic schools conducted by religious are also subject to the authority of the local Ordinaries as regards general policy and supervision, but the right of religious to direct them remains intact. Religious also are bound to observe all those things which episcopal councils or conferences legitimately prescribe for universal observance (*Christus Dominus*, 35).

It requires no great legal acumen to see how much difficulty statements like these can cause. For instance, what is meant by the statement 'schools conducted by religious are also subject to the authority of the local Ordinaries as regards general policy and supervision, but the right of

religious to direct them remains intact'? At what point does general policy and supervision end, and the right of direction begin? There is no legal answer to that; it can be taken care of by a well-formulated contract. Such contracts are often best written and signed before religious undertake a work in a given diocese.

Conclusion

The relationship between bishops and religious cannot be entirely, perhaps not even substantially, regulated by law. Successful co-operation will depend on the depth of understanding that each side has of its own and of the other's vocation, of their dedication to the welfare of the Church. The law can set only some minimal norms that are simply not enough. The more sensitive points in the life of the Church escape legal definition or determination by law. Canon law should be there, but it is simple faith and sound common sense that will bring prosperity to the Church, including bishops and religious.

There is no doubt that the pastoral care of the Church belongs, in a genuine sense, to the bishops. There is no doubt, either, that pastoral work in the Church is carried out, to a large extent, by religious, many of whom are of pontifical right, or exempt, and therefore not under the direct jurisdiction of the residential bishops. The relatively new institution of episcopal conferences, where bishops deliberate about pastoral policies among themselves, does not give scope to the knowledge and experience of religious in pastoral work. For the sake of good balance and also for the sake of canonical and evangelical equity, it seems necessary to establish some institutional framework for the close co-operation between bishops and religious. If we do not have this, the Church will suffer. An example illuminates the problem better than any reasoning. In a given country, the work of education is mostly in the hands of religious men and women. Unless those men and women can contribute directly to the deliberations and decisions of the bishops, not only about education but about any other pastoral work that depends on education, the decision of the bishops can easily be based on partial information, and thus prove highly unsatisfactory.

The traditional way of the Church to set pastoral policies is through a synod. The traditional way of conducting a synod is that others besides the bishops should be represented, such as religious. It seems that the Church would be much better served, and so would the bishops in their task, if the conferences were opened up to the presence of religious who would have equal voice with the bishops. There is nothing unusual about this suggestion. There are now religious superiors who are members of Roman Congregations; there were also religious with the right to vote at Vatican Council II. Experience already bears out that mere consultation is not enough. Those who carry so much of the burden of the work should be able to share their insights, the fruits of their experiences, with those who give the mandate for the work.