



Nonprofit Law and Consultation

Contact:

Amy Hereford, CSJ
Attorney / Canonist
CSJ Ministries
6400 Minnesota Ave.
St. Louis, MO 63111-2807
Phone: 314-266-1814
Fax: 815-550-1329
www.ahereford.org

amyhereford <at> gmail.com

Newsletter - Summer 2010

Civil Structures of Institutes and Societies

Religious institutes and societies of apostolic life are established and organized for religious and spiritual purposes: following Christ in greater freedom, dedication to God and to a life of service. Initially, a group of people comes together around a particular vision, a particular experience of God, community and mission, and embraces a lifestyle that fosters commitment and growth. As the group moves forward, they will need certain structures to stabilize their vision. While lending stability, these structures should also have the flexibility to enable the life of the community to flourish.

The group will write its foundational document, i.e. its rule or constitution to set forth its basic inspiration, along with the structures that will give concrete form to that vision: prayer, consecration, community, mission, government, formation, etc. This document is written in the context of canon law, which provides a general outline of the currently acknowledged forms of consecrated life. In setting down the foundational vision in a rule, there is a balance between law and spirit.

The institute or society may exist as a single entity or juridic person under canon law. Alternatively, it may divide itself into major parts, often called provinces or regions, which are themselves also juridic persons. The division is often geographic, but it may also be along lines of ministry or some other factor. Each juridic person would be comprised of all the members, along with all the ministries of the institute or province, all its assets, and its governance structures.

In addition to its constitution and canonical structures, most institutes and societies elect to establish civil structures in order to function "in the marketplace." As individuals, members can buy and sell property and enter into contracts. However, in order to do this as a group, some civil structures are adopted to facilitate transactions of the entity. These civil structures are generally of three types: community corporations,

-
- [Newsletter](#)
 - [Web Seminars](#)
 - [Technical Requirements](#)
 - [Attorney](#)
 - [Nonprofit Checklist](#)
 - [Blog](#)
 - [Search](#)

- Copyright 2010 - Up to 10 copies may be made, author information must be included.

ministry corporations and retirement trusts.

Community Corporations - The institute or society, or the province of either, will generally form a civil corporation that will hold the property and carry out the business of the group as a religious community, providing for the living arrangements, governance, healthcare and retirement, education and formation of its members. Often, some ministry activities are carried out by this corporation as well.

Because the civil corporation is formed to carry out the activities of the institute or society, its civil governance structures should be tied to the canonical governance structures of the group. The purposes should reflect the purposes of the group, the corporate leadership and succession should be tied to that of the group as well.

Some institutes that have more than one house, separately incorporate some or all of their residences. Here too, the civil structures set up by the corporate documents should closely parallel the canonical structures so that community decisions can be given effect in the civil corporation.

Ministry Corporations - The group may decide to separately incorporate its ministries. This is done for a variety of reasons, separation of liability, separation of administration and compliance with federal and state regulation of the ministry, e.g. in healthcare, education and social services.

When a ministry corporation is established, and as it is governed, care must be taken to enable the institute or society to maintain its canonical relationship with the ministry. From a canonical point of view, ministries remain an integral part of a religious institute, even if they are separately incorporated under civil law. For this reason, the institute or society retains the responsibility to ensure that the ministry is carried out according to its own vision, it is also responsible to ensure that the assets are administered as ecclesiastical goods.

Both the civil documents, and the actual practice of community leadership and the ministry corporation should provide the civil mechanism to enable this relationship to continue.

Retirement Trusts - Since the 80s, many institutes and societies have established formal civil structures to hold and administer assets set aside to care for their aged and infirmed members. Generally a charitable trust

is used since it is an instrument designed to hold assets for the benefit of a beneficiary class. The civil structure serves to shield the assets from third party liability and protect them from internal diversion to operational needs, as well as providing a tool for administering the assets.

The advisability and administration of a trust will vary, depending on the circumstances of the institute that uses it. E.g. Is the institute one or many provinces? One or many houses? Will members retire in the institute's own facility? Is that retirement facility separately incorporated, or part of the institute's own corporation? How large is the retirement fund? How was it funded? How much individual retirement income do members have through social security or pensions?

Each group must examine its own circumstances to determine what sort of vehicle is most appropriate for the administration of its retirement assets. Whatever vehicle is chosen, care must be exercised in its establishment and operation, so that the institute's canonical leadership is able to carry out its responsibility for the care of the members and for the administration of the assets.

For more information on this topic, August's webcast will examine the civil structures of religious institutes. It will also discuss the interplay between canonical and civil obligations. November's webcast will be on canonical recourse, the process of seeking equitable solutions within the Church.

Civil Structures of Religious Institutes

Tuesday, August 17, 2010

Special Series*: Follow-up Webcasts on
Civil Structures of Religious Institutes
September 21, 2010 - Community Corporation
October 19, 2010 - Sponsored Ministries
January 18, 2011 - Retirement Trust

Canonical Recourse

Tuesday, November 16, 2010

Advanced Taxation of Religious - 2011 Update

Tuesday, February 15, 2011

Time: Tuesdays, 2:00 pm ET, 11:00 am PT

Register: www.ahereford.org/registration.html

Format: Live, On-Demand, CD-ROM Cost: \$65

***Special Series** - The special series on civil structures of religious institutes will examine each of the structures in more details and may be helpful for those who are considering changing or updating their structures. Participants may sign up for the entire series of four webcasts for the discounted price of \$230, or they may register for any of the individual programs.

Recorded Webcasts: Not available for a webcast? You can register to view it On-Demand or on CD-ROM.

An On-Demand webcast is available for those who are unable to attend the webcast live. It is generally available within 48 hrs after the live webcast and may be view at your convenience over a several month period. The program can be downloaded or viewed on the web. (More environmentally friendly than the CD-ROM below)

In addition, webcasts are also offered on CD-ROM. This format is especially helpful for those without access to high speed internet. CD-ROMs are shipped a few weeks after the webcast.

If I can be of any assistance to your organization, please do not hesitate to contact me.

Peace,

Amy Hereford

**A webcast is a seminar delivered over the internet.*

[Printable Newsletter](#)