RECOGNITION OF NATIONAL CATHOLIC ASSOCIATIONS

Guidelines for the CCCB and Associations of the Faithful

Commission for Relations with Associations of Priests, Religious and Laity
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CANADIAN CONFERENCE OF CATHOLIC BISHOPS
2500 Don Reid Dr., Ottawa, Ontario K1H 2J2
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At their Plenary Meeting of October 1989, the bishops of Canada decided unanimously to replace the Commission for Ministries and the Apostolate with the Commission for Relations with Associations of Priests, Religious and Laity. In so doing, they wished to equip the Canadian Conference of Catholic Bishops (CCCB) with a structure which, taking account of the actual needs of the People of God, would enable the CCCB:

1) To assure dialogue and possible meetings with the national associations of priests and deacons, the Canadian Religious Conference, and the associations of Catholic laity having a national character.

2) To decide which associations or movements, whether new or old, might receive its “official recognition”.

As clearly laid down in the mandate, it is the duty of this Episcopal Commission, in collaboration with the Commission for Canon Law/Inter-Rite and in light of the Code of Canon Law and the Apostolic Exhortation Christifideles laici, to establish rules and procedures to guide the CCCB when it considers possible recognition of an association. This would involve the evaluating of associations at the national level, approving or recognizing their statutes, weighing the advantages of national recognition by the CCCB, and assessing the effects of such recognition in regard to the interests of existing associations already approved and having similar objectives.

These guidelines for recognizing national Catholic associations have been drawn up from that perspective. The CCCB, in specifying and clarifying the various aspects of this project, helps better define the sphere of activity proper to the Conference and at the same time allows interested associations to understand

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better the implications and the nature of their commitment when seeking official recognition. Official recognition of an association creates links between the association and the authority granting recognition, and these are juridically recognized by Canon Law. Each party must in turn accept its measure of responsibility.

Since its beginnings, the CCCB has sought to develop links with different ecclesial movements or associations, including consulting, exchanging information, and collaborating on various projects. This, in itself, constitutes a kind of informal recognition by the episcopate. In most cases, it is difficult to specify further the kind of link which exists between the CCCB and such an association. Accordingly, there is much work to be done in order to identify and accurately determine the status of associations, especially of those which seek to be associated with the CCCB. Some organizations have already expressed the desire to be officially recognized as associations of the faithful. May these guidelines help the CCCB and the organizations concerned understand better their respective roles in the important but complex question of recognizing associations of the faithful.

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PART 1

RIGHT OF ASSOCIATION IN THE CHURCH

1.1 A fundamental right

The new Code of Canon Law, promulgated January 25, 1983, in treating of the obligations and rights of the faithful, formally recognizes that the right of association is a right proper to all the faithful within the Church (Book II, The People of God, part 1):

Can. 215 Christ's faithful may freely establish and direct associations which serve charitable or pious purposes or which foster the christian vocation in the world, and they may hold meetings to pursue these purposes by common effort.

Does this canon change anything in the life of the Church? The former law (1917 Code) recognized associations of the faithful, but they were in fact associations of the laity. In the new Code, the term fideles means all members of the Church, in accord with each one's state and condition: lay person, priest, deacon, religious man or woman, bishop. Hence, the right of association pertains to all members of the Church. What is mainly new is that the Church recognizes the right of association not merely as a concession by competent authority but as a fundamental right based on the relational character of the person, that is, the social nature of the human being and the interrelationship of Christian communion. The prescriptions contained in the new Code (cc. 208-223) directly or indirectly are practically what could be called the Charter of Obligations and Rights of the faithful in the Church.

The canon following, which deals with the right of the faithful to initiate an activity, is even more explicit than c. 215:

Can. 216 Since they share the Church's mission, all Christ's faithful have the right to promote and support apostolic action, by their own

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2 The Code of Canons of the Eastern Churches, promulgated in 1990, also deals with the right of association in canons 18 and 19.
initiative, undertaken according to their state and condition. No initiative, however, can lay claim to the title “catholic” without the consent of the competent ecclesiastical authority.

If every member of the faithful then has the right to establish and direct an association, the responsible authority in the ecclesial community reserves to itself the right to intervene when the members of an association or those in charge of it desire to acquire official status in the community. No association is, however, bound to seek such status. In the Church there can be associations of the faithful which are recognized as such and others which are not; however, these latter are de facto associations.

1.2 Exercise of the right of association

The faithful must take account of the common good of the Church, the rights of others and their own duties toward others when exercising their right of association, whether personal or collective, as also in exercising their other rights as indicated by the Code: the right to a Christian education (c. 217); freedom of research (c. 218); freedom of choice of a state of life (c. 219); right to express an opinion (c. 212); right to receive spiritual goods (c. 213); right to worship God (c. 214); right to a good reputation and to privacy (c. 220); right to vindicate one's rights (c. 221). In the interest of the common good of the Church, the competent ecclesiastical authority has the right to regulate the exercise of rights which belong to the faithful (c. 223 - §1 and §2).

Whether it be a question of associations of the faithful duly recognized as private or established as public associations, or of de facto associations without such status, the ecclesiastical authority may and indeed sometimes is bound to intervene if by an association's activities, the common good is endangered in some way: threat to public order; danger to the integrity of the faith or morals, disregard for statutes or for ecclesiastical discipline. When an association has been recognized, it can be suppressed by the authority which established it (cc. 320 and 326). When it has not such status, it remains like all associations of Christ's faithful... subject to the supervision of 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... (c. 305 - §1). Competent authority certainly always may and sometimes must warn the faithful against an association which conflicts with the mission of the Church, and may even condemn an association.
PART 2

ASSOCIATIONS OF THE FAITHFUL: COMMON NORMS

That part of the Code which treats specifically of associations of the faithful forms a body of thirty-two canons (cc. 298-329). These could be called the canonical framework (loi-cadre) establishing the juridical status of associations of the faithful in the Church. The first fourteen canons (cc. 298-311) lay down basic norms common to every association having status in the Church. The nine following canons (cc. 312-320) give the rules which govern public associations of the faithful, while canons 321-326 deal with private associations of the faithful. The remaining canons (cc. 327-329) constitute special norms of an exhortatory character for associations of the faithful and discuss esteem-solidarity, cooperation and the lay apostolate.

2.1 Language of the Code

The language which the new Code uses in treating associations of the faithful is relatively new in comparison with that of the 1917 Code. In the latter, the canonical framework, with the exception of third orders, confratemities and certain pious unions such as Marian congregations, served often as a step toward the foundation of institutes of consecrated life; with the new Code, the dispositions of the law deal specifically with the establishment of associations of the faithful which will normally remain as such. This does not mean that establishment as an association of the faithful cannot continue being a normal step before the association later evolves into a religious institute.

As regards language, the new Code at times omits a clear definition of the terms in question. Some important terms are in danger of causing difficulties. What is meant by the term association? What is the import of the word recognition, of canonical establishment?
2.1.1 Meaning of the term “association”

Neither the Code nor the exhortation Christifideles laici gives a precise definition of the term association. John Paul II, in his exhortation, uses it in a rather broad sense when referring to different forms of coming together, as groups, communities or movements. Nevertheless, in the canonical framework of the Code, the meaning appears to be more restricted, demanding a certain stability both as regards the association as such and as regards the members themselves. It should be recalled that canonical establishment and the approval of its statutes confers juridical personality on a public association of the faithful. This personality by its nature is perpetual. It is the same in the case of a private association which has asked for and received juridical personality.

As far as movements are concerned, it remains to be seen how far each has the common characteristics of associations of the faithful. Certain movements, as their name indicates, are constantly evolving: they have no statutes and often their members are transient.

2.1.2 Nature of recognition

When examining what John Paul II says in his exhortation Christifideles laici (no. 30), as regards forms of personal and collective participation in the life of the Church, as well as the criteria of ecclesiality either for recognizing associations of the faithful or for the service of pastors for ecclesial communion (no. 31), one finds no precise definition of the nature of official recognition:

It is exceedingly opportune that some new associations and movements receive official recognition and explicit approval from competent Church authority to facilitate their growth on both the national and international level (no. 31).

Repeating the words of the Council, the Pope adds:

Depending on its various forms and goals, the lay apostolate provides for different types of relationships with the hierarchy. Certain forms of the lay apostolate are given explicit recognition by the hierarchy, though in different ways.

It seems that official recognition here does not necessarily entail a juridical act but rather is pastoral. Pastoral recognition does not confer any ecclesiastical status on an association or movement. Responding to the duty of supervision by those responsible for the People of God, is equivalent to a nihil obstat for an association of the faithful, understood in the broad sense of a movement or group.

Recognition as in the Code of Canon Law constitutes without doubt a juridical act, since it is a question of recognizing the statutes of an association. By that very fact, recognition becomes juridical recognition which only an association in the strict sense can receive. Recognition of this type grants formal juridical status.

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to an association of the faithful which hitherto was only a de facto association. According to the canonical framework, it becomes a private association without being thereby constituted a juridical person. It is possible, however, for a private association to ask for and obtain juridical personality. In this case, the statutes must be not merely recognized but approved. It is clear that juridical recognition directly commits the association to respect its statutes according to the Church's criteria of ecclesiality, and requires more of a commitment by the competent authority.

According to law, juridical recognition can be granted, depending on the situation, only by the diocesan bishop, a conference of bishops or the Holy See. A regional episcopal assembly cannot grant juridical recognition, since in this regard it is not, according to law, a competent authority. On the other hand, pastoral recognition can be granted by a diocesan bishop as well as by a group of bishops (for example, a regional assembly) or an episcopal conference, since this recognition does not involve a juridical act.

2.1.3 Import of canonical establishment
The expression establishment creates no problems since it refers essentially to a juridical act which results in giving an association the status of a public association of the faithful; in itself this entails granting juridical personality. One of the characteristics of a public association is it exercises its mission in the name of the Church. In brief, to establish an association of the faithful as a public association means that the authority which establishes it grants, as it were, a formal and public mandate to that association.

2.2. Certain important distinctions regarding the different categories of associations of the faithful
There certainly exist important differences among various associations, even though they all pursue objectives which belong to the Church's mission. This is due to the specific character of each association. It is only by considering purposes of associations of the faithful, their different categories, their organization and the situation of their members, that one may form a clear idea of their nature. The foregoing are but common characteristics. Each association adopts its own proper form which assures its own clearly defined character and tasks within the mission of the Church.

2.2.1 Nature of associations of the faithful (cc. 298-308)
Canon 298 states precisely the nature of associations of the faithful in the Church:

Can. 298 – §1 In the Church there are associations which are distinct from institutes of consecrated life and societies of apostolic
life. In these associations, Christ's faithful, whether clerics or laity, or clerics and laity together, strive with a common effort to foster a more perfect life, or to promote public worship or Christian teaching. They may also devote themselves to other works of the apostolate, such as initiatives for evangelization, works of piety or charity, and those which animate the temporal order with the Christian spirit.

§2 Christ's faithful are to join especially those associations which have been established, praised or recommended by the competent ecclesiastical authority.

The first paragraph of this canon identifies those essential elements that express the nature of associations of the faithful and help guide the competent authority in choosing to decide whether to grant or refuse juridical status to an association: In the Church there are associations distinct from institutes of consecrated life and societies of apostolic life.

There is first of all in this statement the image of the particular type of association found in institutes of consecrated life and societies of apostolic life. Lumen Gentium⁴ (no. 44), speaking of the nature and importance of the religious life in the Church, brings out clearly the specific nature of the consecrated life:

The faithful of Christ can bind themselves to the three aforesaid evangelical counsels (chastity, poverty and obedience) either by vows or by other sacred bonds which are like vows in their purpose. Through such a bond, a person is totally dedicated to God by an act of supreme love, and is committed to the honour and service of God under a new and special title....

Thus, although the religious state constituted by the profession of the evangelical counsels does not belong to the hierarchical structure of the Church, nevertheless it belongs inseparably to the life and holiness of the Church.

In this statement we find the common or generic idea of institutes of consecrated life incorporated into c. 573 – §1 and §2 of the new Code. The public profession of the evangelical counsels and the free assumption of their obligations whether by public vows or other sacred bonds (solemn oaths, or promises in secular institutes), constitute the fundamental elements, both theological and canonical, of institutes of consecrated life. Other elements such as community life or separation from the world are complementary.

In societies of apostolic life, their members, without taking religious vows, pursue the apostolic purpose proper to each society. Living a fraternal life in common in their own special manner, they strive for the perfection of charity

⁴ Second Vatican Ecumenical Council, Dogmatic Constitution on the Church, Lumen Gentium, 1964, no. 44.
through the observance of the constitutions (c. 731 – §1). For some of these societies the commitment to live the evangelical counsels is through a bond defined in the constitutions (c. 731 – §2), a bond which is not that of public religious vows. Societies of apostolic life thus are institutes of perfection, the equivalent to societies of common life or societies of secular life, which are characterized by an apostolate, life in common and seeking for the perfection of charity, as according to their constitutions.

All these constitutive elements for institutes of consecrated life and societies of apostolic life underline the fundamental difference between these institutes and societies, and associations of the faithful. Moreover, not only can associations of the faithful be exclusive associations of lay persons, religious men, religious women, or clerics, but they can also bring together persons from these various groups as members of one and the same association.

Canon 215 had already determined three generic purposes justifying the exercise of the right of association: charity, piety, and the promotion of the Christian vocation in the world. Canon 298 – §1 briefly recounts these same three purposes, without, however, going into greater detail, which may indicate the list is limited. The objectives of associations of the faithful may be as numerous and as varied as Christian life itself proposes. Nevertheless, the purposes identified in c. 298 – §1 constitute points of reference or criteria to be borne in mind where an association seeks recognition from the competent authority. Such purposes are to:

i) foster a more perfect life
ii) promote public worship
iii) promote Christian teaching
iv) exercise other apostolic activities, such as:
   • initiatives of evangelization
   • works of piety or charity
   • works which animate the temporal order with the Christian spirit.

There is room, then, in the Church for a variety of associations of the faithful. The mere use of the words other apostolate allows for a very broad interpretation.

The second paragraph of c. 298 invites the faithful to join especially those associations which have been established, praised or recommended by competent ecclesiastical authority. One can easily deduce from this that over and above these categories of associations that are established, praised or recommended – and the different juridical status they enjoy, there are other associations. Arising naturally from the right of association and from the right of initiative, they remain without juridical status and constitute de facto associations.
2.2.2 Different categories of associations of the faithful (cc. 299-303)

According to the 1917 Code, associations of the faithful were, in reality, pious associations, including third orders, confraternities, pious unions, and sodalities (that is, unions which were ad modum organici corporis constituae). These pious associations, also called ecclesiastical associations, were from the canonical point of view either simply approved associations or canonically established associations.

The new Code no longer uses this terminology. Even if its distinctions do not turn out to be very precise nor systematic, nevertheless the present canonical framework refers to different kinds or categories of associations: catholic association, clerical association, and third orders. In distinguishing private associations from public associations, it is concerned with their juridical status. For practical purposes, associations may be reduced to three principal groups:

A. By reason of their juridical status

a) De facto associations, established in virtue of the fundamental right of association according to c. 215 and which do not enjoy any formal canonical status.

b) Private associations, established by private agreement among members of the faithful and whose statutes have obtained recognition from competent authority. Recognition of the statutes of an association becomes the formal element in the recognition of the association itself, and thereby confers on it the status of a private association.

c) Public associations, which may have originally been established either by private agreement or by the competent authority itself; they are established by ecclesiastical authority, which must approve their statutes and thereby they ipso facto acquire juridical personality. It is therefore by being duly established that an association of the faithful is constituted a public association; on the other hand, an association which is merely praised or recommended is a private association.

It is clearly laid down in c. 300 that no association may call itself “Catholic” except with the consent of the competent ecclesiastical authority, in accordance with c. 312. In affirming the right of initiative, c. 216 had already forbidden any undertaking arising from this initiative to laying claim to the title “Catholic” without the consent of competent ecclesiastical authority. This prohibition applies also to Catholic schools as is explicitly stated in c. 803: No school, even if it is in fact Catholic, may bear the title “Catholic school” except by the consent of the competent ecclesiastical authority.

B. By reason of their members

a) Lay associations: Consisting of lay faithful, these are associations for and directed by the laity; when necessary, they are accepted as such by competent authority.
b) Clerical associations: to be designated clerical, these must, according to c. 302, fulfil three conditions:
• be directed by clerics
• exercise sacred orders
• be accepted as such by competent authority.

These three conditions must be realized at the same time. Such an association may be formed solely of deacons or exclusively of priests. Nothing prevents bishops forming a clerical association open only to their brother bishops. As for a conference of bishops, it would seem difficult to classify it as a clerical association, since it is not a free association as such (c. 450).

c) Mixed associations: composed of lay persons and clerics or religious men and women; in the words of c. 298, these are associations in which Christ's faithful, whether clerics or laity, or clerics and laity together, strive with a common effort....

d) Third orders: these are associations whose members live in the world but share in the spirit of some religious institute, under the overall direction of the same institute, and who lead an apostolic life and strive for Christian perfection (c. 303); they are called third orders or another suitable title. The canonical framework of the present Code for associations of the faithful omits mention of some associations listed in the 1917 Code (secular third orders, confraternities, pious unions). It expands, however, the understanding of the third order and broadens its scope.

In the past, a secular third order indicated lay persons or even secular clerics who, in the world were living the spiritual and apostolic values of a religious order composed of men (the first order) and women (the second order). From now on, the title third order can be applied to associations of the faithful whose members live in the world and share in the spirit of any religious institute. The title third order, therefore, is no longer exclusive to only certain religious orders. In addition, associations of this kind, which are called by some other suitable title are under the overall direction of that same institute. Those faithful who are grouped around a number of institutes of consecrated life, whether of men or women, and are generally called associates, belong in this category.

C. By reason of the competent authority or of territoriality

The term competent authority has been used several times since the beginning of this text. Each time, it was used in accordance with c. 312, where authority for establishing public associations and recognizing private associations is linked to territorial ecclesiastical jurisdiction unless it be a question of associations, the right to whose establishment is reserved to others by apostolic privilege. With this clarification it is possible to classify three types of associations of the faithful:

a) International or universal associations: these are intended to exercise their activity throughout the Church. The Holy See is the competent authority to grant such status.
b) National associations: these are intended to exercise their activities at the national level. It is not necessary that such associations have members throughout the country or in every diocese. When using the term national, we must take account of the two linguistic sectors which are recognized as part of the structure of the Canadian Episcopal Conference. Thus, it is possible to have mixed national associations, that is, composed of Catholics from both sectors, or sectoral national associations which recruit members from only one linguistic sector. Moreover, it could include associations originating in known ethnic groups (for example, Ukrainians, Slavs, or Native Peoples), whether these are spread over the whole national territory or more strongly concentrated in a particular region. The Canadian Conference of Catholic Bishops is the competent authority for granting status to such associations.

c) Diocesan associations: in principle, these are intended to exercise their activities at the diocesan level; the diocesan bishop is the competent authority for granting status to such associations.
Every association of the faithful in its own particular way, constitutes a society since therein it exercises its rights, undertakes obligations and pursues its common purpose or a common good. As in every society, an association of the faithful must have a minimum of organization so that its members are enabled to pursue efficaciously their objectives and purposes. That is why the Code of Canon Law attaches great importance to the statutes of associations, the need for supervision on the part of the competent authority, as well as the quality of the members forming associations of the faithful.

3.1 Statutes of associations of the faithful

The canonical framework of the Code makes the statutes of an association of the faithful an essential element for its juridical status:

Can. 304 – §1 All associations of Christ’s faithful, whether public or private, by whatever title or name they are called, are to have their own statutes. These are to define the purpose or social objective of the association, its centre, its governance and the conditions of membership. They are also to specify the manner of action of the association, paying due regard to what is necessary or useful in the circumstances of the time and place.

§2 Associations are to select for themselves a title or name which is in keeping with the practices of the time and place, especially one derived from the purpose they intend.

This canon is further clarified by c. 299 – §2, which determines that Associations of this kind, even though they may be praised or commended by ecclesiastical authority, are called private associations. The same prescription applies also to public associations, as is clear from c. 314:
Can. 314 The statutes of any public association 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.

Such insistence on the part of the Code demonstrates the overall importance of statutes for an association. They represent the stable element of an organization, somewhat like a constitution for a state. They are the source of reference for all members with regard to their rights and their obligations. They remind the group of the objectives and purposes it should pursue. For this reason, c. 304 - §1 prescribes the essential elements which should be present in the statutes of an association:

- at the level of definition
  - the purpose or social objective of the association
  - the centre or headquarters of the association
  - its form of governance
  - conditions of membership

- at the level of specification
  - manner of action or methods of pursuing the activities of the association.

Briefly, the statutes of an association should contain sufficient elements to allow an interested member of the faithful to be able to obtain as much precise information as possible about an association before joining it. Several other canons, as for example canons 94, 451, 506, 587, 1232 are such as could guide an association working to draw up its statutes.

3.2 Supervision by competent authority

Competent authority has the right and the duty of supervising the Christian community. The Church, in granting juridical status to an association of the faithful, engages itself in a particular way. It is obvious that the Church's duty and right, even in ordinary circumstances, have a particular firmness by being defined both by universal law and by the particular law in the statutes. The right and the duty of supervision are exercised in accordance with the law and the statutes, as expressed in c. 305:

Can. 305 - §1 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, in accordance with the law and the statutes. Associations are also subject to the governance of the same authority in accordance with the provisions of the canons which follow.
§2 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.

The Church is the sacrament of that unity which allows the People of God to be the Body of Christ. Responsible authorities in the Church are especially sensitive to every expression of the communion of the faithful. They are thereby directly concerned, as when public order is in question. For that reason, the prescription of the present canon might be applicable to every association of the faithful, whether or not such association enjoys juridical status in the Church. Even if the text speaks of all associations of Christ’s faithful (§1) and associations of every kind (§2), it seems evident from the context that public and private associations are in question here.

The purpose of supervision by competent authority is to preserve the integrity of faith and morals and to ensure that abuses in ecclesiastical discipline do not creep in (§1). However, it includes many other aspects, as determined in various canons of the Code.

In concrete terms, the Holy See is constituted the competent authority to exercise supervision over every association of the faithful, whether it be public or private, diocesan, national or international. The local Ordinary as such, exercises supervision over diocesan associations, and other associations to the extent that they work in the diocese (§2). The local Ordinary may intervene, should there be reason, not only when a diocesan association has its headquarters in his diocese, but when an association of the faithful, diocesan or not, is active in his diocese, even if its headquarters is elsewhere. How to intervene and the reasons for so doing would vary from case to case and according to the nature of the association.

3.3 Membership in an association (cc. 306-308)

In an association of the faithful, the most important element is the faithful themselves who form the voluntary union. They are the members and at the same time the principal agents of a common undertaking. Since associations of the faithful are by their nature voluntary, the faithful should know that their rights will be protected or promoted and that enrollment in a group also entails obligations. It is with this in mind that many of the prescriptions of the law and statutes have been established; the most fundamental of these concern the membership of the faithful, their admission and their dismissal.

3.3.1 Conditions of membership

By belonging to any collectivity or social group, a person is identified as part of that collectivity or group. Membership, however, is subject to certain primary or minimal conditions. Membership in an association of the faithful has not escaped this norm, as is laid down in c. 306:
Can. 306 To enjoy the rights and privileges, indulgences and other
spiritual favours granted to an association, it is necessary and suf-
ficient that a person be validly received into the association in
accordance with the provisions of the law and with the associa-
tion’s own statutes, and be not lawfully dismissed from it.

This canon mentions the two fundamental conditions in order that a person may
enjoy the rights and benefits derived from an association: that a person be validly
received into the association... and be not lawfully dismissed from it. These con-
ditions are given as principles. The canons which follow will return to this. But
c. 306 is concerned with the association’s own statutes. These contain the condi-
tions for valid admission as also for lawful dismissal.

3.3.2 Admission of the faithful

Here again, the canonical framework indirectly shows the importance of statutes
for an association:

Can. 307 – §1 The admission of members is to take place in accor-
dance with the law and with the statutes of each association.

§2 The same person can be enrolled in several associations.

§3 In accordance with their own law, members of religious insti-
tutes may, with the consent of their Superior, join associations.

As already prescribed in c. 304 – §1, the statutes of an association are to contain
conditions of membership. Since each particular association of the faithful has as
its purpose the accomplishment of one aspect of the mission of the Church, the
same person can be enrolled in several associations (c. 307 – §2). The former
Code (c. 705) prohibited members of one third order from being also members
of another third order.

The text of §3, while recognizing the fundamental right of members of religious
institutes to join associations, is, however, careful to refer to the proper law of
each institute as well as to prescribe the consent of the superior. All associations
of the faithful may not be compatible with all types of religious institutes. Those
devoted to the contemplative life come to mind.

3.3.3 Dismissal of a member

To remain a member of an organization or an association, one must fulfill the
obligations assumed. The dismissal of a member should be based on serious
reasons, in accordance with the law and the statutes.

Can. 308 No one who was lawfully admitted is to be dismissed from
an association except for a just reason, in accordance with the law
and the statutes.
Can. 305 – §1 does not prescribe that the conditions for dismissal from an association of the faithful be included in the statutes. Such is obvious, since these are implied in the conditions of admission. In brief, if someone wishes to be admitted as a member of an association, he or she must make a commitment to embrace its purposes, methods of activity, government, and so on. If the member no longer respects this commitment, it could be considered that the member has excluded him or herself. This, however, is not sufficient. The statutes being, as it were, guardians of the rights and duties of the members and of the association itself, should specify dismissal and likewise the procedure to be followed.
Whether they are established into juridical persons or not, associations of the faithful must function in a manner which will allow them to fulfil their specific goals. This way of functioning should also enable their members to play an effective role. It is for this reason that the canonical framework of the Code lays down some general principles to guide the operations of every association, whether public or private, as well as a series of norms based on their respective characteristics.

4.1 Some general principles

One principle concerns the internal working of associations, a second their external functioning and a third deals with the cooperation that should exist among different associations.

4.1.1 Internal activity

According to the canonical framework, internal functioning includes whatever an association needs to exercise its internal activity:

Can. 309 Associations that are lawfully established have the right, in accordance with the law and the statutes, to make particular norms concerning the association, for the holding of meetings, and for the appointment of moderators, officials, ministers and administrators of goods.

The expression associations that are lawfully established applies both to private and public associations. Nevertheless, the exercise of this right to make particular norms depends on the juridical status of each association. Hence, it can differ from one association to another.
4.1.2 External activity

If every association enjoys the right to lay down special rules regarding its internal activity, that is not the case in regard to external activity. An association must be constituted a juridical person in order for it to function externally. Otherwise, it cannot be considered as a subject of duties and of rights:

Can. 310 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.

Only public associations acquire juridical personality by the decree establishing them as public associations. A private association wishing to obtain juridical personality must ask for it explicitly and fulfil the conditions laid down in the law.

What happens then to a private association which has not asked for juridical personality? It must first respect the obligations it has contracted toward its own members. These members can jointly contract obligations. As joint owners and joint possessors they can acquire and possess rights and goods. Each member then is responsible for his or her part of the obligations and rights which have been jointly contracted.

The temporal goods possessed jointly by the members are not ecclesiastical goods and consequently are not subject to canonical norms which govern these. They remain private property. Since the association cannot act as a body or juridical person, the members can only exercise their rights and obligations through the intermediary of an agent or proxy. It must be underlined that this is not necessarily accepted in civil law. Obviously, all this should be foreseen in the statutes.

4.1.3 Cooperation among associations

Since associations united in some way to an institute of consecrated life are called to exercise their apostolate within the diocesan church and under its vigilance, they will seek to collaborate with other associations devoted to the exercise of the apostolate within the diocese.

Can. 311 Members of institutes of consecrated life who preside over or assist associations which are joined in some way to their institute, are to ensure that these associations help the apostolic works existing in the diocese. They are especially to cooperate, under the direction of the local Ordinary, with associations which are directed to the exercise of the apostolate in the diocese.

This especially concerns associations linked in some manner to an institute of consecrated life as discussed in c. 303 and referred to as third orders or some
other suitable title. In fact, c. 311 reminds religious directors and their assistants that such associations cannot be solely devoted to the works and mission of the institute from which they take their inspiration, but must first of all be placed at the service of the apostolate of the faithful. Consequently, they may not dissociate themselves from the apostolic works existing in the diocese.

4.2 Norms linked to the character of the associations

Each association is called upon to conduct its activities in accordance with its nature, that is to say its functioning depends on all its fundamental characteristics. The canonical framework of the Code provides norms applicable to associations according to their individual canonical identity, be they public or private associations of the faithful. These norms give the associations a body of characteristic traits.

4.2.1 Characteristic traits of public associations of the faithful

These distinguishing traits are found in examining the nature of every public association and its operations: the admission of members, the function of its director and chaplain and, if appropriate, its suppression.

4.2.1.1 Nature of a public association (cc. 312-315)

Two fundamental traits distinguish a public association from other types: it is established and this establishment confers on the association ipso facto juridical personality.

a) Who can establish a public association of the faithful?

According to c. 312 only the competent authority can establish an association. As already mentioned, this term competent authority is in reference to the territory of ecclesiastical jurisdiction and to the territory where an association is to carry out its activities.

Can. 312 – §1 The authority which is competent to establish public associations is:

1 the Holy See, for universal and international associations;

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

3 the diocesan Bishop, each in his own territory, but not the diocesan Administrator, for diocesan associations, with the exception, however, of associations the right to whose establishment is reserved to others by apostolic privilege.
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, however, 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.

The first part of this canon refers to the principle of territoriality, unless it concerns associations whose establishment is reserved to others by apostolic privilege. This is true of certain confraternities and third orders, which pertain to the competence of specifically approved religious orders. For example, the establishment of sodalities of the Rosary is lawfully reserved to the Dominican Order. But as a general rule, the competent authority is that which exercises jurisdiction over the territory where the association is intended to carry out its activity.

The second part of the canon determines that the establishment of an association or branch of an association in the diocese to be valid requires the written consent of the diocesan bishop. It is useful to recall this is the same competent authority for recognizing every private association (c. 299 – §3).

Save for the case where an association has been founded by the Holy See itself or by a conference of bishops, according to c. 301, an association of the faithful begins by being established as a diocesan association, usually after being a de facto association and a private association.

Once an association has been established in one diocese, it does not need to be newly established by the bishop of another diocese where it wishes to carry on its activities. Nevertheless, it must obtain the agreement of the local bishop in order to carry on its activity or establish itself there. A similar obligation binds religious institutes (cc. 678-684) with regard to the local bishop.

A diocesan association which is spread throughout all the dioceses of the episcopal conference or at least in several of them, does not by that mere fact become a national association. In the same way, if an association is present in several countries, it does not thereby become a universal or international association in the canonical sense. It must be established as such by the competent authority, either the episcopal conference or the Holy See.

It is not to be forgotten that the bishops of an ecclesiastical province or of an episcopal region are not considered the competent authority for establishing an association of the faithful. However, nothing prevents a group of bishops from issuing a common statement praising or recommending an association. This act does not confer juridical status on the association.

b) Juridical personality

An association of the faithful is constituted a juridical person by the decree which establishes it as a public association:
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 authority competent in accordance with c. 312. Moreover, insofar as is required, it thereby receives its mission to pursue, in the name of the Church, those ends which it proposes for itself.

Juridical persons are in canon law subjects of obligations and rights which accord with their nature (c. 113 – §2). They are aggregates of persons or of things which are directed to a purpose befitting the Church’s mission, which transcends the purpose of the individuals (c. 114 – §1). These aggregates are constituted either by a provision of the law itself or by a special concession given in the form of a decree by the competent authority (Idem).

In regard to a public association, insofar as is required, it thereby receives its mission to pursue, in the name of the Church, those ends which it proposes for itself (c. 313). An association of the faithful to which such a mission has been entrusted receives public juridical personality according to c. 116 – §1. A question remains, however, on the interpretation of this part of c. 313: Does every public association of the faithful necessarily acquire public juridical personality by the fact of being established as a public association? It all depends on how to interpret insofar as is required. If these words signify that an association might not receive the mission to accomplish its ends in the name of the Church, it would be necessary to conclude that a public association could receive private juridical personality. On the other hand, if they signify that a public association always receives the mission to pursue its ends in the name of the Church but within the limits allotted to [it...] and in accordance with the provisions of law (c. 116 – §1), then it must be concluded that every association of the faithful established as a public association always receives by law public juridical personality. The extent to which a public association of the faithful pursues its proper ends in the name of the Church may differ from one association to another, according to the mission received in this sense. The latter interpretation seems the more probable.

The fact that an association of the faithful receives public juridical personality on being established as a public association is an important legal requirement. Up to a certain point, the Church takes on the objectives of the association, its form of activity, etc., since it entrusts the association with a mission to act in the Church’s name.

The text of c. 313 speaks of a public association or a confederation of public associations. This is an invitation to proceed by analogy.

Since there exist, de facto associations and private associations, in addition to public associations, it is possible that besides confederations of public associations there could also exist confederations composed of de facto associations or of private associations. The differences and the similarities among the various confederations would be proportionately the same as those which exist among the different categories of associations of the faithful. Thus, a confederation of merely de facto associations would not need to be recognized or established by
anyone. A confederation of private associations, like every private association, would need to receive recognition from competent authority; it would not have juridical personality, unless it had expressly asked for and received it. A confederation of public associations has to be established by competent authority, thereby receiving juridical personality. One could also here mention that there can exist diocesan confederations, national confederations and international confederations, and at each level the competent authority is as indicated in c. 312.

c) Approval of statutes

Canon 304 obliges both public and private associations to draw up statutes and define their content without saying what authority should approve them. Canon 314 determines this obligation for public associations:

Can. 314 The statutes of any public association 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.

By its establishment, a public association acquires juridical personality. It is obvious, then, that its statutes should be approved by competent authority and not merely recognized as in the case of a private association (c. 299). Canon 314 repeats, but with further detail, the principle given in c. 117: No aggregate of persons or of things seeking juridical personality can acquire it unless its statutes are approved by the competent authority. Subsequently, no modification or revision of the statutes may be made without approval by the authority which established the association.

The canonical framework introduces a fundamental difference between the act of recognition and the act of approval, for their effects are by no means the same. In establishing an association, the Church commits itself more by granting juridical personality that involves rights and obligations, the exercise of which is conditional as is the case for an individual person.

d) Right of initiative

The right to take initiatives of an apostolic character is a right of all Christ's faithful... according to their state and condition as confirmed by c. 216. This same right may be exercised by public associations:

Can. 315 Public associations can, on their own initiative, undertake projects which are appropriate to their character, and they are governed by the statutes, but under the overall direction of the ecclesiastical authority mentioned in c. 312 - §1.

This right of initiative is reintroduced in order to assist the association in pursuing its purposes, according to its specific charter. The right of initiative is to be exercised according to the approved statutes and under the overall direction of the ecclesiastical authority, mentioned in c. 312 - §1.
4.2.1.2 Admission of members

The statutes of every association, whether public or private, determine the conditions for admission of members. This is the basic right of every association since no individual is obliged to enroll in an association. One is free to join but only on fulfilling the criteria for admission, which mainly follow from the purposes of the association and the means for their attainment as determined by the association.

This lawful right includes certain restrictions in its exercise in the case of public associations. The canonical framework of the present Code, has in this regard somewhat tempered the discipline of the 1917 Code, which excluded from admission not only the publicly excommunicated but also anyone under any censure (c. 693 – §1 of 1917). Nevertheless, the present Code rules as follows on the admission of a person who is under the penalty of an imposed or declared excommunication:

Can. 316 – §1 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 into public associations.

§2 Those who have been lawfully enroled but who fall into one of the categories mentioned in §1, having been previously warned, are to be dismissed, in accordance with the statutes of the association, without prejudice to their right of recourse to the ecclesiastical authority mentioned in c. 312 – §1.

First of all, c. 316 declares as inadmissible in a public association, under pain of invalidity, every person of the Christian faithful who:

- has rejected the Catholic faith publicly;
- has abandoned ecclesiastical communion; or
- is under an imposed or declared excommunication (c. 1331).

It is understandable that a person in one or other of these situations cannot belong to a public association, given the purpose of associations of the faithful in general and the special nature of public associations, which act in the name of the Church. Their first obligation, as indeed also the minimal obligation of each member of the People of God, is to preserve their communion with the Church at all times, even in their external actions (c. 209 – §1). This condition is a delicate one when there is a question of the admission of divorced and remarried Catholics into public associations.

The difficulty does not arise with regard to the consistency of this prescription but rather as regards the criteria to be used in order to identify a person who has publicly rejected the Catholic faith, or has defected from ecclesiastical communion. The problem is to know when one has rejected the faith or separated from
communion. There is rejection when a person passes publicly from the Catholic faith to the faith of another church, religion or sect. There is separation when one breaks the bonds of communion without attaching oneself to another ecclesial community. Merely to no longer practise one's religion certainly does not suffice. Even then, each case should be examined individually. As regards excommunication, whether imposed or declared, there ought not to be any difficulty, since there may be documents certifying the situation.

Secondly, c. 316 deals with the dismissal of those persons who were legitimately admitted as members of a public association but who have fallen under one or other of the cases for exclusion. They are to be expelled from the association, but only after having been previously warned, in accordance with the statutes of the association, without prejudice to their right of recourse to the ecclesiastical authority mentioned in c. 312 - §1. In effect, every person who considers him or herself harmed by dismissal may have recourse to the competent authority against this decision (c. 221 - §1) and following the procedure of cc. 1732-1739.

4.2.1.3 Moderator and chaplain

The roles of the moderator and chaplain are most important in associations of the faithful. In the 1917 Code (c. 715) they were prescribed only for confraternities and pious unions. The same requirements apply now to public associations. Since public associations act in the name of the Church, it pertains to the Church to appoint and, should the case arise, remove the holders of the office of moderator and chaplain.

a) Appointment

Under the former law, the competent authority had to confirm the elections of all officials (officiales et ministros), but this now applies only to the moderator (president, male or female). The moderator may be merely installed. Before appointing the chaplain, the competent authority should, where expedient, consult beforehand the major officials of the association.

Can. 317 - §1 Unless the statutes provide otherwise, it belongs to the ecclesiastical authority mentioned in c. 312 - §1 to confirm the moderator of a public association on election, or to appoint the moderator on presentation, or by his own right to appoint the moderator. The same authority appoints the chaplain or ecclesiastical assistant, after consulting the senior officials of the association, wherever this is expedient.

§2 The norm of §1 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.
§3 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.

§4 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.

Different canonical norms apply to the appointment of the moderator and the chaplain.

i) Moderator: This term is not defined in the Code. With variations, a moderator is always a person in charge, a guarantor and coordinator. In religious law, the term is equivalent to superior. In the canons dealing with associations of the faithful, the term used is that of moderator. Canons 318 - §2 and 320 - §3 speak of the moderator and senior officials. Canon 317 - §1 repeats the same language when dealing with ecclesiastical offices, of which c. 147 is the prototype:

Can. 147 The provision of an ecclesiastical office is effected: by its being freely conferred by the competent ecclesiastical authority; by appointment made by the same authority, where there has been a prior presentation; by confirmation or admission by the same authority, where there has been a prior election or postulation; finally, by a simple election and acceptance of the election, if the election does not require confirmation.

A public association must determine in its statutes whether it should elect the moderator, who must be confirmed by competent authority, present the moderator to be installed by the same competent authority, or leave the appointment to the authority. The statutes of the association may allow for a different approach. Whether the moderator is elected, presented or named, the procedure to be followed is the one prescribed for each in cc. 146-149.

The same norm applies also to associations which members of religious institutes, by apostolic privilege, establish outside their own churches or houses (c. 317 - §2). However, if religious establish associations in their own church or house, the nomination or confirmation of the moderator and chaplain belongs to the superior of the institute. Lay persons, religious men or women, and clerics may be moderators in associations of the faithful. Three cases of incompatibility are noted:
- lay persons cannot be moderators of clerical associations;
- normally, the chaplain may not at the same time exercise the role of moderator;
- persons who occupy an office of leadership in political parties are not to be moderators in public associations which are directly ordered to the exercise of the apostolate (c. 317 - §4).
This norm that members of the faithful occupying leadership posts in political parties are not to be moderators (presidents) of public associations is new and important.

ii) Chaplain: The role of the chaplain is clearly defined by c. 564. He is a priest to whom is entrusted in a stable manner the pastoral care, at least in part, of some community or special group of Christ's faithful.

The person whom c. 317 – §1 calls the ecclesiastical assistant must be a priest.

The chaplain is appointed by the competent ecclesiastical authority, which can always judge whether it is expedient to consult the major officials of the association beforehand. It is also the competent authority which names the chaplain for associations established outside their own churches and houses by members of a religious institute. If the association had been established by members of a religious institute in their own church or house, it is then the function of the superior of the institute to appoint the chaplain.

b) Removal

The power to remove normally corresponds to the power to designate or appoint. A person who accepts a mandate must agree that the authority which had conferred it may withdraw it, if conditions are no longer satisfactory.

Can. 318 – §1 In special circumstances, when serious reasons so require, the ecclesiastical authority mentioned in c. 312 – §1 can appoint a commissioner to direct the association in his name for the time being.

§2 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. The chaplain can, however, be removed by the person who appointed him, in accordance with cc. 192-195.

Canon 318 considers two urgent situations: first of all, the association has arrived at a critical impasse which requires that the ecclesiastical authority remove those in charge of the association and temporarily appoint a commissioner (trustee) to direct the association. Secondly, there is the removal of a moderator, but not before the authority which had appointed or confirmed has heard the moderator and the major officials of the association. The removal of the moderator may entail either the appointing of a replacement to the office or the naming of a commissioner. There is the possibility of removal which may be extreme or indeed may not be the best solution at all. It may well happen that in special circumstances, when serious reasons so require (neither the circumstances nor the reasons are defined), the competent authority judges it proper to appoint a commissioner to direct the association provisionally in its name which is like placing
the association in guardianship. The appointment of a commissioner is obviously something exceptional and can only be provisional. It can easily be imagined that the appointment of a new moderator will be of no avail. The commissioner would have the duty of first clarifying the situation.

As for the removal of a chaplain, since it is an ecclesiastical office, c. 318 - §2 refers to canons 192-195. In general, all the canons under Title IX of Book I of the Code (cc. 145-196) are applicable to this office.

4.2.1.4 Administration of temporal goods

All temporal property of a public juridical person in the Church is considered, in virtue of c. 1257, as ecclesiastical goods and so governed by the canons regulating the acquisition and administration of the temporal goods of the Church (cc. 1254-1310). A public association of the faithful follows these norms too.

Can. 319 - §1 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 mentioned in c. 312 - §1. It must give a yearly account to this authority.

§2 The association must also faithfully account to the same authority for the disbursement of contributions and alms which it has collected.

This canon insists on two obligations which the public association has in relation to the competent authority: that of rendering an annual account of its administration and use of the goods (c. 1287) and that of rendering satisfactory account regarding fulfillment of obligations attached to certain goods: offerings, alms, mass obligations, pious wills, etc. (cc. 1267 and 1301).

The fact that the goods are considered to be ecclesiastical property in no way withdraws them from either the possession or ownership of public associations of the faithful, as is confirmed by c. 1256:

Can. 1256 Under the supreme authority of the Roman Pontiff, ownership of goods belongs to that juridical person which has lawfully acquired them.

It is to be noted that the phrase under the supreme authority of the Roman Pontiff tends to reduce the practice of this control. In any case, it follows that the administration of temporal goods of a public association must not avoid the norms laid down by the Code.

4.2.1.5 Suppression of a public association

As a general rule, the competent authority, as determined by c. 312, that is to say, the authority which established the public association, can suppress it.
Can. 320 – §1 Associations established by the Holy See can be suppressed only by the Holy See.

§2 For grave reasons, associations established by the Episcopal Conference can be suppressed by it. 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.

§3 A public association is not to be suppressed by the competent authority unless the moderator and other senior officials have been consulted.

The suppression of a public association is linked to the jurisdictional authority which had conferred juridical personality on the association. In his diocese, the bishop can suppress associations established by himself, and also associations which were established by members of religious institutes in virtue of an apostolic indult, after he had previously given his assent. However, no competent authority, whether it be the Holy See, a conference of bishops or the diocesan bishop, can suppress a public association without having first heard its moderator and other major officials.

After its suppression, a public association can always have recourse against the decree of the competent authority, either by hierarchical recourse (cc. 1732-1739) or by jurisdictional recourse (c. 1445 – §2).

After suppression, the temporal property of a public association is allocated according to law and the statutes. If the statutes do not provide for this, the arrangements devolve upon the next higher juridical person, always with due regard for the wishes of the founders or benefactors and for acquired rights (c. 123).

4.2.2 Private associations of the faithful (cc. 321-326)

According to the 1917 Code, the associations of the faithful, established for purposes of piety or charity, other than religious institutes or societies of common life, once they have obtained recognition from the competent authority, are treated as pious associations (third orders, confraternities, pious unions). The recognition granted to the association was, according to different cases, either simple approval or canonical establishment.

Other associations of the faithful that had not received a formal decree of approval or establishment, even if eligible, were called lay associations. Among these were the Society of the Conferences of St. Vincent de Paul, associations of Christian trade unions, charitable societies, youth movements, associations of Catholic schools, etc. These associations, though not dependent on the hierarchy, were nevertheless subject to its supervision.

The 1983 Code differs much from the previous legislation which had no category of private associations of the faithful. Moreover, the prescriptions contained in
cc. 321-326 of the new Code form some of the most important elements in the juridical renewal affecting associations of the faithful. An initial study of these canons suggests that private associations of the faithful enjoy a greater flexibility than public associations. They can determine how to proceed in attaining their goal, even in matters considered essential: the possibility of seeking juridical personality, the appointments of their moderator, spiritual counsellor, and officials, and management of their temporal goods. This autonomy is, however, subject to common norms binding every association of the faithful in the Church, especially cc. 321-326, concerning the nature, operation and suppression or extinction of such an association.

4.2.2.1 Nature of private associations

As already mentioned, c. 299 recognizes the freedom of the faithful, by private agreement among themselves, to establish associations to attain the aims mentioned in c. 298 – §1. They differ from public associations which are canonically established. The competent authority recognizes a private association by recognizing (c. 299 – §3) but not approving its statutes.

a) Autonomy of private associations

A de facto association which wishes to obtain the status of a private association of the faithful has to draw up its statutes so that these may be recognized by the competent authority. This recognition certifies that the statutes of an association are in harmony with the rights of persons in the Church and also with the fundamental principles or minimal norms which every association must respect. The recognized statutes become the point of reference for justifying the activities of the members of the association. Indeed, according to c. 321, Christ's faithful direct and moderate private associations according to the provisions of the statutes.

This canon makes more precise c. 299 – §1 and §3, which recognizes the right of association by private agreement entered into by the faithful, and prescribes, for the attainment of canonical status in the Church, that the statutes of every association obtain recognition from the competent authority. These statutes must then contain all the elements serving as a framework for the association to guarantee its action. This framework constitutes in a certain sense the field of action of the association whose limits it should not cross. Not only should the competent authority exercise its right of supervision, but it may require the insertion of clauses into the statutes, such as: that the association render an annual account of its situation to the competent authority and that before persons take office in the association, their appointment be ratified. Any change in the statutes must similarly be submitted for recognition. In other words, the autonomy of a private association is never absolute; nor, indeed, is the freedom of de facto associations, or the freedom of the faithful as individuals.
b) Acquisition of juridical personality

A private association may well desire more than mere recognition of its statutes. It may indeed ask the competent authority to approve its statutes in order to obtain juridical personality, according to c. 322:

Can. 322 – §1 A private association of Christ's faithful can acquire juridical personality by a formal decree of the competent ecclesiastical authority mentioned in c. 312.

§2 No private association of Christ's faithful can acquire juridical personality unless its statutes are approved by the ecclesiastical authority mentioned in c. 321 – §1. The approval of the statutes does not, however, change the private nature of the association.

The competent authority grants juridical personality to a private association of the faithful by a formal decree, after having approved its statutes. This approval, even if it is more exacting than simple recognition, does not change in any way the private nature of the association.

Private associations seeking juridical personality receive private juridical personality. But public associations, acting in the name of the Church, receive through the actual approval of their statutes, public juridical personality for the discharge of their proper function in the name of the Church (c. 116 – §1).

4.2.2.2 Activity of private associations (cc. 323-325)

Private associations not established as juridical persons but simply recognized, enjoy considerable freedom of action, indeed much more than public associations by reason of the fact that they are not, as such, subjects of duties and rights. It remains nonetheless true that this liberty is not without its restrictions, any more than that of individual members of the association.

a) Supervision by competent authority

The Code takes care to repeat that there is an obligation for supervision by the competent authority. This explicit reminder confirms that the autonomy granted to private associations of the faithful does not amount to absolute power:

Can. 323 – §1 Although private associations of Christ's faithful enjoy their own autonomy in accordance with c. 321, they are subject to the supervision of ecclesiastical authority, in accordance with c. 305, and also to the governance of the same authority.

§2 It is also the responsibility of ecclesiastical authority, with due respect for the autonomy of private associations, to oversee and ensure that there is no dissipation of their forces, and that the exercise of their apostolate is directed to the common good.
Like every association of the faithful in the Church, a private association remains subject to the supervision and governance of the authority which gave it recognition. This authority has the responsibility to take care that integrity of faith and morals is maintained and that ecclesiastical discipline is faithfully observed. This supervision includes, according to c. 397 – §1, the right of ordinary episcopal visitation. The right of an authority to supervise entails, in itself, the right to intervene with associations if they are not responding to the expectations that justified their recognition, so that there is no dissipation of their forces, and that the exercise of their apostolate is directed to the common good.

Canon 305 does not expressly refer to the Conference of Bishops as competent authority for the exercise of supervision; only the Holy See and the local Ordinary are mentioned. Nevertheless, the episcopal conference is the authority competent to establish public associations or grant recognition to private associations at the national level. It seems then logical to consider that a conference of bishops has the right and the duty of supervision over the activities of associations of the faithful which it has established or recognized. This does not, however, deprive the diocesan bishop of his own right and duty of supervision concerning the exercise of the apostolate in his diocese.

b) Appointment of moderator, officials and spiritual counsellor

Canon 324 grants wide autonomy to private associations in regard to the choice of their moderator, officials, and spiritual counsellor:

Can. 324 – §1 A private association of Christ's faithful can freely designate for itself a moderator and officers, in accordance with the statutes.

§2 If a private association of Christ’s faithful wishes to have a spiritual counsellor, it can freely choose one for itself from among the priests who lawfully exercise a ministry in the diocese, but the priest requires the confirmation of the local Ordinary.

Already, among the common norms, c. 309 grants to lawfully established associations the right to issue particular norms respecting the association itself, to hold meetings and to appoint moderators, officials, ministers and administrators of goods.

Canon 324 speaks expressly of a private association of the faithful. A public association, as a public juridical person, is bound by the prescriptions of c. 119. At first sight, provided the appointment is made in conformity with the statutes, the persons mentioned in the first paragraph of c. 324 are chosen or officially appointed solely by the members of their association and without any necessary connection with the ecclesiastical authority. Bearing in mind the dispositions of the Code regarding the right and duty of supervision on the part of competent authority, it does not seem contrary to the spirit of the law that the competent authority (bishop, conference of bishops, or the Holy See) require that the names of those chosen to be in charge of the association be communicated to
the competent authority. This is not for approval or confirmation by competent authority nor to affect in any way the liberty of the members in the exercise of their right.

The spiritual counsellor, who is called chaplain or ecclesiastical assistant in the case of the public associations, is appointed by the competent authority. Here, in the case of private associations, he is freely chosen by the association from among the priests lawfully exercising ministry in the diocese. The priest so chosen needs the confirmation of the local Ordinary. However, a question arises: is it realistic to think that all associations of the faithful can have available as spiritual counsellor a person who fulfils the requirements mentioned in the canon? Where a priest is not available, it is to be hoped that the associations could seek the service of a deacon, a lay person, or a male or female religious. In such cases also, it is evident that confirmation should be sought from the local Ordinary who might use the occasion to offer advice on the matter.

c) Administration of temporal goods

In the chapter of the Code dealing with common norms for associations of the faithful, c. 310 recognizes that in private associations not constituted as juridical persons, its members can acquire and possess rights and goods, as co-owners and co-possessors. They can exercise their rights and obligations through an agent or proxy. Canon 325, however, gives more precise details on the practical exercise of the rights and obligations of private associations with regard to temporal goods:

Can. 325 – §1 A private association of Christ's faithful 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.

§2 In accordance with c. 1301, 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.

In freely administering its goods, a private association not constituted a juridical person is under certain limitations: first of all, it must administer its goods according to the prescriptions laid down in its own statutes and, if need be, according to the rules which the local Ordinary may lay down in virtue of the power which enables him to exercise his right and duty of supervision. For example, an annual rendering of accounts allows for a certain measure of verification as to whether the goods have been applied for the purposes of the association. If there are abuses, the competent authority has the right to intervene.

In the case of donations and legacies made to an association for pious causes, their administration and distribution are subject to the norms of c. 1301, which
prescribes that the Ordinary is the executor of all pious dispositions whether made mortis causa or inter vivos. Canon 325 makes no distinction among diocesan, national or international associations, since it pertains to the local Ordinary, according to a tradition of many centuries, to act as executor of all pious wills, especially regarding the fulfilment of Mass obligations (c. 957).

Where a private association has sought and obtained private juridical personality, it is the association itself which assumes ownership and possession of the goods. These goods, however, are not recognized as ecclesiastical goods, unless the private association eventually obtains the status of a public juridical person.

4.2.2.3 Extinction of a private association

Even if associations of the faithful look forward to a long existence, they must foresee that sometime in the future they may cease to exist, in one way or another. The Code takes account of this eventuality:

Can. 326 – §1 A private association of Christ’s faithful 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.

§2 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.

This canon envisages two types of extinction: by default or suppression. Extinction by default occurs when an association no longer receives new members nor has enough members to pursue its activities properly. It may also well happen that in the course of time, the original needs which had led to the establishment of the association have developed in another way or indeed have disappeared altogether, and the association as such no longer has a reason for its existence. In such a case, there remain only two courses for the association to follow: dissolve itself or merge with another association. Foreseeing these possibilities, the Code requires that associations incorporate in their statutes suitable norms for such cases.

The other possibility foreseen in the universal law is the suppression of the association by competent authority for well defined reasons, arising from the authority’s right and duty of supervision over the association and different aspects of ecclesial life: namely, faith, morals and discipline. The authority must weigh the seriousness of harm done to faith or ecclesiastical discipline as well as the scandal caused to the faithful, and then decide how to intervene. As a last resort, it may decide on the suppression of an association which it had recognized or established. This suppression is an administrative and not a judicial act by which a canonical penalty would be imposed.
This is indeed an extreme measure, proportionate to the seriousness of the abuse or to the lapse or breach attributed to the association. It presupposes that other forms of intervention have previously been tried without result. At every stage, the common good or public order should guide such a decision. Recourse against a decree of suppression is possible and the procedure given in cc. 1732-1739 should be followed.

Canon 326 makes no distinction between a private association which has been simply given recognition and a private association enjoying the status of a private juridical person. For the latter, we must consider the prescriptions of c. 120 which lays down that a juridical person is by its nature perpetual, without its duration being fixed. It ceases to exist when it is legitimately suppressed by competent authority or has ceased activity for a hundred years; a private juridical person furthermore is extinguished if the association is dissolved in accordance with the statutes, or if, in the judgement of the competent authority, the foundation itself has, in accordance with the statutes, ceased to exist. The canon goes further: If even a single member of a collegial juridical person survives, and the aggregate of persons has not, according to the statutes, ceased to exist, the exercise of all the rights of the aggregate devolves upon that member. As regards the suppression of public juridical persons, c. 320 must be consulted.

When a private association is suppressed, a question arises: where do the goods of this association go? Their destination is determined by the statutes. In the case of a private association which had only received recognition, the members should have foreseen when drawing up the statutes, as according to c. 310, the rules to be followed by them as co-owners or co-possessors. However, acquired rights must be respected as well as the will of the donors. The dispositions of civil law should also be borne in mind, in order to avoid any possible legal action.

As to the goods of a private association which has the status of a private juridical person, the norms of the statutes and the prescriptions of c. 123 are to be followed.
PART 5

SOME PRACTICAL RULES FOR RECOGNITION OF ASSOCIATIONS

In the previous four parts this text has analyzed the canonical norms serving as a framework for the recognition of associations of the faithful. There now follow some practical rules and indications which may, if need be, serve as guidelines for the CCCB and also for associations of the faithful.

5.1 CCCB as competent authority

Given its nature, the Canadian Conference of Catholic Bishops becomes, when applying c. 312 – §1 and §2, the competent authority for associations of the faithful seeking the status of national associations. The same is expressed in the Statutes of the CCCB (article 8, §1 and §2): The CCCB sets up the structures of which it has need... Every pastoral activity and every institution of a national character for which the Episcopal Conference is in some way responsible are linked to one of these episcopal structures.

At its Plenary Assembly in October 1989, the Conference entrusted responsibility for relations with national associations of laity to the Episcopal Commission for Relations with Associations of Priests, Religious and Laity. It is, for this body then, to examine in the first instance every request for recognition or canonical establishment presented by an association of the faithful. This Commission, during the course of its examination, verifies the national character of an association, studies its statutes, assures itself of the recommendations from local Ordinaries where an association is already
installed, and then submits its final recommendation to the Permanent Council of the Conference. The Permanent Council, if it so decides, will issue a decree granting to an association the appropriate status.

This competence, which is of an administrative nature, also holds for other subsequent acts of administration: approval, revision or change to statutes; overall directions regarding projects initiated (c. 315); confirmation or designation of moderator and appointment of chaplain (c. 317); appointment of a commissioner, as well as removal of moderator or chaplain (c. 318); and suppression of an association (c. 320 – §2).

Once recognized by the Canadian Conference of Catholic Bishops as a national association, there is no need of another decree of recognition or establishment for each diocese where an association wishes to install itself. It should, however, obtain the written consent of the diocesan bishop in order to work within the territory of a particular church.

### 5.2 What is required of the petitioning association

Every association of the faithful seeking from the CCCB the status of recognition or establishment must support its petition with a case file containing the following elements:

- **Curriculum of the association:** its origin, purpose, development, connections already established, affiliation and membership, commitment and plan; in a word, a short history of the association which permits a better knowledge of the specific character of the petitioning association as well as indicating its special contribution within the Church. Organizations which are known as movements but which possess the characteristics of associations may also ask for canonical recognition.

- **National character of the association:** that it already exists in several dioceses of the country or in some episcopal regions, pertaining to one or other of the two linguistic sectors of the Conference or to both or to a particular ethnic group (for example: anglophone, francophone, bilingual, Ukrainian or Amerindian).

- **Written recommendations from competent authorities:** every association which asks the Conference of Bishops for recognition as a national association should produce written recommendations from the competent authority of the dioceses where it is already established as an association or as a section of an association. By reason of their right and duty of supervision, all diocesan bishops concerned with the association have the competence to testify whether the petitioning association lives according to its statutes and should be recommended at the national level.
5.3 **Suggested sequence of steps for an association of the faithful toward juridical status**

The commentators on the Code de droit canonique, édition bilingue et annotée, in their analysis of c. 312, suggest an interesting progression toward canonical status:

Normally, only an association directly encouraged by the ecclesiastical hierarchy will from its beginning enjoy national, international or universal status; those which originate from private initiative generally begin at the diocesan level, and it is only with the passage of time that they spread to other places. It may thus happen that an association obtains a decree of establishment from a diocesan bishop, then from the Conference of Bishops and later still from the Holy See.

In light of these considerations, it is possible to propose a sequence of steps in five-year stages by which associations may measure their development. It is not a question of skipping various steps and seeking definitive recognition with the shortest possible delay. Nevertheless, it can happen that an association of the faithful has already gone through one step or another, either under the 1917 Code or that of 1983. This would evidently be taken into account.

However, it is highly recommended that every association ensure that it is advised at each step along the way by a legal counsellor who is a specialist in Canon Law.

5.3.1 **First stage (5 years): De facto association**

- This association, for the most part in existence because of private initiative, has no recognition, much less juridical existence in the Church, other than by virtue of the right of association recognized by the Church. The group begins by living its experience and determining the purpose of its formation: what does it wish to do, what does it wish to live? Application of cc. 298 and 299 – §3.

- The group becomes known, hence the importance of having a sponsor sufficiently competent to assist in its progress.

- In order to make its plan more precise and its requirements more specific, the group begins to draw up statutes (cc. 304, 94, and 299 – §3). During this difficult but important activity, the group may seek the help of competent persons so that all will be decided suitably and realistically (cc. 310, 605).

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5.3.2 Second stage (5 years): A certain kind of pastoral recognition

- The group carries on the activities of its association, under a kind of *nihil obstat* and *ad experimentum*.

- This form of recognition implies no juridical status in the strict sense, since it is only provisional in order to encourage a de facto association to continue, after an evaluation of its experience to date. This statement constitutes a kind of pastoral recognition for a given time and may be granted by the competent authority, either the diocese or the episcopal region, if the association covers an episcopal region, or the Conference of Bishops, if the association has a national scope.

- During this period, the association will need to decide its orientation more precisely: either that it request pastoral recognition (without juridical status) or aim at the status of a private association of the faithful (cc. 321-326). No association is required to be recognized juridically by the Church.

- Having opted for the status of a private association of the faithful, the association should perfect its statutes and intensify its dialogue with the competent authority. This authority will seriously examine the ecclesial character of the association, bearing in mind the fundamental criteria of ecclesiality, as laid down in *Christifideles laici*, no. 30:
  - the primacy given to the call of every Christian to holiness...
  - the responsibility of professing the Catholic faith...
  - the witness to a solid and authentic communion...
  - conformity to and participation in the Church's apostolic goals...
  - a commitment to a presence in human society....

5.3.3 Third stage (5 years): Private association

- Conditions having been fulfilled, the competent authority can grant recognition as a private association (cc. 321-326).

- The competent authority recognizes the statutes (c. 299 – §3).

- The competent authority may grant juridical personality which will be private and not public.

- Recognition is given by a decree from the competent authority (c. 322 – §1).

- This recognition grants a good margin of liberty and autonomy to the association. It must, however, carry on its activities in conformity with the statutes and remain under the supervision of the competent authority.

5.3.4 Final stage: Definitive situation

The competent authority (c. 312) by decree and according to the particular case determines:
• Private association (cc. 321-326), with or without private juridical personality. The acquisition of juridical personality requires the approval of the statutes.

• Public association (cc. 312-320), with public juridical personality, involving approval of statutes and closer ties with ecclesiastical authority.

This suggested sequence of steps, intended as a practical application of the right of association of the faithful in the Church, permits an association to seek and obtain appropriate canonical status:
- either to be and remain a de facto association with or without pastoral recognition;
- or to request the status of a private association of the faithful with or without private juridical personality;
- or to have itself recognized as a public association.
CONCLUSION

The foregoing study unquestionably shows that the Catholic Bishops of Canada attach great importance to associations of the faithful in the Church. As for factors which contribute to growing interest in this regard, two at least call for mention. First of all, the need to define clearly and precisely the major orientations and the many changes that the new Code of Canon Law has introduced into Church legislation, so as to be in conformity with the insights of the Second Vatican Council. Accordingly, within the section of the Code dealing with the general and particular norms governing the People of God, the legislation on associations of the faithful occupies an important place and receives substantial treatment. Secondly, the emergence, in our time, of so many associations and organizations within the People of God has obliged those with the right and the duty of supervision to consider new requests and to exercise pastoral discernment regarding every group initiative which is essentially in relation to the Church's life of communion and to its mission (Christifideles laici, no. 29).

This study, intended to assist in researching and distinguishing, should allow those concerned with associations of the faithful to understand better the consequences of every act of recognition by the Church, be it pastoral or juridical. In this way, too, it will be better understood why, in the case of an association of the faithful seeking juridical status, certain preliminary steps are insisted upon. These will allow the association to assess its own development, as well as to improve its functioning and the manner of pursuing its activities, and so to acquire even greater stability. Such apprenticeship, which may appear lengthy, constitutes a wise guarantee both for the CCCB and the associations themselves. It must never be forgotten that the act of official recognition gives rise to obligations on both sides, on the part of the competent authority as much as for the association itself.

Apart from these motives which are a matter of judgement and prudence, it must be added that the freedom of association of the faithful and their right of initiative is an invitation to all members of the People of God to become actively
engaged in the mission of the Church. The vitality of the Church in our country depends on the capacity of all its members to be together a real sign and authentic witness of communion and unity in Christ:

All of us, pastors and lay faithful, have the duty to promote and nourish stronger bonds and mutual esteem, cordiality and collaboration among the various forms of lay associations. Only in this way can the richness of the gifts and charisms that the Lord offers us bear their fruitful contribution in building the common house: “For the sound building of a common house it is necessary, furthermore, that every spirit of antagonism and conflict be put aside and that the competition be in outdoing one another in showing honour (cf. Rom. 12:10), in attaining a mutual affection, a will toward collaboration, with patience, farsightedness and readiness to sacrifice which will at times be required” (Christifideles laici, no. 31).

It is in this spirit that the bishops of Canada intend to favour the emergence and development of associations of the faithful in the Church.