

# *MINISTERIAL PUBLIC JURIDIC PERSON: MODEL FOR CANONICAL GOVERNANCE*

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## ***Introduction***

Fr. Francis Morrissey, OMI possessed a broad knowledge of and experience in the application of canonical norms and regulations of the Catholic Church. His insights, expertise, and practical guidance for Church ministries are gifts he shared with generations of canon lawyers, ministry leaders, and Church leaders, benefiting in a special way religious institutes of women. His proficiency in the canon law governing institutes of consecrated life and societies of apostolic life, sponsorship of ministries and their transition to public juridic persons is a hallmark of his longtime ministry. Numerous Catholic health care and educational institutions sought his assistance in the development of new structures for sponsorship to serve the needs of the

ministries within a changing Church. In recent years, Fr. Morrissey became closely identified with the notion of a Ministerial Public Juridic Person (M-PJP), a structure which included lay men and women in a new model of canonical governance. He introduced the notion to clarify the relationship of the canonical structure to the ministries they support. His efforts and his influence continue to impact the development of this evolving structure of canonical governance.

This article will address the development of the Ministerial Public Juridic Person (M-PJP) by religious institutes,<sup>1</sup> particularly in the United States context, by describing sponsorship, public juridic persons and the M-PJP structure, identifying the canon law governing the M-PJP and ongoing issues

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<sup>1</sup> The term “religious institutes” is used in this article as an umbrella term to include various types of institutes of consecrated life and societies of apostolic life described in canon law.

associated with this canonical structure for Church ministries. I am most grateful to Fr. Morrissey for his invaluable contributions over the years to the content of this article. It is my hope that these reflections will serve as a resource for religious institutes and other organizations considering the Ministerial Public Juridic Person as a model for canonical sponsorship of their ministries.

The development of the M-PJP involves consideration of several related notions: sponsorship, public juridic personality, the ministerial public juridic person, canonical implications of the governance structure, and ongoing canonical issues.

### 1 – What is Sponsorship?

The notion of “sponsorship,” in the United States experience, had its beginning in the early 20<sup>th</sup> century when religious institutes owned and operated their institutional ministries. It was advanced in the 1970s by religious institutes as their numbers began to decrease and their priorities began to shift, along with Vatican II’s call to religious institutes to renew themselves by recovering

and reinvigorating their founding charisms (*PC 2*),<sup>2</sup> its recognition of the universal call to holiness (*LG 39*),<sup>3</sup> and the important role the laity plays in the life of the Church.

The process of reclaiming their traditions challenged many religious institutes to discover ways in which their present ministries addressed the needs of contemporary society. This led to revitalizing some traditional ministries, withdrawing from other traditional ministries, as well as the assignment of religious to new and expanding ministries, some of which were sponsored works of the religious institute, while others were institutionally based or parish-based ministries. External forces such as liability risks, government funding, and regulatory requirements also made it desirable to distance many of the institute’s ministries from the institute itself.<sup>4</sup> In the health care field, these requirements led to the aggregation of health care institutions into systems in which the facilities remained under the ownership of the founding institutes but were governed by a single civil corporation.

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<sup>2</sup> Vatican Council II, Decree on the Renewal and Adaptation of Religious Life *Perfectae Caritatis*, October 28, 1965, 2. Accessed July 28, 2021 at

<sup>3</sup> Vatican Council II, Decree on the Church, *Lumen gentium*, November 21, 1964, 39. Accessed July 28, 2021 at

<sup>4</sup> See Francis MORRISSEY, “Sponsorship of Catholic Health Care and Other Apostolic Works in the Church: Legal and Practical Aspects,” in *Studia Canonica*, 52 (2018), 509-540 for a detailed history of the origin of sponsorship, 510-514. (=MORRISSEY, “Sponsorship of Catholic Health Care and Other Apostolic Works”). See also Francis MORRISSEY and Sharon HOLLAND, “Ministerial Public Juridic Person and their Communion with the Diocesan Bishop,” *Health Progress*, November-December, 2016, 52. (= HOLLAND & MORRISSEY, “Ministerial Public Juridic Person and their Communion with the Diocesan Bishop”); Francis MORRISSEY, “Various Types of Sponsorship,” in *Sponsorship in the United States Context: Theory and Praxis*, R. SMITH, W. BROWN, N. REYNOLDS, (eds.), Alexandria, VA, Canon Law Society of America, 2006, 21. (= SMITH, BROWN, REYNOLDS, *Sponsorship in the United States Context: Theory and Praxis*), (= MORRISSEY, “Various Types of Sponsorship”)

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The notion of sponsorship was a way of acknowledging the important role that founding religious institutes wanted to continue to play in their ministries.<sup>5</sup> Over time, the term "sponsorship" has come to describe a complex of structural relationships between religious institutes and church ministries. The Canon Law Society of America defined sponsorship of a ministry as "a formal relationship between a recognized Catholic organization and a legally formed entity entered into for the sake of promoting and sustaining the Church's mission in the world."<sup>6</sup> In other words, sponsorship involves a relationship to the Church.

Though there is no precise definition of sponsorship or official status in either civil or canon law, it describes an evolving concept with understandings ranging from those in which the sponsors or members of the corporation have nominal or little involvement in the oversight of the ministry to those totally controlled by the sponsors.<sup>7</sup> Relationships between sponsoring religious institutes and their sponsored ministries generally involve elements of governance, influence, advocacy.

## 2.1 – Evolution of Sponsorship

In the evolution of sponsorship, various forms have been tried and tested. No one form has proven to be the best or even the correct one.<sup>8</sup> A common understanding was that the religious sponsor was responsible for the actions required by canon law on behalf of the ministries. The assumption was that a canonical sponsor (religious institute) would be able to exercise its administrative responsibilities under canon law over the affairs of the civilly incorporated apostolate. Often this relationship was expressed in the form of reserve powers, considered "faith obligations," to preserve Catholic identity and to maintain the religious institute's control over its apostolate.<sup>9</sup> The powers usually included the right to approve the

<sup>5</sup> See CATHOLIC HEALTH ASSOCIATION, *One Vine Different Branches: Sponsorship and Governance in Catholic Ministries*, Part II: Practical Components of Sponsorship, Washington DC: CHA, 2007, 12.

<sup>6</sup> SMITH, BROWN, REYNOLDS, *Sponsorship in the United States Context: Theory and Praxis*, ii and 137.

<sup>7</sup> See, for example, Daniel CONLIN, "Sponsorship at the Crossroads," in *Sponsorship: Current Challenges and Future Directions in Health Progress*, Catholic Health Association, St. Louis, MO, July/August, (2001), 1-2.

<sup>8</sup> Francis MORRISSEY, "Our Sponsors, Yesterday, Today and Tomorrow," *Health Progress*, 94/ 4, July-August, (2013), 63. (= MORRISSEY, "Our Sponsors") See also Sharon. EUART, "Religious Sponsors, Ministry Leaders and Diocesan Bishops: Together in Communion," *CLSA Proceedings* 79 (2017), 110-112. (=EUART, "Religious Sponsors, Ministry Leaders and Diocesan Bishops: Together in Communion").

<sup>9</sup> Robert KENNEDY, "McGrath, Maida, Michiels: Introduction to a Study of the Canonical and Civil law Status of Church-Related Institutions in the United States," in *The Jurist* 50 (1990), 351-401. (=Kennedy, "McGrath, Maida, Michiels")

philosophy and mission of the ministry, appoint members, amend articles of incorporation, approve mergers or dissolution, and in some cases, appoint the chief executive officer.<sup>10</sup> Thus, the Catholic identity of the works could be preserved. All the while, a new partnership with between religious and lay women and men was emerging.

Over the years, sponsorship has come to describe various relationships; for example, situations in which the religious institute does not have sufficient control or the ability to carry out canonical stewardship but may have something less such as nomination or appointment of board members.<sup>11</sup> This reality, in turn, has suggested that new canonical structures may be needed to parallel the realigned civil systems of past decades as well as new models to address new situations religious institutes and their ministries face today and will face tomorrow.

## **2.2 – Factors Influencing Future Sponsorship Models**

Factors such as the decreasing number of women and men religious available for

ministry and internal governance, mergers of religious institutes and consolidation of provinces, the historical completion of some institutes, complexities in the governance of educational, health care and social service institutions, and recognition of the expanded ministry of the laity in partnership with religious have motivated some institutes to consider structuring the sponsorship relationship to an apostolic ministry as a separate public juridic person.<sup>12</sup> This often involves the religious institute retaining influence, but not control, over the mission of the ministry.<sup>13</sup>

Within the Church, legal constructs such as public juridic persons exist not to define lines of ownership and supervision, as in civil corporate models, but rather participation and accountability for mission. Fr. Morrissey held that “sponsorship in canon law has little, if any meaning, if it is not related to the mission and ministry of the Church.”<sup>14</sup> In other words, Morrissey adds, “sponsorship today is not focused on ownership and property; rather its focus is

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<sup>10</sup> See Francis MORRISSEY, “Implications of Canon Law for Catholic Health Care Leaders and Organizations,” *Sponsor Formation Program for Catholic Health Care* March 6, 2016, Manuscript, 33. See also Amy HEREFORD, “Transitioning Sponsorship,” *RCRI Bulletin*, Spring 2017, 10.

<sup>11</sup> CATHOLIC HEALTH ASSOCIATION, *A Guide to Understanding Public Juridic Persons in the Catholic Health Ministry*, St. Louis, MO: CHA, 2012, 54. (=CHA, *Guide to Understanding Public Juridic Persons*)

<sup>12</sup> John BEAL, “From the Heart of the Church to the Heart of the World: Ownership, Control and Catholic Identity of Institutional Apostolates in the United States,” in R. SMITH, W. BROWN, N. REYNOLDS, eds., *Sponsorship in the United States Context: Theory and Praxis*, 33-35. (= BEAL, “From the Heart of the Church”); Sharon HOLLAND, “Vatican Expert Unpacks Canonical PJP Process,” *Health progress*, September-October 2011, 53. (=HOLLAND, “Vatican Expert Unpacks Canonical PJP Process”)

<sup>13</sup> See William KING, “Sponsorship by Juridic Persons,” in R. SMITH, W. BROWN, N. REYNOLDS, eds., *Sponsorship in the United States Context: Theory and Praxis*, 72. (= KING, “Sponsorship by Juridic Persons,”). See also MORRISSEY, “Implications of Canon Law for Catholic Health Care Leaders and Organizations,” 26.

<sup>14</sup> MORRISSEY, “Various Types of Sponsorship,” 22.

on mission and Catholic identity.<sup>15</sup> John Beal states that discussion of models of sponsorship, reserved powers and mission effectiveness is “a recognition that the Catholic identity of institutional apostolates is not something given once and for all but a goal that must be maintained and fostered,”<sup>16</sup> by competent leadership within and outside the institutions.

### 3 - Catholic Identity

CATHOLIC IDENTITY IS AT THE  
HEART OF SPONSORSHIP.

Catholic identity is at the heart of sponsorship. It recognizes that Catholic institutions such as health care facilities, schools, universities and social service agencies participate in the mission of Jesus: the internal faith response to Jesus Christ and the external practicalities of belonging to a visible Church with institutional structures.<sup>17</sup> Identity and mission must be similarly inter-related in our Catholic institutions if they are to remain in the Church out of whose heart they were born.<sup>18</sup> At the same time, Catholic institutions exist also in society where culture and the gospel meet in a complex of relationships for

building up the community of the Church<sup>19</sup> in the rich and diverse context of our changing times.

#### 3.1 – Identifiers of Catholic Identity

Catholic identity is viewed then not as a limiting requirement, but rather as a life-giving connection involving the ministry leaders, sponsors, governing boards, diocesan bishops, and the entire faith community. Sr. Doris Gottemoeller, RSM offers three requirements or identifiers for Catholic identity of institutional ministries: assertion, validation, integration.<sup>20</sup> Each of these involves the ministry leader, religious sponsor, governing board, and the diocesan bishop in varying degrees and in partnership with one another.

The first identifier is *assertion* which entails publicly affirming and acknowledging the identity of the institution as Catholic, by way of its name and documents, especially its mission statement.

Secondly, *validation* is the process through which the Catholic identity of the ministry is authenticated or recognized by church authority, usually by the diocesan bishop of the place where the institution/ministry is located. Validation was often quite informal occurring generations even centuries ago when many Catholic hospitals, colleges, and

<sup>15</sup> MORRISEY, “Various Types of Sponsorship,” 29.

<sup>16</sup> BEAL, “From the Heart of the Church,” 43.

<sup>17</sup> USCCB, *Application of Ex corde Ecclesiae in the United States*, Washington, DC, United States Conference of Catholic Bishops, 2000, no.7.

<sup>18</sup> BEAL, “From the Heart of the Church,” 32.

<sup>19</sup> Joseph KOMONCHAK, “The Catholic University in the Church,” in J. Langan, SJ and L O’Donovan, SJ *Catholic Universities in Church and Society: A Dialogue on Ex corde Ecclesiae*, Washington, DC: Georgetown University, 1993, 72. (=KOMONCHAK, “The Catholic University in the Church”)

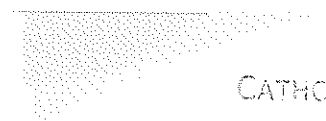
<sup>20</sup> Doris GOTTEMOELLER, “Catholic Identity: Distinction or Difference? CHA Sponsorship Institute, January 30-31, (2013), manuscript, 1-2.

schools were founded. The recognition rested on the fact that the ministry was founded by, staffed by, and remained under the direction of a religious institute.

*Integration* is the third identifier whereby the ministry embodies in its culture and performance compatibility with Catholic Church teaching. It is in this area that the responsibilities of the sponsors and ministry leaders are most evident. The integration of Church teaching might be evident, for example, in the institution's mission statement affirming its Catholic identity; the bylaws articulation of the mission and Catholic identity; orientation programs for trustees, administrators and staff on the implications of being a Catholic institution; a strong pastoral care or campus ministry program; concern for the needs of others and compassion for the less fortunate; just treatment of employees; commitment to the spiritual care of persons serving in and served by the ministry; its service for the common good; or engagement in socially responsible investment policies.<sup>21</sup> These identifiers of Catholic identity are not mere appendages; nor is Catholic identity a list of do's and don'ts. Rather, it is essential for it permeates the culture and character of the ministry.<sup>22</sup> Pope St. John Paul II addressed this when speaking to the Catholic academic community in 1979: "The term 'Catholic' will never be a mere label either added or dropped according to pressures of varying

forces."<sup>23</sup> It enables a Catholic ministry to make a difference by contributing something important and significant to today's world. Catholic identity is complex and cannot be legislated for each ministry or institution; it is lived. It gives spirit and life to a ministry.<sup>24</sup>

### 3.2 – Catholic Identity, Communion, and Sponsorship



CATHOLIC IDENTITY IS  
ACHIEVED THROUGH  
COMMUNION WITH THE  
CHURCH.

Catholic identity is achieved through communion with the Church. This includes an acknowledgement of the role of bishops and the pope as leaders and teachers of the Church.<sup>25</sup> In return, bishops are to acknowledge the contributions of Catholic institutions to the Church's mission and its service of teaching, healing, and compassion. Because the bishop's role is to oversee the communion of his diocese and to keep it in communion with the universal church, he exercises oversight of all the ministries within his diocese (c. 394§1). Consequently, the identity of an education, health care, or social service ministry as "Catholic" requires that the institution be in

<sup>21</sup> See USCCB, *Application of Ex corde Ecclesiae* I, 7 for additional elements of Catholic identity.

<sup>22</sup> See Doris GOTTEMOELLER, RSM, "Catholic Identity: Difference or Distinction," CHA Sponsorship Institute, January 2013, 5.

<sup>23</sup> JOHN PAUL II, quoted in USCCB, *The Application of Ex corde Ecclesiae to the United States*, 8.

<sup>24</sup> Doris GOTTEMOELLER "Preserving our Catholic Identity," *Health Progress*, 80 (1999), 18. For a similar list of characteristics of Catholic identity, see F. MORRISSEY, "What Makes an Institution Catholic?" *The Jurist*, 47 (1987) 535-540 and MORRISSEY, "Implications of Canon Law," 22-25.

<sup>25</sup> KOMONCHAK, "The Catholic University in the Church," 43.

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a relationship of communion with the diocesan bishop. A ministry cannot be Catholic by itself. Catholic identity requires it to be in an ecclesial relationship beyond itself.

Sponsorship is a privileged means of building communion within the Church itself, giving rise to co-responsibility and the potential for collaboration. Reflecting on the Catholic identity of a sponsored institution or ministry, perhaps questions once posed decades ago in a ministry setting have relevance today.<sup>26</sup> For example, how does the Church live within the institution or sponsored ministry? How do the Church and the sponsored ministry interact on common ground? To make it more local, what is it that makes a particular ministry Catholic? At the same time, the ministry might engage the broader education or health care community - its satellites, departments, and offices to ask the question: "What do you intend to do in the coming years to uphold and strengthen the Catholic character of the ministry?"

#### 4 - Public Juridic Persons

Given the demographic and governance realities of many religious institutes today, it is likely that over the next decade many institutes will no longer be able to carry out the responsibilities of canonical stewardship for sponsored institutions. This reality points to the need for new models of sponsorship as well as new and creative ways of ensuring the continued Catholic identity and mission of Catholic institutions.

The 1983 Code of Canon Law identified new canonical structures that serve sponsorship purposes and that have been accepted either by bishops and/or the Holy See. Among these entities are public juridic persons which assume the sponsorship responsibilities previously carried out by a religious institute or a diocese.<sup>27</sup>

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MINISTRY TO THE MISSION OF THE  
CHURCH.

Apostolic works often transcend the abilities and life span of individual persons. To afford continuity and stability, the legal system of the Catholic Church, like other

<sup>26</sup> Michael BUCKLEY, "The Catholic University and the Promise Inherent in its Identity," in J. Langan, SJ and L. O'Donovan, SJ, *Catholic Universities in Church and Society: A Dialogue on Ex corde Ecclesiae*, Washington, DC: Georgetown University, 1993, 79.

<sup>27</sup> CHA, *Guide to Understanding Public Juridic Persons*, 10.

legal systems, creates artificial entities known as juridic persons on which the law confers certain rights like those of natural persons (e.g., the right to make contracts, own property, incur debts) and on which the law imposes certain obligations. Church ministries are governed by both civil and canon law, with canon law providing a structure that connects a ministry to the mission of the Church.

Public juridic persons are defined in much the same way as a non-profit civil corporation is defined in Anglo-American law. An ecclesiastical juridic person is an aggregate of persons or things in the Church with the following characteristics (c. 116 §1): an artificial person, distinct from all natural persons who establish it, administer it, or for whose benefit it exists; it is constituted by church authority or by the law itself to carry out the mission entrusted to it in the name of the Church with a capacity for continuous existence, unless it is legitimately suppressed by competent authority.

A public juridic person possesses canonical rights and duties conferred upon it, either by the law itself or by the church authority that establishes it (either a diocesan bishop or the Holy See) such as the rights to acquire property, enter into contracts, sue or be sued, incur debts; it is represented by physical persons who are authorized to act on its behalf, either by law or by special statutes; its property is ecclesiastical property and is governed by Book V of the Code of Canon Law on temporal goods and their own statutes (c. 1257§1). It participates in the mission of the Church and is recognized as Catholic. In turn, it must maintain communion with the Church and is subject

to some degree of oversight by ecclesiastical authority.

#### **4.1 - Purpose of a Public Juridic Person**

The purpose of a public juridic person (c. 114§2) is to carry out the works of the apostolate, works of piety or mercy, both spiritual and corporal in the name of the Church. Juridic personality can be conferred on a ministry if the work can serve a “genuinely useful purpose” and have the means to achieve its purpose (c. 114§3) in view of the common good, not just that of individuals (c. 116§1). Prior to establishing a public juridic person, church authority must make an informed judgment about the usefulness of the apostolic work considering other works addressing the same needs in the area, and a judgment regarding the adequacy of resources available to the proposed public juridic person to achieve its purpose (c. 114§3). Examples of public juridic person established by the law itself include a diocese, parish, seminary, conference of bishops, a religious institute and its provinces.

Church institutions such as hospitals, schools, colleges, and universities can serve as the *substrata* for public juridic persons, but juridic personality is not conferred on them by the law. Rather, it can be conferred only by decree of competent church authority.

#### **4.2 - Function in the Name of the Church**

An important characteristic of public juridic personality is that it functions *in the name of the Church* and not in the name of the juridic person alone (c. 116§1). This means that the activities of the group (e.g., the religious sponsors of Catholic educational institutions, Catholic health care facilities,



and other ministries) are the work of the Church and not simply the work of the individuals who act on behalf of the group. Action in the name of the Church is not a private initiative of just any member of the Christian faithful. It requires that it be commissioned by someone with the authority to extend this mission to act "in the name of the Church."<sup>28</sup>

The work - education, health care, social services - which is entrusted to the religious institute, a public juridic person, is carried out in the name of the Church, in relation to the community of the Church and in communion with hierarchical leadership. Those entrusted with this task do so as responsible stewards (c. 1284§1) of the temporal goods entrusted to the work of the Church.

### 5 – Role/Relationship to the Diocesan Bishop

Historically, women and men religious, with the blessing of local bishops, established, sponsored, and staffed most Catholic hospitals, colleges, and schools in this

country. Bishops seldom were involved with the hospital or university school other than for an occasional commencement speaker, celebrant at a special anniversary, or to bless a new statue or buildings. Generally, both bishops and religious kept a healthy distance from each other.<sup>29</sup> With the Church's conciliar and post-conciliar teaching, especially *Mutuae relationes*<sup>30</sup> and the revised *Code of Canon Law*, we have a renewed understanding of the local Church and the bishop's enhanced role and responsibilities especially in the Church's teaching on the works of the apostolate as ministries not only of the religious sponsor and the institutions, but also of the entire Church.<sup>31</sup> While the mission of consecrated life is universal, it is incarnated in the local Church.<sup>32</sup> Observing the appropriate autonomy of canon 586 §2, religious should engage in prior consultation with the diocesan bishop before closure or restructuring of apostolic works. Pope Francis speaks of the "co-essentiality of hierarchical and charismatic gifts" (LG 4) as flowing from the Spirit and nourishing the

<sup>28</sup> KING, "Sponsorship by Juridic Persons," 59-60. See also BEAL, "From the Heart of the Church" 40.

<sup>29</sup> Joseph BERNARDIN, "Catholic Identity: Resolving Conflicting Expectations," in *Selected Works of Joseph Cardinal Bernardin*, Vol.2: Church and Society, Alphonse P. SPILLY, ed., Collegeville, MN, Liturgical Press, 1991, 171. Also printed in *Origins*, 21:2, May 23, 1991, 33-36. (=BERNARDIN, "Catholic Identity: Resolving Conflicting Expectations")

<sup>30</sup> CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE & CONGREGATION FOR BISHOPS, *Directives for the Mutual relations Between Bishops and Religious in the Church*, accessed July 29 at

<sup>31</sup> Joseph TOBIN, "The Charism and Goods of an Institute and Their Relationship to the Local Church," in *The Management of the Ecclesiastical Goods of Institutes of Consecrated Life and Societies of Apostolic Life: At the service of humanum and the Mission of the Church*, Proceedings of the International Symposium, March 8-9, 2014, Rome: Libreria Editrice Vaticana, 2014, 58.

<sup>32</sup> CONGREGATION FOR INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE (CICLSAL), *Economy and the Service of Charism and Mission*, Roma, Libreria Editrice Vaticana, 2018, no. 29. (=CICLSAL, *Economy and the Service of Charism and Mission*).

Church's life and missionary activity."<sup>33</sup>  
The challenge today is to know how best to work together in a spirit of mutuality and harmony in promoting the experience of communion.

As sponsorship of our Catholic institutions by religious institutes takes on new forms, issues related to the changing reality of the ministry invite the sponsors, governing boards, ministry leaders, and the bishop of the diocese to share insights and experience in a spirit of mutual trust and dialogue around practical yet important issues facing Catholic institutions.<sup>34</sup> For example, as the number of religious in governance decreases, what new structures for sponsorship is the religious institute(s) considering? What are the implications of a new sponsorship structure? Are there periodic conversations between sponsor of a Catholic institution and the diocesan bishop? Is the diocesan bishop welcomed in

sponsored institutions? How can bishops better serve sponsored ministries? How can sponsored ministries better serve the local Church?<sup>35</sup>

A relationship of trust requires openness to mutually respectful dialogue, which Pope Paul VI calls "a form of spiritual communication."<sup>36</sup> In the encyclical *Ecclesiam suam* Paul VI refers to dialogue as a "method of accomplishing apostolic mission" characterized by clarity of language, meekness in communicating the truth, trust in the power of one's words and the integrity of others, and prudence in being attuned to the sensitivities of others (*ES* 81). If sponsorship is intimately related to mission, dialogue is a constituent element of sponsorship.

#### **6 – Ministerial Public Juridic Persons (M-PJPs)**

In recent years, particularly in Catholic health care and increasingly in education, public juridic persons that connect a ministry to the Church are often referred to as ministerial public juridic persons to distinguish them from other public juridic persons such as religious institutes which often bring together ministries to make up a

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<sup>33</sup> FRANCIS, *Address to the Participants at the International Congress for Episcopal Vicars and Delegates for Consecrated Life*, Rome, 28 October 2016, no.1. Accessed July 19, 2021 at

<sup>34</sup> See EUART, "Religious Sponsors, Ministry Leaders and Diocesan Bishops: Together in Communion" 117-118.

<sup>35</sup> See ASSOCIATION OF JESUIT COLLEGES AND UNIVERSITIES, *Some Characteristics of Jesuit Colleges and Universities: A Self-Evaluation Instrument*, Washington, DC, AJCU, 2012, 18. See also BERNARDIN, "Catholic Identity: Resolving Conflicting Expectations," 174.

<sup>36</sup> PAUL VI, encyclical *Ecclesiam suam* August 6, 1964, n. 81 at

ministerial public juridic person.<sup>37</sup> While this title may better describe the theological reality of ministry, it is a category of public juridic personality that is not recognized in canon law. M-PJPs remain canonically public juridic persons. The sponsorship relationship maintains the connection between the founding institute and the ministry. It also connects the M-PJP to the governance structure of the Church either through the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL) for pontifical institutes or the diocesan bishop for diocesan institutes in a more visible relationship.<sup>38</sup>

MINISTERIAL PUBLIC JURIDIC PERSONS ARE STRUCTURED IN SUCH A WAY THAT THE RESERVE POWERS PASS INTO THE HANDS OF APPOINTED MEMBERS (RELIGIOUS AND/OR LAY PERSONS) OF THE GOVERNING BODY, RATHER THAN TO THOSE OF RELIGIOUS SUPERIORS AND COUNCILS.

Ministerial public juridic persons are structured in such a way that the reserve powers pass into the hands of appointed members (religious and/or lay persons) of the governing body, rather than to those of religious superiors and councils. Such powers might include changes in mission, philosophy, or direction of the institution; approval for alienation of property; number of representatives of the founding sponsoring institute on the governing body; oversight for leadership formation; approval of the CEO of the ministry; approval of trustees or representation on the Nominating Committee or search committee; and annual reports.<sup>39</sup> These powers are defined in the canonical statutes and the civil articles of incorporation.

#### **6.1 - Factors for Consideration When Petitioning for a M-PJP?**

When the religious sponsors of Church ministries are studying how best to structure their ministries for the future, the M-PJP is often one model that sponsors study. Among the issues to be considered are the canonical status best suited for the ministries, ownership of temporal goods, and civil incorporation.

<sup>37</sup> See, for example, publications of the CATHOLIC HEALTH ASSOCIATION, *A Guide to Understanding Public Juridic Persons in the Catholic Health Ministry*, St. Louis, MO, Catholic Health Association, 2012; *Temporal Goods at the Service of the Mission of Ministerial Public Juridic Persons* St. Louis, MO, Catholic Health Association, 2017; *Core Competencies of Sponsor* St. Louis, MO, Catholic Health Association, 2017; Sharon EUART, "Ministerial Public Juridic Person: What is it? What are the canonical implications? Part 1," in *RCRI Bulletin* 22 (Winter 2019), 18-25 and Mark CHOPKO, "Ministerial Public Juridic Persons – Civil Law Issues, Part II," in *RCRI Bulletin*, 22 (Winter 2019), 26-30.  
<sup>38</sup> See Mary WRIGHT, "The Development of Ministerial Public Juridic Persons: Questions and Challenges," *Proceedings of the 52<sup>nd</sup> Annual Conference of the Canon Law Society of Australia and New Zealand*, 2018, 16. Accessed July 12, 2021 at

<sup>39</sup> See Patricia DUGAN, "The Sponsorship Relationship: Incorporation and Dissolution Civil and Canon Law Perspectives," in R. SMITH, W. BROWN, N. REYNOLDS, eds., *Sponsorship in the United States Context: Theory and Praxis*, 76; MORRISEY, "Sponsorship of Catholic Health Care and Other Apostolic Works," 535.

### **6.1.1 – Diocesan or Pontifical Institute**

The canonical status of the M-PJP as diocesan or pontifical is an important element to be considered. If the ministry has been historically sponsored by a pontifical religious institute, the transition of the ministry to a new pontifical M-PJP would be consistent with its history. Similarly, if the founding religious institute is a diocesan right institute, the ministry would become a new diocesan M-PJP.

Another factor in determining the status of the M-PJP can be the geographic location of the ministry. If the ministry takes place in more than one diocese (e.g., schools of a charism group such as Dominican high schools, a Catholic health system with multiple sites in multipole dioceses, all educational or health care ministries of a single religious institute spread throughout a country, or a grouping of multiple ministries), it is more appropriate to relate directly to the Holy See than to multiple diocesan bishops. If the petition to the Holy See is for ministries of a pontifical religious institute carried out in a single diocese, the Holy See may determine that the new entity become a diocesan M-PJP rather than a pontifical one.

### **6.1.2 – Temporal Goods**

When a religious institute is considering petitioning for a ministerial public juridic person, it is important to address issues related to temporal goods, though this can be a complex task. Canon 1255 affirms the capacity for ownership of temporal goods by public juridic persons. Civil law recognition

of ownership is necessary through incorporation or other civil law structuring of church-related institutions. Canon 1257 describes the temporal goods of public juridic persons as “ecclesiastical goods” and explicitly states that they are subject to the norms of Book V of the *Code of Canon Law* and the statutes governing the public juridic person to which the goods belong.

Civil incorporation of educational or charitable institutions has no canonical effect on the institution’s previously acquired canonical status.<sup>40</sup> In many instances, these institutions belonged to the sponsoring religious institute as the apostolic work of a public juridic person in the Church. In situations where the deed to land and buildings used by the separately incorporated institution is kept in the name of the founding religious institute, the canonical status is less complicated. The canonical status of the separately incorporated institution remains an apostolic work of the institute which retains ownership of the real estate.<sup>41</sup>

In situations where the title to the land and buildings is transferred to the separately incorporated institution, the canonical status of the institution may be ambiguous. It may be intended as simply putting title to the property “in the name of” a separate civil corporation to ensure civil-law separateness with insulation from civil law liability with no intention to transfer ownership or alter the canonical status of the institution or property as belonging to the sponsoring religious institute. If, however, the intention

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<sup>40</sup> Robert KENNEDY, “McGrath, Maida, Michiels: Introduction to a Study of the Canonical and Civil Law Status of Church-Related Institutions in the United States,” 370. (=KENNEDY, “McGrath, Maida, Michiels”).

<sup>41</sup> KENNEDY, “McGrath, Maida, Michiels” 371.

is truly to transfer the ownership of the property, either as gift or sale, and to change the canonical status of institution, the norms for the alienation of ecclesiastical property must be followed.<sup>42</sup> It is important to distinguish between property belonging directly to the juridic person and that which is entrusted to another entity for a specific purpose.<sup>43</sup>

In more recent years, some educational or charitable institutions were established at inception as a civil corporation with all its assets from benefactors, donors, capital campaigns conveyed directly to the civil corporation rather than to the sponsoring religious institute. In these cases, none of the property of the separately incorporated institution was ever, canonically or civilly, the property of the sponsoring religious institute. It may also be the case where parcels of the property of separately incorporated institutions remain part of the apostolic work of the sponsoring institute and are considered ecclesiastical property whereas new construction and expanded facilities are assets built from money from governmental or private donors, campaigns intended for the institution and not for the sponsoring religious institute.<sup>44</sup> The canonical norms for alienation would have to be followed for a transfer of ownership of those portions of the property belonging to the religious institute.

Generally, the establishment of a M-PJP will involve the canonical alienation of church

property, though perhaps not all the property related to the ministry. The religious institute should determine which properties are to be alienated and which are not. The alienation does not have to occur at one time; it can be a gradual transfer of ownership. If the petition for a M-PJP includes alienation of property, the decree of erection establishing the new M-PJP usually includes permission to alienate.

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#### **6.1.2 – Civil Documents**

It is important that the civil documents reflect the requirements of the canonical statutes. For example, sponsors of the M-PJP and the sponsored institutions should ensure that the essential characteristics of Catholic identity are clearly and precisely incorporated in the legal documents of the civil corporation.<sup>45</sup> Canonical control must be clearly demonstrated in at least some of the reserved powers if sponsorship is to be considered canonical ownership.<sup>46</sup>

#### **6.2 – Questions for Reflection and Discernment**

In discussions and reflection regarding the M-PJP model of sponsorship, sponsors and

<sup>42</sup> KENNEDY, "McGrath, Maida, Michiels" 371, 373.

<sup>43</sup> MORRISEY, "Sponsorship of Catholic Health Care and Other Apostolic Works," 528.

<sup>44</sup> KENNEDY, "McGrath, Maida, Michiels" 370-377; See also BEAL, "From the Heart of the Church" 38.

<sup>45</sup> DUGAN, "The Sponsorship Relationship: Incorporation and Dissolution Civil and Canon Law Perspectives," 77.

<sup>46</sup> MORRISEY, "Sponsorship of Catholic Health Care and Other Apostolic Works," 535.

ministry leaders might to address questions such as the following:

- What is the motivation to consider a new canonical relationship with a ministry?
- How does the religious institute sustain the institute's charism and the founder's vision and values amid change?
- How can the institute be sure this model will continue to meet the needs of students, patients, clients, etc. in the future?
- How does the institute not lose its identity in the change?
- How does the institute attend to its members whose lives have been invested in the schools, colleges, universities, health care facilities, or other entities?
- How does the institute cope with major changes – loss of sponsorship and ministries?

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POPE FRANCIS.

These issues and their responses are critical to the discernment process and help to inform the shape of the structure and its canonical statutes. Pope Francis, in addressing the sustainability of apostolic works, recalled that "to be faithful commits us to an assiduous work of discernment, so that the works, consistent with the charisms, continue to be effective instruments to make God's tenderness reach many" Pope Francis.<sup>47</sup> What is clear is that the M-PJP model must have as a foundation: common vision, mission, and core values.

### **6.3 – Implications of the M-PJP for the Sponsoring Religious Institute(s) and Ministry**

With the establishment of a M-PJP, there are several implications for the sponsoring religious institute(s) and the ministry. In addition to the implications listed below, each situation may have additional ones.

- The purpose for the M-PJP for a Catholic school, college or health care facility is in keeping with the teaching and healing mission of the Church. Foremost, it ensures the continuity of the institution as a Catholic ministry in the tradition and charism of the founding religious institute(s).
- The relationship between the Catholic ministry and the religious institute is changed with the establishment of the institution as a M-PJP. The effect is that the canonical sponsorship of the

<sup>47</sup> FRANCIS, Message to the Participants at the Second International Symposium on the theme: "Re-Thinking the Economy of Institutes of Consecrated Life and Societies of Apostolic Life in Fidelity to the Charism," Rome, 25 November 2016, quoted in CICLSAL, *Economy and the Service of Charism and Mission*, no. 34.

institution is transferred from the religious institute to the new entity, that is, to the M-PJP. The religious institute is no longer the canonical sponsor.

- This change does not mean that the religious will not be involved in the governance of the M-PJP. The canonical statutes may provide for a number or percentage of the members of the governing body to be members of the sponsoring religious institute(s) for as long as it is possible.
- As a public juridic person in the Church, the property of the religious institute is ecclesiastical property subject to the norms of Book V of the *Code of Canon Law*. When a M-PJP is established, the decree of establishment often includes the transfer of ecclesiastical ownership of the property (usually exercised through reserve powers) from the sponsoring religious institute to the new canonical entity. The new M-PJP then exercises any reserve powers over the civil corporation.
- The sponsorship oversight for the institution benefits from women and men, both vowed religious and lay, who are experienced and knowledgeable of the Catholic Church and the Catholic ministry.<sup>48</sup>
- The M-PJP allows for greater stability in the oversight of the institution. For example, changes in sponsorship agreements, procedures and processes that might occur with changes in canonical leadership of the sponsoring institute are no longer necessary.
- While the relationship of the diocesan bishop to the ministry does not change, the person he contacts with questions or concerns does change. Rather than dealing directly with a provincial or superior general of the religious institute, he relates to the chairperson of the governing body of the M-PJP who may be a religious or a lay person.<sup>49</sup>
- Leadership formation for members of the governing body as well as for members of the institution's board of trustees is an important aspect of the new M-PJP in which the sponsoring institute plays a vital role. The leadership formation program provides a deeper awareness of the spirit of the institution and its religious heritage, distinguishing mission and ministry from business, Catholic Social teaching, administration of ecclesiastical goods, and understanding what it means to "function in the name of the Church."<sup>50</sup>

<sup>48</sup> Elias AYUBAN, "Ministerial Public Juridic Persons: Blessings and Challenges," in *Commentarium pro religiosus et missionis*, 95 (2014) 70.

<sup>49</sup> MORRISEY & HOLLAND, "Ministerial Public Juridic Person and their Communion with the Diocesan Bishop," 58.

<sup>50</sup> See Sharon HOLLAND, "Vatican Expert Unpacks Canonical PJP Process," *Health Progress*, September-October 2011, 59.

## 7 – M-PJPs and the Future

...THE M-PJP IS A MODEL THAT PRESENTS THE OPPORTUNITY FOR THE FOUNDING RELIGIOUS INSTITUTE AND/OR OTHERS TO ENSURE THE CONTINUITY OF THEIR MINISTRY'S CATHOLIC IDENTITY, MISSION, AND CHARISM.

The process for petitioning Rome for approval of a ministry as a M-PJP is a complicated and comprehensive one. Examples in this country can be found most often in the field of health care, and usually involve several religious institutes coming together to form a Catholic health care system with multiple facilities. While there are few M-PJPs for Catholic education in the U.S., today there is the beginning of significant discussions among religious sponsors and educational leaders regarding this option as a possibility for future structures of canonical governance. In addition, an increasing number of religious institutes are considering the M-PJP as a structure for multiple ministries, combining health care facilities, educational institutions, retreat centers and social service agencies into a single M-PJP. As religious institutes continue to plan for their future and the future of their apostolates, the M-

PJP is a model that presents the opportunity for the founding religious institute and/or others to ensure the continuity of their ministry's Catholic identity, mission, and charism.

### 7.1 – Ongoing Canonical Issues

As an increasing number of religious institutes engage in discernment regarding the future of their sponsored ministries, experience of the past thirty some years has shown that there are several ongoing canonical issues related to the growth of M-PJPs that could benefit for further research, study, and development. Below are few issues and proposals.

#### 7.1.1 – *Sponsorship Relationship*

According to the data collected by the National Religious Retirement office, the global pattern of demographic change in institutes of women and men religious in the United States, has been one of significant decline.<sup>51</sup> With a rising median age and a small number of new members, fewer religious are available to serve in governance roles in the institute itself as well as its sponsored ministries. Greater clarification regarding the expectations of a sponsorship relationship and its meaning in each ministry or institution can lead to fruitful dialogue, collaboration, and informed decisions for the good of the ministry.

#### 7.1.2 – *Criteria for Approval of M-PJPs*

A religious institute interested in considering a M-PJP for its ministries often is not aware of what questions to ask before

<sup>51</sup> See NRRO, "Age Distribution of Religious" at <https://www.usccb.org/offices/national-religious-retirement-petition-services/>. See also Stephanie STILL, "Canonical Governance Options and Possibilities for Collaboration," *RCRI Bulletin* 24: Winter 2020-2021, 4.



beginning a discernment process. Leaders will often consult a canon lawyer about the process and the criteria for establishment of a M-PJP by CICLSAL. While CICLSAL has developed an informal listing of canonical requirements for the petition, the materials are not easily available and, at times, are interpreted differently by different officials of the Dicastery. The situation could be remedied by the publication on its website of the relevant requirements and procedures regarding a petition for a M-PJP. An official publication by the Holy See would make the requirements better known and more easily available to religious leaders and their canonical advisors.

#### **7.1.3 – Competency for Approval of M-PJPs**

Since the first public juridic person for health care ministries in the U.S. was approved in 1991 by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, other pontifical religious institutes have submitted petitions for M-PJPs to CICLSAL for approval. With the development of lay leadership in Catholic health care and educational ministries and the appointment of competent lay men and women to serve in leadership roles on the governing bodies of M-PJPs now or in the future when religious are no longer available to serve in governance roles, the question arises regarding which dicastery or office in the Roman Curia is the most appropriate locus of competence for approval and oversight of pontifical M-PJPs. A response to this question is urgent if the Catholic identity of some Catholic educational and health care institutions, currently sponsored by religious institutes, are to retain their Catholic identity and relationship to the Church, given the decreasing presence of

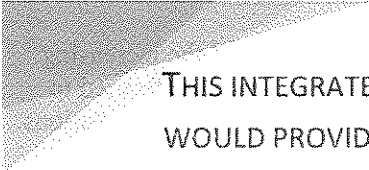
religious in governance and the increasing number of lay women and men formed to assume leadership roles in these institutions.

##### **7.1.3.1 – Proposal for an Expanded Review Perspective**

As the complexity of Catholic health care and Catholic education continues to raise issues in both canon and civil law, new challenges arise for those charged with reviewing canonical statutes (and civil statutes) for M-PJPs. CICLSAL might consider identifying canon and civil lawyers to serve as consultants or *periti* in the review of M-PJP petitions and accompanying documentation submitted for approval by the Dicastery. At least one of the consultants should have knowledge of the country where the M-PJP is to be established. The review would include an evaluation of the canonical and civil documents in light of the published canonical norms as well as the civil law requirements of the respective country. The findings would be communicated in a written report to the Dicastery.

##### **7.1.3.2 – Proposal for an Integrated Authority Structure**

In the light of the predictable increase in petitions for pontifical M-PJPs, as well as the continued decline in the presence of women and men religious in governing roles and limitations of staff time and proficiency in CICLSAL for the approval of petitions, an alternative process for approval should be considered by CICLSAL. CICLSAL would propose that the appropriate authority in the Holy See establish an Inter-Dicasterial Commission for the review, approval, and oversight of M-PJPs. The Commission would be composed of representatives from the Congregation for Institutes of Consecrated Life and Societies of Apostolic




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Life, Congregation for Catholic Education, Congregation for Bishops, Dicastery on the Laity, Dicastery for Promoting Integral Human Development, and include canon and civil lawyers from the countries where the M-PJPs are to be established. This integrated approach would provide a broader perspective for the review, approval, and oversight process for the M-PJPs. Such an approach also would provide for the annual review on the activities reported by the M-PJPs and facilitate communication between the M-PJPs and diocesan bishops.

#### **7.1.4 – Formation Programs for Lay Leaders**

The importance of ongoing formation for the future of M-PJPs cannot be over-stated and poses a major challenge for members of the governing body, especially for future generations of leaders. A significant requirement in the petition for a M-PJP is the development of a formation plan for members of the governing body and for the trustees of the member institutions. The challenge is to identify how best to form lay leaders, who already possess professional expertise and a commitment to the mission of the Church, to serve together with other lay, religious, and Church leaders in ways

that will ensure the Catholic identity of the M-PJP in the spirit of the charisms of the sponsoring institutes. This formation must respect the evolving charism of the M-PJP in an ongoing dialogue with Church representatives in the U.S. and in the Holy See. The formation of lay sponsors and board leadership plays a critical role in the future of the Catholic health care and education apostolates.



THE FORMATION OF LAY  
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Over the years, the M-PJPs and other organizations have provided programs to ensure in-depth doctrinal and pastoral formation for members of the M-PJP governing body as well as for those who were in leadership roles in the various systems.<sup>52</sup> The results have been very positive, although there remains more to do to ensure that the increasing number of qualified lay leaders will continue to assume responsibility not only for leadership roles in the M-PJP, while helping them to relate effectively with church authorities and their representatives, in a spirit of mutuality, harmony, and fidelity to mission.

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<sup>52</sup> MORRISEY & HOLLAND, "Ministerial Public Juridic persons and their Communion with the Diocesan Bishop," accessed July 13, 2021 at <https://www.chausa.org/publication/health-progress/article/november-december-2016/ministerial-juridic-persons-and-their-communion-with-diocesan-bishop>