

THE CANONICAL ASPECTS OF ASSOCIATION

1. ASSOCIATIONS OF THE FAITHFUL ACCORDING TO THE CODE OF CANON LAW

1.1 General Principles:

- The faithful have the right to follow their own form of spiritual life, provided it is in accord with Church teaching (C 214).
- The faithful may freely establish and direct associations which foster the Christian vocation in the world (C 215).
- The faithful can live according to the spirit of a spiritual master, a founder of an Institute, and they have the right to associate with one another for this purpose (C 303).
- Institutes which have associations of the faithful joined to them are to have a special care that these associations are imbued with the genuine spirit of their family (C 677).

1.2 Outline of concepts and classes of Associations, based on the Code of Canon Law:

- PRIVATE associations without juridical personality:
 - these are constituted by the members themselves;
 - free projects; private administration;
 - their goods do not belong to the Church;
 - they can be suppressed by statute or by ecclesiastical authority.
- PRIVATE associations without juridical personality but *recognized, praised or recommended*:
 - these are the same as the preceding ones, but with statutes approved by ecclesiastical authority.
- PRIVATE associations *with juridical personality*:
 - these have a constitution by decree of ecclesiastical authority;
 - the statutes are approved by the same ecclesiastical authority;
 - free projects; private administration;
 - their goods do not belong to the Church;
 - they can be suppressed by statute or by ecclesiastical authority.
- PUBLIC associations:
 - these always have juridical personality;
 - they act in name of the Church;
 - they are established by ecclesiastical authority;
 - they are under the overall direction of ecclesiastical authority;
 - their statutes are approved by the same ecclesiastical authority;
 - their projects are under the overall direction of ecclesiastical authority;
 - they can name their own moderator;
 - the administration is under the overall direction of ecclesiastical authority;
 - their goods belong to the Church;
 - they can be suppressed by ecclesiastical authority.

1.3. Development of some concepts:

Public or private associations:

1) A *Public* association is set up by ecclesiastical authority (C 301.3). By the very decree by which it is established by competent authority, it is constituted a juridical person and thereby receives its mission to pursue, in the name of the Church, those ends which it proposes for itself (C 313).

2) *Private* associations are those in which the faithful, in private agreement among themselves, are constituted for a definite purpose related to Christian life (C 298.1; C 301.2). However, they cannot be privately set up to teach Christian doctrine in the name of Church, nor to promote public worship, nor for other purposes which, by their nature, are reserved for ecclesiastical authority (C 299.1 and C 301.1).

The private associations can be "recognized," "praised," or "recommended" by the ecclesiastical authority but this does not cause them to cease being private (C 299.2).

Juridical Person or not:

A public association always constitutes a juridical person. A private association may or may not constitute a juridical person:

1) A private association can acquire *juridical personality* by a formal decree of the competent ecclesiastical authority (C 322.1).

2) A private association which has not been constituted a *juridical person* cannot, as such, be the subject of duties and rights; however, the faithful who are joined together in it can jointly contract obligations. As joint owners and joint possessors they can acquire and possess rights and goods.. They can exercise these rights and obligations through a delegate or a proxy (C 310).

The establishment of associations:

- *The establishment of public associations* (C 312), as well as the granting of juridical personality to private associations (C 322) is the responsibility of:

1) *The Holy See*, for universal and international associations;

2) *The Episcopal Conference*, in its own territory, for national associations which by their very nature establishment are intended for work throughout the whole nation;

3) *The diocesan Bishop*, each in his own territory. The written consent of the diocesan Bishop is required for the valid establishment of an association or branch of an association in the diocese, even though it is done in virtue of an apostolic privilege. Permission which is given by the diocesan Bishop for the foundation of a house of a religious institute is valid also for the establishment in the same house, or in a church attached to it, of an association which is proper to that institute.

- It is for the competent ecclesiastical authority alone to establish associations which intend to impart Christian teaching in the name of the Church (C 301).

- *The establishment of private associations*: Christians have the right to constitute private associations, with the exception of the purposes reserved to ecclesiastical authority (C 301).

The name of the association:

Associations are to select for themselves a title or name which is in keeping with the purpose they intend (C 304.2). But no association can add the name "catholic" without the consent of the corresponding authority, in accord with C 312 (see above).

The government of associations:

- *Overall ecclesiastical direction:*

All associations of Christ's faithful are subject to the supervision of the competent ecclesiastical authority. This authority is to ensure that integrity of faith and morals is maintained in them and that abuses in ecclesiastical discipline do not creep in. The competent authority has therefore the duty and the right to visit these associations. Associations of every kind are subject to the supervision of the Holy See; Diocesan associations are subject to the supervision of the local Ordinary, as are other associations to the extent that they work in the diocese (C 305.2).

Although private associations enjoy their own autonomy (cf. C 321) they are subject to the supervision of ecclesiastical authority (C 305).

- *Statutes:*

All associations, whether public or private, by whatever title they are called, are to have their own statutes. These are to define the purpose or social objective of the association, its center, its governance and the conditions of membership. They also are to specify the manner of action of the association (C 304.1).

The statutes of public associations require the approval of the authority which, in accordance with C 312.1, is competent to establish the association; this approval is also required for a revision of, or a change in, the statutes. (C 312.1; C 314).

No private association can acquire juridical personality unless its statutes are approved by the ecclesiastical authority mentioned in C 312.1. The approval of the statutes does not, however, change the private nature of the association (C 322.2).

- *Internal government:*

All associations have the right to make particular norms concerning the association, for the holding of meetings, and for the appointment of moderators, officials, ministers and administrators of goods (C 309).

Members of associations:

- *Rights:* To enjoy the rights and privileges granted to an association, it is necessary and sufficient that a person be validly received into the association in accordance with the association's own statutes, and be not lawfully dismissed from it (C 306).

- *Admission:* The admission of members is to take place in accordance with the law and with the statutes of each association (C 307.1). The same person can be enrolled in several associations (C 307.2). In accordance with their own law, members of religious institutes may, with the consent of their Superior, join associations (C 307.3).

- Into *public associations*, a person who has publicly rejected the catholic faith, or has defected from ecclesiastical communion, or upon whom an excommunication has been imposed or declared, cannot validly be received (C 316.1)

The Code says nothing about the possibility of admitting non-Catholics into private associations.

- *Dismissal:* To dismiss a member, there must be a just reason and this must be done in accordance with the law and the statutes (C. 308). In public associations those who have been lawfully enrolled but who fall into one of the categories in C 316.1 are to be dismissed (cf. C 316.1). The one who is dismissed always retains the right of recourse to the corresponding ecclesiastical authority (316.2).

Positions in associations:

- *In public associations:*

The moderator: Unless the statutes provide otherwise, it belongs to the ecclesiastical authority to confirm the moderator of a public association on election, or by his own right to appoint the moderator (C 317.1). This is also valid for associations which members of religious institutes, by apostolic privilege, establish outside their own churches or houses. In associations which members of religious institutes establish in their own church or house, the appointment or confirmation of the moderator and chaplain belongs to the Superior of the institute, in accordance with the statutes (C 317.2).

Those who hold an office of direction in political parties are not to be moderators in public associations of the faithful which are directly ordered to the exercise of the apostolate (C 371.4).

The moderator of a public association may be removed for a just reason, by the person who made the appointment or the confirmation, but the Moderator himself and the senior officials of the association must be consulted, in accordance with the statutes (C 318.2).

Ecclesiastical assistant or chaplain: The same authority appoints the chaplain or ecclesiastical assistant, after consulting the senior officials of the association, wherever this is expedient (C 317.1).

The laity can be moderators of associations which are not clerical. The chaplain or ecclesiastical assistant is not to be the moderator, unless the statutes provide otherwise (C 317.3).

Commissioner: In special circumstances, when serious reasons so require, the ecclesiastical authority can appoint a *commissioner* to direct the association in his name for the time being (C 318.1).

- *In private associations:*

The faithful themselves direct and moderate private associations according to the provisions of the statutes (C 321). Specifically, they freely designate a moderator and officers (C 324.1). If they wish to have a spiritual counselor, they can freely choose one from among the priests who lawfully exercise a ministry in the diocese, but the priest requires the confirmation of the local Ordinary (C 324.2).

The administration of goods

- *Public associations:* Unless otherwise provided, a lawfully established public association administers the goods it possesses, in accordance with the statutes, and under the overall direction of the ecclesiastical authority. It must give a yearly account to this authority (C 319.1). The association must also faithfully account to the same authority for the disbursement of contributions and alms which it has collected (C 319.2).

- *Private associations:* A private association is free to administer any goods it possesses, according to the provisions of the statutes, but the competent ecclesiastical authority has the right to ensure that the goods are applied to the purposes of the association (C 325.1). The association is subject to the authority of the local Ordinary in whatever concerns the administration and distribution of goods which are donated or left to it for pious purposes (C 325.2).

The suppression of associations:

- *Public associations:*

Associations established by the Holy See can be suppressed only by the Holy See (C 320.1).

For grave reasons, associations established by the Episcopal Conference can be suppressed by it (C 320.2).

The diocesan Bishop can suppress those he has established and also those which members of religious institutes have established by apostolic indult with the consent of the diocesan Bishop (C 320.2).

A public association is not to be suppressed by the competent authority unless the moderator

and other senior officials have been consulted (C 320.3).

- *Private associations:*

A private association is extinguished in accordance with the norms of the statutes. It can also be suppressed by the competent authority if its activity gives rise to grave harm to ecclesiastical teaching or discipline, or is a scandal to the faithful (C 326.1).

The fate of the goods of a private association which ceases to exist is to be determined in accordance with the statutes, without prejudice to acquired rights and to the wishes of donors (C 326.2).

Unions and confederations:

Confederations: A public association or a confederation of public associations is constituted a juridical person by the very decree by which it is established by the respective competent authority (C 313).

2. ECCLESIAL RECOGNITION OF GROUPS ASSOCIATED WITH THE INSTITUTE

2.1. The establishment of institutional bonds:

When a group of lay persons wants to live De La Salle's charism *associated with the Institute of the Brothers* but without being incorporated into one of the groups or unions that are already officially recognized (the 43rd General Chapter recognized *the Signum Fidei Fraternity* and *the Lasallian Fraternity* which had previously been known as the Lasallian Third Order) this group must establish an institutional bond with the Institute. By the group's own request, the Institute accepts it and officially recognizes the group as an associated Lasallian group.

On the part of the Institute, who can carry out this official recognition?

- a) The General Chapter, as it already has done with other groups (Signum Fidei and the Lasallian Fraternity).
- b) The Superior General and his Council. This would be a universal type of recognition. However, even though this recognition would be legal, for it to be permanent it would need support as an article in the Constitutions or as a General Chapter decision or it must be submitted to the next General Chapter for its judgment in the matter.
- c) The Brother Visitor and his Council, as regards the District (cf. 43rd General Chapter, Circular 447, pages 5-6).

In the spirit of the 43rd General Chapter, the frame of reference for all experiences of association is the District, and so it seems logical that any universal recognition would first receive District recognition (from one or more Districts).

- When a group of lay persons wants to live the charism of De La Salle, but not be associated officially with the Institute (that is to say, without an *institutional bond*), obviously no official recognition of any type is required.

2.2 Ecclesial recognition of Lasallian groups:

a) "*Indirect*" ecclesial recognition

A group of associated lay persons acquires "indirect" ecclesial recognition when its existence is explicitly noted in an article of the Constitutions approved by the corresponding religious institute, in this case the FSC Institute. Currently such a case does not exist among Lasallian groups.

However, groups established or recognized by the Institute in any form previously noted, acquire sufficient canonical legitimacy.

For Lasallian groups which do not have institutional bonds with the FSC Institute, in order for them to obtain ecclesial recognition they must use a direct method in order to obtain it, as follows.

b) "*Direct*" ecclesial recognition

A group of associated lay persons is recognized *directly* by the Church when it obtains, in virtue of Canons 298 - 326, status as an *Association of the faithful*, whether public or private, by the competent ecclesial authority, namely: a diocesan Bishop in the respective diocese; an episcopal conference for the respective nation; the Pontifical Council for the Laity or the Congregation of Religious for the universal Church.

The group which has an institutional bond with the FSC Institute and which wants to be recognized as such by the Church, as it obtains its status as an Association of the faithful, the Decree issued by the competent ecclesiastical authority, will make mention of Canon 303 which defines the particular nature of this group, that is to say, of its institutional bond with the Lasallian Institute.

2.3 Some issues:

- An informal group that wants to live the charism of De La Salle, does it need some day to obtain *canonical legitimacy* (that is to say, institutional recognition as *being associated*, or ecclesial recognition as an "association of the faithful")?

Answer: NO. Each group can carefully consider the advantages and disadvantages of its "informal" status or situation. Advantages could include the freedom of persons, creativity, evolution... Disadvantages could include the level of continued membership, stability, personal involvement, seriousness of purpose...

- An informal group which has little interest in obtaining canonical legitimacy, can it be satisfied with a civil recognition as an association for the legal procedures which concern it?

Of course, the answer is YES. A situation like that would give minimal inner unity, although of course the matter has nothing to do with Lasallian institutional recognition nor with ecclesial recognition as an association of the faithful.

- A group of lay persons recognized *institutionally* as Lasallian, is this group urged to seek ecclesial recognition as an association of the faithful? Would this recognition be in its interest or would it be advisable?

The group is NOT urged to do this. In terms of interest or advisability, there is no global answer. In each case, the advisability of such a move would have to be discerned.

In some countries, ecclesial recognition as an association of the faithful carries with it also a civil recognition for legal purposes. This element should be kept in mind.

3. THE CANONICAL SITUATION OF SOME GROUPS (AS A POINT OF REFERENCE)

• Lasallian groups:

- The *Signum Fidei Fraternity* and the *Lasallian Fraternity* (formerly the "Lasallian Third Order") are the two groups recognized institutionally as "associated" ("structurally linked with the Institute of the Brothers of the Christian Schools," as stated in the Documents of the 43rd General Chapter, Circular 447, page 5). Neither of the two currently has a direct ecclesial recognition as an "association of the faithful," private or public.

• Other lay groups linked with religious institutions:

- *Community of Christian Life (CVX)*: This group is rooted in Ignatian spirituality. It has inherited the charism of ancient Marian congregations. It is structurally linked to the Jesuits; the Jesuit Father

General is the World Ecclesiastical Assistant for the CVX. However, this group is independent from the Jesuits in its decision-making process, although both groups collaborate closely. It has been recognized as a *public international association of the faithful* since 1990.

- *Association of Salesian helpers*: This group shares in the spirituality of the Salesians. It has a public juridical personality as an (*international*) *public association of the faithful*. Its Rule is approved by the Congregation of Religious and not by the Pontifical Council for the Laity, since it is structurally linked with a religious institute.

- *Marianist Lay Communities*: They are a part of the Marianist Family. In the year 2000 they were recognized as a *private association of the faithful*.

- *Scolopi Fraternities, Itaka Communities*: These are connected to the spirit of Saint Joseph Calasanz and are structurally linked to the Order of Pious Schools. At the present time they are deciding whether or not they should be recognized as a *public or private association of the faithful*.

They have begun to develop an image of the *lay Scolopi*: a "contract" of the lay person with the Order, by which he belongs charismatically and juridically to the Order (so that one's goods, spirituality, availability and life are linked to a community) with a series of rights and duties that appear in the Statutes of the Lay Scolopi.

- *Marist Fraternities*: These are Christian communities with a common "life program." They are structurally linked to the Institute of Marist Brothers. They do not have official ecclesial recognition.

- *Associates of Saint Viator*: They are associated lay persons (not "groups"), recognized institutionally in the Constitutions of the Congregation of the Clerics of Saint Viator. They share in the community life with the religious "as full members," without being called to be religious. Little by little they are going from a religious community with lay associates to a model of *Viatorian community*, where they participate equally, religious and lay, each from his own vocation and identity.

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