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Universidad de Navarra  
Facultad Derecho Canónico

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Consecrated Widows: an Analysis  
of Canon 570 of the *Codex  
Canonum Ecclesiarum Orientalium*

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# Consecrated Widows: An Analysis of Canon 570 of the *Codex Canonum Ecclesiarum Orientalium*\*

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## INTRODUCTION

Post-World War Europe, especially France and Belgium, was awash with young widows, hidden victims of the bloody war of attrition.<sup>1</sup> Addressing the large number of widows who had had to assume the role of head of household, Pius XII sketched the contours of the spirituality of widowhood in a speech to the World Union of Family Organizations in 1957. He said,

During the first century of the Church, the organization of the Christian communities assigned a special role to widows. Christ during His mortal life showed them a special benevolence, and the Apostles after Him recommended them to the affection of the Christians and traced their rules of life and perfection. Saint Paul describes the widow as ‘one who put her hope in God and continues night and day in supplications and prayers.’ Although the Church does not condemn second marriages, it marks its predilection for souls, who want to remain faithful to their husbands and to the perfect symbolism of the sacrament of marriage... By accepting the cross of separation, the renunciation of a dear presence, it now remains to conquer another, more intimate, more profound and stronger presence... If already the sacrament of marriage, the symbol of the redeeming love of Christ for his Church, applies to husband and wife, the reality of this love transfigures, configures one in Christ, who is engaged to save humanity, and also applies to the Church redeemed, who agrees to participate in the sacrifice of Christ, then widowhood is in some way the outcome of this mutual consecration; in it figures the present life of this Church militant deprived of the vision of her heavenly Spouse, with whom however, she remains steadfastly united, marching toward Him in faith and hope, living of that love that sustains Her in all her trials, and anxiously awaiting the final fulfilment of her initial promises. This is the greatness of widowhood, when it is seen as an extension of the graces of matrimony and as preparation for their fruition in the light of God.<sup>2</sup>

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<sup>1</sup> J. BEYER, *Le droit de la vie consacrée. Commentaire des Canons 573-606. Normes Communes, Le Nouveau Droit Ecclésiastique* (Paris: Éditions Tardy, 1988) 155.

<sup>2</sup> PIUS XII, Address to World Union of Family Organizations, September 16, 1957, *AAS* 49 (1957) 900-901: “Aux premiers siècles de l’Église, l’organisation des communautés chrétiennes assignait aux veuves un rôle particulier. Le Christ durant sa vie mortelle leur témoignait une bienveillance spéciale, et les Apôtres, après lui, les recommandent à l’affection des chrétiens et leur tracent des règles de vie et de perfection. Saint Paul décrit la veuve comme ‘celle qui a mis son espoir en Dieu et persévère nuit et jour dans les supplications et les prières.’ Bien que l’Église ne condamne pas les secondes noces, elle marque sa prédilection pour les âmes, qui veulent rester fidèles à leur époux et au symbolisme parfait du sacrement de mariage... Par l’ac-

In other words, as enunciated by Pope Pius XII, the juridical bond of marriage ends with the death of one of the spouses, but the bond of love remains and continues to configure the woman into a type of the Pilgrim Church awaiting the return of the Bridegroom. Javier Otady, commenting decades later on the central dynamism of the widowed state of life, writes, “It seems clear that the *casta viduitas* must be understood in the order of Christian ideals freely chosen, and not in the order of the yoking demands of marriage... [Chaste widowhood] is a homage to love, but not only nor principally to marital love (which every widow is free to honor), but rather to the love of Christ and brethren, in accord with a specific option of self-gift freely assumed and received by the Church.”<sup>3</sup>

Given the social and demographic context of Europe after World War I, it was no coincidence that the first modern associations of Catholic widows professing lifelong celibacy arose in France, Belgium, and England during the inter-war years. Elizabeth Rees, in “Christian Widowhood”, an exploration of widows’ spirituality, interviews several members of such associations.<sup>4</sup> Members of the St. Frances of Rome Secular Institute, the Sisterhood of Our Lady

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ceptation de la croix, de la séparation, du renoncement à la présence chère, il s’agit maintenant de conquérir une autre présence, plus intime, plus profonde, plus forte... Si déjà le sacrement de mariage, symbole de l’amour rédempteur de Christ pour son Église, appliqué à l’époux et à l’épouse la réalité de cet amour, les transfigure, les rend semblables l’un au Christ, qui se livre pour sauver l’humanité, l’autre à l’Église rachetée, qui accepte de participer au sacrifice du Christ, alors le veuvage devient en quelque sort l’aboutissement de cette consécration mutuelle; il figure la vie présent de l’Église militante privée de la vision de son époux céleste, avec qui cependant elle reste indéfectiblement unie, marchante vers lui dans la foi et l’espérance, vivante de cet amour qui la soutient dans toutes ses épreuves, et attendant impatiemment l’accomplissement définitif des promesses initiales. Telle est la grandeur du veuvage, quand il est vécu comme le prolongement des grâces du mariage et la préparation de leur épanouissement dans la lumière de Dieu.” Translation from the French is my own.

<sup>3</sup> J. OTADUY, *Fuentes, Interpretación, Personas: Estudios de derecho canónico* (Pamplona: Navarra Gráfica Ediciones, 2003) 519: “... parece claro que la *casta viduitas* hay que entenderla en el orden de los ideales cristianos libremente elegidos y no en el orden de las exigencias vinculares del matrimonio... Se trata desde luego de un homenaje al amor, pero no solo ni principalmente al amor matrimonial (que toda viuda es muy libre de honrar), sino al amor de Cristo y de los hermanos, de acuerdo con una específica opción de entrega libremente asumida y acogida por la Iglesia.” Translation from the Spanish is my own. The thesis of Otaduy’s essay is that the bonds of marriage end with death because marriage lacks an eschatological dimension. Otaduy continues, “El vínculo matrimonial no tiene dimensión escatológica. Está inmerso en la historia y solo puede ser exigible en la perspectiva del amor *in terris*... El vínculo se disuelve porque desaparece la fuerza vincular de la conyugalidad, que no puede instaurarse fuera del ámbito de la historia.” Cf. OTADUY, *Fuentes*, 527, 528.

<sup>4</sup> E. REES, “Christian Widowhood”, *New Blackfriars* 76, 896 (September 1995) 393-400.

of the Resurrection, and the Community of Anna the Prophetess expressed the spirituality of widowhood and its significance in the life of the universal Church. One widow testified:

The blessing of widows has a long history. Very early in the church, the Order of Widows existed alongside the Order of Virgins. Later, widows living alone at home gradually entered monasteries for greater safety during times of invasion. Thus they gradually became assimilated with consecrated virgins, which caused a regrettable confusion between the two groups and what they symbolise in the Church. When a widow asks for a blessing of her state, she reveals something of her personal journey under God's grace through the trial of bereavement. In response to this new situation she offers herself to God; she promises or vows to remain celibate. She seeks God's blessing on a state of life which she neither sought nor wanted, and she now accepts a new call to offer herself to God. Jesus blesses her self-gift as he blessed the widow in the gospel who gave "all she had to live on." Through her gift of all to God, a widow celebrates her radical poverty, her experience of being humbled and stripped of everything.<sup>5</sup>

Another widow explained:

We consecrate ourselves as widows as a continuation of the sacrament of marriage; we remain united in faith with our husbands. We could consecrate ourselves secretly in our own hearts, but we prefer the support of a community. Consecration can be lived out within the framework of normal life, whatever our family responsibilities or professional commitments. If the Lord calls us to this, our task is to give him first place in our lives. This consecration of our widowhood is not an optional extra but the center of our life.<sup>6</sup>

Rees explains the eschatological significance of widowhood for the universal Church:

The Church on earth will always be a widow, her heart pierced with sorrow. The consecration of virgins, recently reinstated with honour by the Church, tells us that God's kingdom is already here. Widows are called to

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<sup>5</sup> G. BLAQUIERE quoted in REES, 400.

<sup>6</sup> F. DE BROISSIA, quoted in REES, 399.

live in hope, to show that the kingdom is not yet fully here. Like Mary on Holy Saturday, the widow lives in the belief that Christ has conquered death.<sup>7</sup>

The contours of the widows' spirituality articulated by Pius XII are still echoed today. Most recently, Pope Francis reiterated his predecessor's address during in his daily mass at *Domus Sanctae Marthae*. Francis preached that the Church militant is similar to a widow and progresses through history searching for her divine spouse Jesus Christ. The widow of Naim in Scripture is "an icon of the Church, because the Church is in a certain sense a widow", the Holy Father said, reflecting on Luke 7:11-17. "The Bridegroom is gone and she walks in history, hoping to find him, to meet with him. And she will be his true bride. In the meantime she – the Church – is alone! The Lord is invisible. She has a certain dimension of widowhood." Christ's encounter with the widow of Naim shows that He has "the capacity to suffer with us, to be close to our sufferings and make them his own", the Pope said, and the Lord "had great compassion" on her. Pope Francis concluded, "The Lord has a special love for widows, he cares for them."<sup>8</sup>

This article outlines the juridical expressions of widowed spirituality in the 1917 Code of Canon Law and its commentators, in the teachings of the Second Vatican Council, and most specifically in canon 570 of the *Codex Canonum Ecclesiarum Orientalium* of 1990 and its sources. Finally, I offer a comparison of CCEO canon 570 to its closest Latin analogue, canon 604 of the Code of Canon Law of 1983.

#### A. 1917 Code

Only one canon of the 1917 Code of Canon Law mentions widows. Canon 1142 establishes: "Although chaste widowhood is more honorable, nevertheless, second and subsequent marriages are valid and licit, with due regard for the prescription of Canon 1069 § 2."<sup>9</sup>

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<sup>7</sup> REES, 400.

<sup>8</sup> FRANCIS, Daily homily of at Domus Sanctae Marthae, September 17, 2013 as reported by CNA/EWTN News: <<http://www.catholicnewsagency.com/news/church-is-like-a-widow-seeking-her-husband-pope-says/>>.

<sup>9</sup> C. 1142, CIC '17: "Licet casta viduitas honorabilior sit, secundae tamen et posteriores nuptiae validae et licitae sunt, firmo praescripto can. 1069, §2." *Codex Iuris Canonici* Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus (Rome: *Typis Polyglottis Vaticanis*,

Canon 1142 CIC 1917 has 13 *fontes*. All deal with the licitude of second marriages and subsequent marriages.<sup>10</sup> Only one of these referenced sources, the Constitution *Cantate Domino* (February 4, 1441) of Pope Eugene IV, affirms the honor of chaste widowhood. After confirming the legality of third, fourth, and subsequent marriages, the Pope states, “They are, however, more commendable we say, if further abstaining from marriage, they remain in chastity, because just like virginity is to widowhood, so we consider chaste widowhood to be preferable to marriage in terms of praise and merit.”<sup>11</sup>

Like Pope Eugene IV, commentators on the 1917 Code continued to acknowledge the Church’s historic esteem for a first and only marriage, as reflected in this canon. For example, P. C. Augustine, OSB wrote:

In the first eight or nine centuries second marriages were not favored. The Penitential Books are rather severe in meting out public penances for ‘bigamy,’ as second marriage was called. There is a foundation for this idea in Holy Writ which, while it does not command, strongly counsels the faithful to abstain from a second marriage because of the typical union between the Word of God and His Church. Therefore, also, a higher degree of perfection was attributed to honorable widowhood.<sup>12</sup>

Similarly, S. Woywod wrote in his commentary on the canon:

St. Paul says: ‘A woman is bound by the law as long as her husband liveth: but if her husband die, she is at liberty. Let her marry to whom she will: only in the Lord. But more blessed shall she be, if she so remain, according to my

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1917). English translation in E. PETERS, *The Pio-Benedictine Code of Canon Law in English with Extensive Scholarly Apparatus* (Ignatius Press, 2001) 392.

<sup>10</sup> The *fontes* for c. 1142 CIC ‘17 are: C. 13, C. XXVII, q. 2; c 9-13, C. XXXI, q. 1; c. 13, 16, C. XXXII, q. 2; c. 4, 5, X, *de secundis nuptiis*, IV, 21; Innocentius III, ep. a Eius exemplo, 18 Dec. 1208, Professio fidei Waldeinbus praescr.; Innocentius IV, ep. a Bub enthaltene, 6 March 1254, f 3, n. 20; Professio fidei (In Conc. Lugdunen. II) a Michaele Palaeologo Gregorio X oblata, a. 1274; Benedictus XII, a. 1341, prop. 49, Armenorum damn; Eugenius IV (In Conc. Florentin.), const. “Cantate Domino”, 4 Feb. 1441 § 26; Benedictus XIV, const. “Etsi pastoralis”, 26 May 1742, VIII, n. iii; Instr. “Eo quamvis tempore”, 4 May 1745, f 29; S. C. S. Off., Instr. a. 1868; S. C. de Prop. Fide (C. G.-Scodrae), 22 Nov. 1790, ad 2; Instr. (ad Vic. Ap. Indlar. Orient.), 8 Sept. 1869, n. 55.

<sup>11</sup> EUGENE IV, Const. *Cantate Domino* 26 in P. GASPARRI, *Codicis Iuris Canonici Fontes* v. 1 (Rome: Typis Polyglottis Vaticanis, 1923) 81: “Commendatiores tamen dicimus, si ulterius a coniugio abstinentes, in castitate permanserint, quia sicut virginitatem viduitati, ita nuptiis castam viduitatam laude ac merito praeferendam esse censemus.” English translation by F. NITSCHKE-ROBINSON.

<sup>12</sup> P. C. AUGUSTINE, OSB, *Commentary on the New Code of Canon Law*, v. 5 (St. Louis, MO.: R. Herder Book Co., 1920) 397-398.

counsel' (1 Cor., vii. 39 and 40). The Roman Law forbade marriage within a year from the death of the spouse, and inflicted *infamia juris* on those who married before the lapse of one year. When Pope Urban III was asked whether a person remarrying before the lapse of one year from the death of the former spouse was also marked with infamy under Canon Law, he replied that the words of the Apostle are sufficient to prove that no disgrace is attached to a second marriage.<sup>13</sup>

T. L. Bouscaren simply noted: "Among the Fathers, SS. Ambrose, Jerome, Basil, Augustine, and others declared the licitness of second marriages, though they esteemed widowhood as preferable."<sup>14</sup>

Each of these commentators on the 1917 code, while obviously not disparaging the second marriage, echo faithfully the teachings of the Church Fathers on the superiority of widowhood. St. Augustine, for example, in *De bono viduitatis* stated, "marriage chastity is a good, but widowed continence is a better good." And moreover, "a faithful woman is blessed in the Lord, even when she marries a second time after the death of her husband, but that a widow is more blessed in the same Lord."<sup>15</sup>

Several other preeminent commentators on the 1917 Code restate the Church's constant doctrine on the liceity of second and subsequent marriages, but submit explicitly that the second marriage is "less honorable" than the first. For example, Giovanni Chelodi and Pio Ciprotti, Felix Cappello, and Pietro Gasparri note that the nuptial blessing can be received only once (presumably at the first wedding). Cappello and Gasparri comment that subsequent marriages are less honorable than the first because they may indicate concupiscence and immoderation, and because they are a less perfect representation of the union between Christ and the Church.<sup>16</sup>

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<sup>13</sup> S. WOYWOD, *A Practical Commentary on the Code of Canon Law* v. 1 (New York: J. Wagner, Inc., 1941) 733.

<sup>14</sup> T. L. BOUSCAREN, *Canon Law: A Text and Commentary*, 4<sup>th</sup> ed. (Milwaukee: Bruce Publishing Company, 1966) 649-650.

<sup>15</sup> AUGUSTINE, *De Bono Viduitatis*, c. 6 in J.P. MIGNE, *Patrologia Latina* v. 40 (Paris: Garnier, 1844-1855) 434: "Et bonum est pudicitia conjugalis sed melius bonum est continentia vidualis." English translation by C. L. CORNISH in P. SCHAFF, *NPNF* 1/03, *On the Holy Trinity, Doctrinal Treatises, Moral Treatises* (Grand Rapids, MI: Wm. B. Eerdmans Publishing Company, reprint 1978) 443. All subsequent English translations of *De Bono Viduitatis* will be taken from this source.

<sup>16</sup> G. CHELODI and P. CIPROTTI, *Ius Canonicum de Matrimonio et de Iudiciis Matrimonialibus* (Venice: Società Anonima Tipografica Editrice, 1947) 218-219; F. CAPPELLO, *Summa Iuris Canonici in usum scholarum* v. 2 (Rome: Apud Aedes Universitatis Gregorianae, 1962) 418; P. GASPARRI, *Tractatus Canonicus de Matrimonio* v. 2 (Paris: Librairie Delhomme et Brigueot, 1904) 251.

## B. SPECIFICALLY EASTERN FONTES OF RELIGIOUS LAW, AND OF CANON 570 IN PARTICULAR

I now focus on the specifically Eastern *fontes* of religious law. Prior to the first great codification of Eastern canons in 1990, the sources of the law governing consecrated life in the East were somewhat disparate. The Eastern churches lacked a tradition of extensive and systematic legislation in this regard. Nevertheless, Pospishil enumerates the most significant oriental *fontes* as follows:

1. Norms and rules given by the fathers of monachism, foremost among them, as far as the Byzantine Rite is concerned, St. Pachomius, St. Basil the Great, and St. Theodore the Studite.
2. The canons of ecumenical and particular synods, of which the most important are that of Chalcedon (451) and Trullo (692).
3. Decrees of patriarchs and some other hierarchs.
4. Ordinances of the civil governments, in which they followed the example of Emperor Justinian (483-565), who legislated extensively on norms for the religious state.
5. Typica of individual monasteries, imposed either by the founders themselves, or by some reforming superior...<sup>17</sup>

Fast-forwarding the centuries, Pope Pius XII in 1952 issued the *Motu Proprio Postquam Apostolicis Litteris (PA)*. This *motu proprio* was intended to organize the governance of consecrated life in the East while preserving and fostering genuine Oriental tradition. The *motu proprio* constituted one step towards the eventual codification of Oriental canon law more generally. *Postquam Apostolicis Litteris* was therefore a foundational document underpinning the original CCEO schema on religious law. The document actually makes no mention of widows. However, canon 4 specifically regulates hermits, and in this way acknowledges at least one solitary form of consecrated life. This was an innovation, as hermits, consecrated virgins, and consecrated widows were not contemplated in the 1917 Code of Canon Law.

## C. MAGISTERIAL DEVELOPMENT FROM THE SECOND VATICAN COUNCIL

Widows received a few brief mentions in the documents of the Second Vatican Council. Although widowhood as a juridically established perma-

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<sup>17</sup> V. POSPISHIL, *Code of Oriental Canon Law, The Law on Persons* (Philadelphia: America, 1960) 236.

ment state of life was not contemplated, the Church's esteem for widows' spirituality with its eschatological significance was reaffirmed. The Council Fathers state in *Gaudium et Spes*, for example, "Widowhood, accepted bravely as a continuation of the marriage vocation, will be esteemed by all."<sup>18</sup> In *Lumen Gentium* they praise the value of widowhood to the Church's holiness: "[Married couples] signify and share in that very love, with which Christ loved His Bride and because of which He delivered Himself up on her behalf. A like example, but one given in a different way, is that offered by widows and single people, who are able to make great contributions toward holiness and apostolic endeavors in the Church."<sup>19</sup> And finally, in the Decree on the Apostolate of the Laity, *Apostolicam actuositatem*, the Council Fathers write, "The layman's religious program of life should take its special quality from his status as a married man and a family man, or as one who is unmarried or widowed, from his state of health, and from his professional and social activity."<sup>20</sup> Each of these statements helped lay a foundation in recent magisterial documents for the re-establishment of a permanent state of continent widowhood established in law during the pontificate of John Paul II. On the other hand – perhaps due to an inadvertent omission – the revision of the rite of benediction of a widow was not ordered along with the Rite of Consecration of a Virgin in the Constitution on the Sacred Liturgy *Sacrosanctum Concilium*.<sup>21</sup>

<sup>18</sup> Vatican Council II, Pastoral Constitution, *Gaudium et Spes*, December 7, 1965: *AAS* 58 (1966) 48: "Viduitas, in continuitate vocationis coniugalis forti animo assumpta, ab omnibus honorabitur." English translation in *The Documents of Vatican II*, W. ABBOTT, S.J., Ed. (New York: America Press, 1966) 252.

<sup>19</sup> Vatican Council II, Dogmatic Constitution *Lumen gentium*, November 21, 1964: *AAS* 57 (1965) 41: "[Coniuges] in signum et participationem illius dilectionis, qua Christus Sponsam suam dilexit Seque pro ea tradidit. Simile exemplum alio modo praebetur a viduis et inuuptis, qui ad sanctitatem et operositatem in Ecclesia, et ipsi haud parum conferre possunt." English translation from Dogmatic Constitutin *Lumen Gentium* in ABBOTT, 69.

<sup>20</sup> Vatican Council II, Decree *Apostolicam actuositatem*, November 18, 1965: *AAS* 58 (1966) 4: "Haec laicorum spiritualis vitae ratio notam peculiarem assumere debet ex statu matrimonii et familiae, coelibatus vel viduitatis, ex condicione infirmitatis, ex activitate professionali et sociali." English translation in ABBOTT, 494.

<sup>21</sup> Vatican Council II, Constitution on the Sacred Liturgy *Sacrosanctum Concilium*, December 4, 1963: *AAS* 56 (1964) 97-134, 80: "Ritus Consecrationis Virginum, qui in Pontificali romano habetur, recognitioni subiciatur. Conficiatur praeterea ritus professionis religiosae et renovationis votorum, qui ad maiorem unitatem, sobrietatem et dignitatem conferat, ab iis qui professionem vel votorum renovationem intra Missam peragunt, salvo iure particulari, assumendus. Professio religiosa laudabiliter intra Missam fiet."

## D. VITA CONSECRATA AND CATECHISM OF THE CATHOLIC CHURCH

The Post Synodal Apostolic Exhortation *Vita Consecrata*, penned by Pope John Paul II in 1996, includes the most significant reference to a widow's consecration in the contemporary magisterium. The Pontiff acknowledges the praxis that had slowly reappeared in the context of post-World War Europe. Under an independent section entitled "Order of Virgins, Hermits, and Widows", he writes,

Again being practiced today is the consecration of widows, known since apostolic times (cf. 1 Tim 5:5, 9-10; 1 Cor 7:8), as well as the consecration of widowers. These women and men, through a vow of perpetual chastity as a sign of the Kingdom of God, consecrate their state of life in order to devote themselves to prayer and the service of the Church.<sup>22</sup>

Several paragraphs later, in a section about fraternal life, the Pope emphasizes,

Nor is the dimension of fraternal communion alien to Secular Institutes, or even to forms of the consecrated life lived individually. Hermits, in their profound solitude, do not withdraw from ecclesial communion but serve that communion by their specific charism of contemplation. Consecrated virgins in the world live out their consecration in a special relationship of communion with the particular and universal Church. The same is true of consecrated widows and widowers.<sup>23</sup>

Several points are worthy of note in the preceding paragraphs. First, the term "consecrated widows" reappears in a magisterial document for the first time in centuries. Second, the consecrated widows are grouped with two

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<sup>22</sup> JOHN PAUL II, Post Synodal Apostolic Exhortation *Vita Consecrata*, March 25, 1996: *AAS* 88 (1996) 377-486, 7: "Novam recentioribus temporibus consuetudinem accepit etiam consecratio viduarum, tractata iam apostolica aetate, nec non viduorum. Per castitatis perpetuae votum uti Regni Dei demonstrationem hi suam consecrant condicionem ut precationi atque Ecclesiae famulatu se devoteant." English translation in JOHN PAUL II, Post-Synodal Apostolic Exhortation *Vita Consecrata*, "On the Consecrated Life and Its Mission in the Church and in the World", 25 March 1996, Vatican City State: Libreria Editrice Vaticana.

<sup>23</sup> *Ibidem*, *Vita Consecrata*, 42: "At communionis fraternae ratio nec a Saecularibus Institutis nec a formis singularibus vitae consecratae seiungitur. Eremitae, sua in vasta solitudine, non modo sese ab ecclesiali communione non subducunt, sed peculiari suo contemplationis charismate ei serviunt; virgines in saeculo consecratae suam explent consecrationem peculiari quadam communionis ratione cum Ecclesia particulari et universali; similiter viduae et vidui consecrati." English translation from Libreria Editrice Vaticana, 42.

other recognized forms of individual celibates, namely virgins in the Order of Virgins, and hermits. And finally, very unexpectedly and innovatively, the Pope specifically admits the possibility of consecrated male widowers. Obviously, the apostolic exhortation is not a canonical document. Thus, it cannot be concluded from the text that the Legislator definitively intended to include male widowers in the ninth form of consecrated life (and the third of the individual forms of consecrated life); rather, he may have merely intended to acknowledge the possibility of men who profess perpetual chastity in an institute of consecrated life (such as a secular institute) established specifically for widowers.

#### E. 1990 CCEO c. 570

Despite the high esteem in which the Church has held the chaste widow throughout its history, neither the CIC'17 nor the CIC'83 established consecrated widowhood as a recognized form of consecrated life. Then after more than a thousand years of desuetude, the juridic figure of consecrated widow makes a cautious re-appearance in the last great codification project of the twentieth century: the *Codex Canonum Ecclesiarum Orientalium*. Canon 570 of the CCEO establishes consecrated widowhood as one of the nine forms of consecrated life recognized in the Eastern Churches:

By means of particular law, other kinds of ascetics who imitate eremitical life, whether they belong to an institute of consecrated life or not, can be constituted. Consecrated virgins and widows living apart in the world, having publicly professed chastity, can also be established.<sup>24</sup>

Indeed, of these nine forms of consecrated life established in the CCEO, the consecrated widow is one juridic figure that has no direct counterpart in the *Codex Iuris Canonici*, although it most closely parallels the consecrated virgins of CIC '83 canon 604.

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<sup>24</sup> *Codex Canonum Ecclesiarum Orientalium* auctoritate Ioannis Pauli PP. II promulgatus (Vatican City: Libreria Editrice Vaticana, 1990) c. 570: "Iure particulari aliae species constitui possunt ascetarum, qui vitam eremiticam imitantur, sive ad institute vitae consecratae pertinent sive non; item virgines et viduae consecratae seorsum in saeculo castitatem professione publica profitentes constitui possunt." English translation from *Code of Canons of the Eastern Churches, Latin-English Edition: New English Translation* (Washington, DC: Canon Law Society of America, 2001). All subsequent citations of the CCEO will be taken from these editions, unless otherwise stated.

## 1. *Drafting of CCEO canon 570*

Ivan Žužek, Secretary of the *Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo* (PCCICOR), relates how the juridic institute of consecrated widows narrowly missed inclusion in the CCEO as well, but came to be included in the final revision.

The first iteration of now-canon 570 was canon 72 *bis* of the 1980 schema. Canon 72 *bis* was nestled in the canons on hermits, but consecrated virgins and widows were not included.<sup>25</sup> This draft remained unchanged until the *denua recognitio* (second review), when one of the ten experts in consecrated life who had been appointed to review the entire schema intervened in favor of the inclusion of consecrated widows. The expert admonished, “the *ordo viduarum* is not to be consigned to oblivion.”<sup>26</sup>

The discussion of the *coetus* in response to the expert’s intervention is reported as follows:

Mentioning the ‘*viduae consecratae*’ in the canon was also accepted in conformity with the more genuine Eastern traditions expressed in canons 30 of St. Basil, 40 of Trullo, and especially, 38 of Carthage (‘*ordo viduarum*’).<sup>27</sup>

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<sup>25</sup> Pontificia Commissio Codici Iuris Canonici Orientalis Recognoscendo, *Codici Iuris Canonici Orientalis Schemata* (1980), Schema Canonum de Monachis Ceterisque Religiosis Necnon de Sodalibus Aliorum Institutorum Vitae Consecratae, c. 72 *bis*: “Superior Monasterii ius habet, de consensu sui Consilii, imponendi finem vitae eremiticae iustas ob causas, etiam invito eremita.”

<sup>26</sup> *Nuntia* 27 (1988) 11. Cf. J. ABBASS, OFM CONV., *The Consecrated Life: A Comparative Commentary of the Eastern and Latin Codes* (Ottawa: St. Paul University, 2008) 450-453; J. ABBASS, OFM CONV., *Two Codes in Comparison*, 2<sup>nd</sup> ed., *Kanonika* 7 (Rome: Pontificio Istituto Orientale, 2007) 49-50.

<sup>27</sup> The aforementioned canons are:

Canon 30 of the Second Canonical Epistle of St. Basil (*circa* 370): “That they who steal women, and their accomplices, be not admitted to prayers, or be co-standers for three years. Where no violence is used, there no crime is committed, except there be lewdness in the case. A widow is at her own discretion. We must not mind vain pretenses.” English translation in *Nicene and Post-Nicene Fathers* 2/14 *The Seven Ecumenical Councils*, P. SCHAFF, Ed. (New York: Charles Scribner’s Sons, 1900) 606.

Canon 38 of Carthage (419): “Neither clerics nor those who profess continence should enter the houses of widows or virgins without the bidding or consent of the bishops or presbyters: and then let them not go alone, but with some other of the clergy, or with those assigned by the bishop or presbyter for this purpose; not even bishops and presbyters shall go alone to women of this sort, except some of the clergy are present or some other grave Christian men.” English translation in *Nicene and Post-Nicene Fathers* 2/14, *The Seven Ecumenical Councils*, P. SCHAFF (New York: Charles Scribner’s Sons, 1900) 460.

Canon 40 of Trullo (692): “Since to cleave to God by retiring from the noise and turmoil of life is very beneficial, it behooves us not without examination to admit before the proper time those who choose the monastic life, but to observe respecting them the limit handed down by

Consequently, the second part of the canon (72 *bis*) has been reformulated as follows: “likewise, consecrated virgins and widows who live on their own in the world, having publically professed chastity, can be established.”<sup>28</sup>

J. Abbass recounts that the reformulated canon 72 *bis* became canon 567 of the 1986 Eastern Schema (SCICO) and remained unchanged until it was promulgated as CCEO canon 570.<sup>29</sup> There was no other discussion among members of the *coetus*, which presumably incorporated the expert’s recommendation without contention.<sup>30</sup>

## 2. *Consecrated widows in the panorama of Eastern consecrated life as established in the CCEO*

In order to better understand the juridic institute of consecrated widow as established in the Code of Canons of the Oriental Churches, it is useful to step back and survey the taxonomy of consecrated life more broadly in the Eastern tradition. The Latin Code of Canon Law strictly divides the recognized forms of communal consecrated life into either religious or secular

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our fathers, in order that we may then admit a profession of the life according to God as forever firm, and the result of knowledge and judgment after years of discretion have been reached. He therefore who is about to submit to the yoke of monastic life should not be less than ten years of age, the examination of the matter depending on the decision of the bishop, whether he considers a longer time more conducive for his entrance and establishment in the monastic life. For although the great Basil in his holy canons decreed that she who willingly offers to God and embraces virginity, if she has completed her seventeenth year, is to be entered in the order of virgins: nevertheless, having followed the example respecting widows and deaconesses, analogy and proportion being considered, we have admitted at the said time those who have chosen the monastic life. For it is written in the divine Apostle that a widow is to be elected in the church at sixty years old: but the sacred canons have decreed that a deaconess shall be ordained at forty, since they saw that the Church by divine grace had gone forth more powerful and robust and was advancing still further, and they saw the firmness and stability of the faithful in observing the divine commandments. Wherefore we also, since we most rightly comprehend the matter, appoint the benediction of grace to him who is about to enter the struggle according to God, even as impressing speedily a certain seal upon him, hereupon introducing him to the not-long-to-be-hesitated-over and declined, or rather inciting him even to the choice and determination of good.” English translation from *Internet Medieval Sourcebook* (New York: Fordham University, Paul Halsall, ORB, 1996). Web access at <<http://www.fordham.edu/halsall/basis/trullo.asp>>.

<sup>28</sup> *Nuntia* 27 (1988) 11: “Iure particulari aliae species constitui possunt acetarum, qui vitam eremiticam imitantur, sive ad instituta vitae consecratae pertinent sive non; item virgines et viduae consecratae seorsum in saeculo castitatem professione publica profitentes constitui possunt.” Cf. J. ABBASS, *Two Codes in Comparison*, 50.

<sup>29</sup> J. ABBASS, *Two Codes in Comparison*, 50.

<sup>30</sup> J. ABBASS, *The Consecrated Life, A Comparative Commentary of the Eastern and Latin Codes*, 3-4.

institutes. Additionally, the CIC recognizes hermits and consecrated virgins living in the world as individual forms of consecrated life. The CCEO, on the other hand, establishes a total of nine recognized forms of consecrated life: six institutional (or communal) forms plus three individual (or solitary) forms.<sup>31</sup> The nine forms of consecrated life recognized by the CCEO are: monastic life, orders, congregations (each of these preceding three are considered to be religious); societies of common life according to the manner of religious, ascetics belonging to an institute of consecrated life, secular institutes (the preceding six constitute the recognized forms of institutional consecrated life); ascetics not belonging to an institute of consecrated life, consecrated virgins, and consecrated widows (the preceding three constitute the recognized forms of individual consecrated life). Because of the historical and traditional importance of monasticism in the Eastern Churches, the CCEO sets monasteries as the preeminent form of consecrated life, in comparison to which the others are explained or described.<sup>32</sup> Societies of Apostolic life are not included among the forms of consecrated life, but rather are said to “resemble institutes of consecrated life” [*institutis vitae consecratae accedunt*] in both the CCEO and the CIC (CCEO c. 572; CIC '83 c. 731).

### 3. *Structural analysis*

A point of departure for analyzing the consecrated widows of canon 570 is the canon's placement among the canons governing consecrated life. Canon 570 falls in Title XII, entitled *Monks and Other Religious as well as Members of Other Institutes of Consecrated Life*. Title XII includes canons about all nine recognized forms of consecrated life, as well as the Societies of Apostolic Life, but provides no general norms that apply to the nine classifications. All religious institutes, including monasteries, orders, and congregations are treated together in Chapter I (cc. 410-553). Societies of Common Life according to the Manner of Religious are treated in Chapter II (cc. 554-562). Secular Institutes are treated in Chapter III (cc. 562-569). And finally, rather eclectically, everything else is treated in Chapter IV (cc. 570-572). J. Beyer, in a pioneering article about the consecration of widows (written in 1987) explains why conse-

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<sup>31</sup> J. ABBASS, *The Consecrated Life*, 5-6; cf. L. OKULIK, “Viudas Consagradas”, *Diccionario General de Derecho Canónico*, J. OTADUY, A. VIANA, J. SEDANO, Eds. (Navarra: Thomson Reuters Aranzadi, 2012) 948-950.

<sup>32</sup> J. ABBASS, *The Consecrated Life*, 16.

crated widowhood as a state of life is unlike the vocation to a secular institute expressed in the immediately preceding canons (CCEO cc. 563-569): “This consecration of the person has specific elements, given that the communion of life and matrimonial consecration are associated to it.”<sup>33</sup> Once again, we hear echoes of the Pope Pius XII’s teaching that chaste widowhood is the ascetic conclusion of the marital vows.

Indeed, Chapter IV of Title XII is somewhat of a catch-all chapter that includes a gamut of different ascetics (both communal and solitary), virgins, widows (c. 570), Societies of Apostolic Life (c. 572), and even the possibility of new forms of consecrated life yet to be established by the Holy See (c. 571). The one common denominator between these forms seems to be only that they do not fit elsewhere in the taxonomy of Eastern consecrated life. Nevertheless, worthy of note is that the juridic figures of canon 570 fall clearly within the sphere of consecrated life. This contrasts with the Societies of Apostolic Life established in canon 572 which, although included in Title XII, merely “resemble institutes of consecrated life” (*institutis vitae consecratae accedunt*).

#### 4. Exegetical analysis

The approved text of CCEO canon 570 reads:

*Iure particulari aliae species constitui possunt ascetarum, qui vitam eremiticam imitantur; sive ad instituta vitae consecratae pertinent sive non; item virgines et viduae consecratae seorsum in saeculo castitatem professione publica profitentes constitui possunt.*

By means of particular law, other kinds of ascetics who imitate eremitical life, whether they belong to an institute of consecrated life or not, can be constituted. Consecrated virgins and widows living apart in the world, having publically professed chastity, can also be established.

Within an already diverse Chapter IV, canon 570 itself encompasses a hodgepodge of juridic figures. It mentions together four different forms of consecrated life: 1) ascetics imitating eremitical life and belonging to [non-monastic] institutes of consecrated life; 2) ascetics imitating eremitical life and not belonging to an institute of consecrated life – i.e., those depend-

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<sup>33</sup> J. BEYER, “Ordo Viduarum”, *Periodica de Re Morali Canonici Liturgica* 76 (1987) 257. “Specificam tamen retinet haec personae consecratio quia cum matrimoniali vitae communitate et consecratione coniungitur.” English translation is my own.

ent directly upon the eparch; 3) consecrated virgins living apart in the world; and 4) consecrated widows living apart in the world. The last three figures mentioned are each individual forms of consecrated life, properly speaking. For the sake of comparison with the CIC, the ascetics imitating eremitical life and not belonging to a communal institute of consecrated life are analogous to Latin rite hermits (CIC c. 603).<sup>34</sup> Consecrated virgins living apart in the world are akin to the Latin Order of Virgins (CIC c. 604). Finally, consecrated widows appear in this one and only canon of the CCEO and have no direct Latin analogue.<sup>35</sup>

The first point worth noting specifically about the juridic figure of the consecrated widow is its distinction from the “ascetics” also described in canon 570. The consecrated virgin and the consecrated widow are mentioned after and distinct from the “other kinds of ascetics who imitate eremitical life.” These ascetics, like monks, publically profess the three evangelical councils of poverty, chastity, and obedience, are devoted to heavenly contemplation, and live totally separated from people and the world (CCEO c. 481). The consecrated virgins and widows, in contrast, always make public profession of chastity, but need not make public profession of poverty and obedience, nor live in contemplative isolation as the ascetics do.

The foremost commentaries on the CCEO touch on the figure of the consecrated widow only summarily.<sup>36</sup> Therefore, to gain greater insights into the concepts encapsulated by this canon, it will be necessary to examine custom (CIC c. 27; CCEO c. 1508) and parallel places (CIC c. 17; CCEO c. 1499). The following sections provide an exegetical analysis of each element in canon 570.

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<sup>34</sup> The CCEO defines hermits as members of *sui iuris* monasteries who with the permission of their superior live isolated from the monastery while “ascetics who imitate eremitical life” belong to an institute of consecrated life other than a monastery, or belong to no institute at all and instead depend directly on the eparch. The CIC, in contrast, defines hermits as men or women subject to the diocesan bishop in the pursuit of greater silence, solitude, prayer and penance (CIC c. 603 §§ 1, 2). The CIC does not specifically classify a person living an eremitical life under obedience to a religious superior.

<sup>35</sup> ABBASS, *The Consecrated Life*, 6.

<sup>36</sup> Cf. R. METZ, *Le Nouveau Droit des Églises Orientales Catholiques* (Paris: CERF, 1997) 177; G. NEDUNGATT, *A Guide to the Eastern Code: A Commentary on the Code of Canons of the Eastern Churches* (Rome: Oriental Institute Press, 2002) 391; V. POSPISHIL, *Eastern Catholic Church Law*, 2<sup>nd</sup> ed. (Staten Island, NY: Saint Maron Publications, 1996) 352; D. SALACHAS, *Orient et Institutions: Théologie et Discipline des Institutions des Églises orientales Catholiques selon le Nouveau Codex Canonum Ecclesiarum Orientalium* (Paris: CERF, 2012) 285.

a) *Iure particulari*

Consecrated widows are envisioned under the common law for all the Eastern churches, and space is preserved in particular law (*iure particulari*) for their establishment in practice. Indeed, one of the main principles of revision for the CCEO was subsidiarity, stated as follows: “The new code should limit itself to the codification of the discipline common to all the oriental Churches, leaving to the competent authorities of these Churches the power to regulate by particular law all other matters not reserved to the Holy See.”<sup>37</sup> But what is understood by *iure particulari* in the Eastern code? The CCEO envisions four levels of law: laws common to the whole Catholic Church (both Eastern and Latin Churches *sui iuris*; i.e. universal law); laws common to all the Eastern Churches (comprised in the CCEO); and laws specific to each of the 23 *sui iuris* oriental Churches; and the laws of a given eparchy.

Canon 1493 establishes:

§1. Beyond the laws and legitimate customs of the universal law, this Code also includes by the designation ‘common law’ the laws and legitimate customs common to all Eastern Churches.

§2. Included in the designation ‘particular law’ are all the laws, legitimate customs, statutes and other norms of law which are not common to the universal Church nor to all the Eastern Churches.<sup>38</sup>

Canon 1502 further distinguishes between “particular law” and “more-particular law”:

§2. A prescription of the common law, unless the law expressly provides otherwise, does not derogate from a particular law nor does a norm of particular law enacted for a Church *sui iuris* derogate from a more particular norm in force in that same Church.<sup>39</sup>

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<sup>37</sup> *Nuntia* 3 (1976) 3-10; translation from K. BHARANIKULANGARA, *Particular Law of the Eastern Catholic Churches* (New York: St. Maron Publications, 1996) vii.

<sup>38</sup> C. 1493 § 1: “Nomine iuris communis in hoc Codice veniunt praeter leges et legitimas consuetudines universae Ecclesiae etiam leges et legitimae consuetudines omnibus Ecclesiis orientalibus communes. § 2. Nomine vero iuris particularis veniunt omnes leges, legitimae consuetudines, statuta aliaeque iuris normae, quae nec universae Ecclesiae nec omnibus Ecclesiis orientalibus communes sunt.”

<sup>39</sup> C. 1502 §2. “Lex iuris communis vero, nisi aliter in ipsa lege expresse cavetur, non derogat legi iuris particularis nec lex iuris particularis pro aliqua Ecclesia sui iuris lata derogat iuri magis particulari in eadem Ecclesia vigenti.”

Thus, in the context of the CCEO, *ius particulare* refers to the law binding all the particular laws of one Church *sui iuris*, not of a specific eparchy. This contrasts with the connotation of “particular law” as understood in the CIC, namely, as the laws of a particular church (i.e., diocese). In the CCEO, the legislation of each specific eparchy is termed “more particular law.” K. Bharanikulangara explains,

Particular law in CCEO indicate all laws, legitimate customs, statutes and other juridical norms which are not common to the “whole Church”, nor to all Eastern Churches. At the level of a *sui iuris* Church (particular law of a *sui iuris* Church), we can say particular law is that law which governs the whole *sui iuris* Church; in that sense particular law excludes other inferior particular law. At the level of an eparchy there are juridical norms, which are based on the particular law of the *sui iuris* Church but at the same time applicable only for that eparchy. Regarding such laws, canon 1502 §2 makes a distinction between particular always and more-particular laws (*ius magis particulare in eadem Ecclesia vigen*s); the later expression can be the eparchial statutes and other juridical norms or by-laws.<sup>40</sup>

*Who is the author of particular law?* Legislative authority in the 23 Eastern Churches *sui iuris* varies according to the type of *sui iuris* Church: patriarchal, major archiepiscopal; metropolitan; or other *sui iuris* Church. Bharanikulangara explains: “At the level of a *sui iuris* Church the first internal legislator is the Synod of Bishops for the patriarchal and major archiepiscopal Churches (c. 110); the Council of Hierarchs for the metropolitan Church (c. 167); and the hierarch himself with the consent of the Apostolic See for other *sui iuris* Churches (c. 176).”<sup>41</sup>

In general, particular law – regardless of its author – cannot be contrary to the common law. It should be based on the ancient canonical collections and legitimate customs which are not contrary to the CCEO. Bharanikulan-

<sup>40</sup> BHARANIKULANGARA, 6.

<sup>41</sup> BHARANIKULANGARA, 30-31. The CCEO also stipulates the mode for valid promulgation of law, according to the type of *sui iuris* Church. In the patriarchal Churches, the Synod of Bishops is the highest legislative authority. In the metropolitan Church, valid promulgation requires written acknowledgment of reception of laws by the Apostolic See; in the other Churches *sui iuris*, promulgation requires approval of the Apostolic See (cf. BHARANIKULANGARA, 32-33).

gara states, “Particular law completes the common law and in a way is subordinate to it, in the sense that it is based on the common law.”<sup>42</sup>

Writing more generally for the universal Church, Javier Otaduy expresses, Universal law takes precedence over particular law (c. 135 §2) and, simultaneously, respects (c. 20) particular law... The norms of a particular legislator should be produced according to the following alternative relationships with universal law: particular law must occupy... the space left juridically open by universal norms (thus, *praeter ius universale*), or it will have a place as the development of universal law (*secundum ius universale*). Never, consequently, can it be *contra ius universale*...

The precedence of universal law should never be understood in the Church as a means by which to crop particular power. In other words, universal law is not an intruder in the particular arena...

... The precedence of which we are speaking must not be understood in the sense that universal law has an expansive and unlimited power. Its limit is precisely the common discipline of the whole Church. As such, there is a degree of particular legislative autonomy that universal law must respect, because bishops govern their diocese legislatively with proper, ordinary, and immediate power (c. 391).<sup>43</sup>

With regard then to the space explicitly preserved by canon 570 (common law) for the establishment of consecrated widows in particular law, one might ask what the scope and content of such particular law might be? Only the barest

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<sup>42</sup> BHARANIKULANGARA, 31.

<sup>43</sup> J. OTADUY, “La relación entre el derecho universal y el particular a propósito de la Constitución Ap. ‘Pastor Bonus’”, *Ius Canonicum*, 30, n. 60 (1990) 473, 475, 477: “El derecho universal prevalece (c. 135 §2) sobre el derecho particular y, simultáneamente, respeta (c. 20) el derecho particular... Las normas del legislador particular se han de producir según la siguiente alternativa de relación con el derecho universal: o bien ocuparán... el espacio que ha dejado jurídicamente libre las normas universales (*praeter ius universale*, por lo tanto), o bien tendrá lugar como desarrollo de ese derecho universal (*secundum ius universale*). Nunca, en consecuencia, *contra ius universale*... La prevalencia del derecho universal no debe entenderse nunca en la Iglesia como un modo de recortar la potestad de la instancia particular. Dicho de otra forma, el derecho universal no es un intruso en el ámbito particular... La prevalencia de que venimos hablando no debe entenderse en el sentido de que el derecho universal tenga una potencia expansiva ilimitada. Sus límites son precisamente la disciplina común de toda la Iglesia. Por tanto, hay un grado de autonomía legislativa particular que el derecho universal debe respetar, porque los obispos gobiernan legislativamente sus diócesis con potestad propia, ordinaria, e inmediata (c. 391).” Translation from the Spanish is my own. Cf. J. Hervada, “Estructura y principios constitucionales del gobierno central”, *Ius Canonicum* 11 (1971) 51.

regulation is given in canon 570, which limits itself to distinguishing the widows from the Order of Virgins and from the ascetics that imitate eremitical life, and to stating that consecrated widows live in the world and publically profess chastity. Thus, as long as particular law did not contradict this very cursory outline of consecrated widows in common law, any other regulation would be at the discretion of inferior legislators. On the contrary, one could imagine that any legislation which would *require* consecrated widows to profess poverty and obedience like the ascetics, or that would *require* them to join an institute of consecrated life would be contrary to common law. Such requirements would evidently alter the individual and secular nature of this ninth form of consecrated life. The final part of this section on canon 570, entitled *Practical Considerations*, will explore areas of possible legislation in particular and more-particular law.

b) *Viduae consecratae*

The identity of the consecrated widow has been curiously contested over the course of the centuries. Historian Charlotte Methuen in “The ‘Virgin Widow’: A Problematic Social Role for the Early Church?” documents that during the patristic era, the *ordo viduarum* was surprisingly heterogeneous, finding among its ranks not only widows, but also women who had not been married, as well as those who still were.<sup>44</sup> The *ordo viduarum* was sometimes conflated with the *ordo virginum* because the virgins were placed under the widows’ care; moreover, women who were separated from their husbands occasionally gained admittance to the *ordo*.<sup>45</sup> However, at a distance of a thousand years, the current canon 570 gives no indication of the ancient polemic regarding qualifications for consecrated widows. The term “widow” is interpreted in accord with the proper meaning of the word considered in text and context (CCEO c. 1499): a woman who has lost her spouse through death. Biblical regulation restricted the Order of Widows to older women who had been married only once: “Let a widow be enrolled if she is not less than sixty years old, married only once” (1Tim 5:9). However the present canon gives no indication of such limitations either.

The use of the term *viduae* (feminine) seems to indicate that – although men can indeed become widowers – the consecrated widow is always a woman.

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<sup>44</sup> C. METHUEN, “The ‘Virgin Widow’: A Problematic Social Role for the Early Church?” *The Harvard Theological Review* 90 (July 1997) 285-298.

<sup>45</sup> *Ibidem*, 289.

This restriction would be consistent with the ancient tradition as well as with the spirituality of consecrated widowhood which equates the widow with the pilgrim Church on earth awaiting the return of her Bridegroom.<sup>46</sup> Granted, the Apostolic Exhortation *Vita Consecrata* mentions the possibility of (male) widowers who, by means of “a vow of perpetual chastity as a sign of the Kingdom of God, consecrate their state of life in order to devote themselves to prayer and the service of the Church.”<sup>47</sup> However, the apostolic exhortation is not a canonical document. Thus, it cannot be concluded from the text that the Legislator definitively intended to include male widowers in the ninth form of consecrated life, or rather, that he simply intended to acknowledge the possibility of men who profess perpetual chastity in an institute of consecrated life (such as a secular institute) established specifically for widowers.<sup>48</sup> Recall that St. Basil did not admit the possibility of men among the *ordo viduarum*, but proposed this option for male widowers in his Epistle CXCIX: “I do not recognise the profession of men, except in the case of those who have enrolled themselves in the order of monks, and seem to have secretly adopted the celibate life.”<sup>49</sup>

J. Beyer proposes another delimitation of the widows: he insists that these widows must have been in a sacramental marriage.<sup>50</sup> At first blush, one could find a justification for this limitation in the words of Pius XII in his address “The Greatness of Widowhood” quoted earlier: [The Church] marks its predilection for souls, who want to remain faithful to their husbands and to the perfect symbolism of the sacrament of marriage... widowhood is in some way the outcome of this mutual consecration... This is the greatness of widowhood, when it is seen as an extension of the graces of matrimony and as preparation for their fruition in the light of God.” In other words, the vocation of consecrated widowhood is a deepening of the baptismal and marital vocation.<sup>51</sup>

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<sup>46</sup> BEYER, “Ordo Viduarum”, *Periodica de Re Morali Canonici Liturgica* 76 (1982) 262.

<sup>47</sup> JOHN PAUL II. Post-Synodal Apostolic Exhortation *Vita Consecrata*, “On the Consecrated Life and Its Mission in the Church and in the World” (Vatican City State: Libreria Editrice Vaticana, 25 March 1996) 7.

<sup>48</sup> Cf. BEYER, 262.

<sup>49</sup> BASIL, *Epistulus* CXCIX, XIX in MIGNE, *Patrologia Graeca* v. 32, 719: “Virorum autem professiones non novimus praeterquam si qui se ipsi monachorum ordini ascripserint: qui quidem tacite vitam caelibem videntur suscepisse.” English translation in SCHAFF, *NPNF* 2/08, 237.

<sup>50</sup> BEYER, 269.

<sup>51</sup> BEYER, *Le Droit de la Vie Consacrée*, 157.

However, canonically, it would perhaps make more sense to limit the eligible candidates for this state of consecrated life to those widows who had been in a *valid* marriage, not necessarily those who had been in a sacramental marriage. Obviously, it would make no sense for the Church to consecrate the widowhood of women who had been living in illicit unions unrecognized by the Church. But no convincing reason presents itself for why widows who had been validly married to non-Christians should be ineligible as consecrated widows. Moreover, no ancient legislation suggests such a limitation, even though in Antiquity, many widows must have been married to pagan husbands.

c) *Seorsum in saeculo*

The consecrated widows live an individual form of consecrated life in the world (*seorsum in saeculo*). In this way, they are most akin to the consecrated virgins mentioned directly before them. The consecrated widow's state of living "separately" or "apart" (*seorsum*) seems to exclude the possibility of consecrated widows who are simultaneously members of monasteries, orders, or congregations. Indeed, the spirituality of consecrated widowhood – namely, the ascetical conclusion of marriage as a type of the widowed Church awaiting reunification with the Bridegroom – seems to suggest that consecrated widowhood would be charismatically very distinct from religious life; consecrated widowhood presumes and ascetically concludes the vocation to marriage. This incompatibility does not necessarily exist between virginal consecration and membership in a religious order. Indeed, even before the restoration of the Rite of Consecration of a Virgin in 1970, Benedictine nuns who were virgins became eligible for consecration as a virgin after their final profession in the Benedictine order.<sup>52</sup> And the 1970 restored Rite for the Consecration of a Virgin offers two variants: one for virgins who are also nuns, and one for virgins who live individually in the world subject to their diocesan bishop.<sup>53</sup>

The insistence of canon 570 that the consecrated widow live in the world (*in saeculo*) is noteworthy for two reasons. First, it reverses the isolating impetus of *Periculoso*, the mandatory enclosure of religious women under solemn vows promulgated by Pope Boniface VIII as part of *Liber Sextus* in 1298. In

<sup>52</sup> N. EMSLEY, "The Rite of Consecration of Virgins", *Handbook for Liturgical Studies: Sacraments and Sacramentals*, v. 4, A. CHUPUNGCO, Ed. (Collegeville, MN: Liturgical Press, 2000) 331. Cf. *AAS* 43 (1951) 16.

<sup>53</sup> *Ordo consecrationis virginum* in *Pontifical Romanum*, editio typica (Vatican: Polyglot Press, 1970).

essence, it re-establishes the original form of female ascetical life that existed before the advent of the monasteries: the consecrated widows and virgins who lived their holy *propositum* while remaining in their own homes and serving in the heart of the local Christian community.<sup>54</sup> Second, the canon's acknowledgment of the widow's consecration even while remaining in the world (*in saeculo*) reflects the Church's modern recognition of new expressions of consecrated life, specifically consecrated secularity, by which persons live out their consecration to God in the world in order to make present in society the newness and power of Christ's Kingdom.<sup>55</sup>

d) *Castitatem professione publica profitentes*

The widow makes her profession of perpetual chastity as a sign of the Kingdom of God, thereby undertaking a permanent state of widowhood in order to devote herself to prayer and the service of the Church.<sup>56</sup> She professes her resolve not to remarry, according to the practice dating back to Biblical times (1Tim 5:9). This declaration is in turn received by an ecclesiastical officiant, and she is admitted to the state of consecrated life.

Canon 570 uniquely indicates "publically profess chastity" [*castitatem professione publica*] as the means by which the widow becomes a consecrated widow. The terminology differs from that used in CCEO canon 410, which states that "public vows" of obedience, poverty and chastity are the means by which a member of the faithful enters the religious life.<sup>57</sup> Canon 72*bis* employed the term "public profession" since its first iteration. This variation in terminology likely alludes to medieval liturgies for the blessing of widows entitled, "Benedictio viduae quae fuerit castitatem professa." Nevertheless, little doubt can exist concerning the public nature of the widow's vow of chastity due to the direct and necessary intervention of legitimate ecclesiastical authority, confirmed by the liturgical rite that historically accompanied the pro-

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<sup>54</sup> E. MAKOWSKI, *Canon Law and Cloistered Women, Periculoso and its Commentators 1298-1545* (Washington, DC: Catholic University of America Press, 1997) 43.

<sup>55</sup> *VC*, 10.

<sup>56</sup> *VC*, 7.

<sup>57</sup> CCEO c. 410: "Status religiosus est stabilis in communi vivendi modus in aliquo instituto ab Ecclesia approbato, quo christifideles Christum, Magistrum et Exemplum Sanctitatis, sub actione Spiritus Sancti pressius sequentes novo ac speciali titulo consecrantur per vota publica oboedientiae, castitatis et paupertatis sub legitimo Superiore ad normam statutorum servanda, saeculo renuntiant ac totaliter se devovent caritatis perfectioni assequendae in servitium Regni Dei pro Ecclesiae aedificatione et mundi salute utpote signa coelestem gloriam praenuntiantia."

fession.<sup>58</sup> The Sixth Council of Paris (829), for example, forbade presbyters to liturgically veil a widow without the bishop's permission:

... that widows should not be veiled without the bishops having been consulted. We have learned that some of the presbyters incautiously and irregularly consecrated the veil of widows without their bishops having been consulted, and that on account of this, taint (dishonor) was brought onto this same religion, because with them veiled, an occasion of roaming through diverse things was presented. That, however, none of the pontiffs may attempt to veil widows, canonical authority prevents. That indeed presbyters, without their bishops consulted, may not presume to consecrate the veil of widows, we absolutely forbid. And if anyone of the presbyters obstinately stood out as a transgressor of this decree, he shall pay the penalty of canonical reproof.<sup>59</sup>

Moreover, the current canon specifies "public profession." Finally, the Catechism of the Catholic Church highlights the Church's intervention in recognizing and approving the widows' vows of perfect chastity: "From apostolic times Christian virgins and widows, called by the Lord to cling only to him with greater freedom of heart, body, and spirit, have decided *with the Church's approval* to live in the respective status of virginity or perpetual chastity 'for the sake of the Kingdom of heaven'" [emphasis added is my own].<sup>60</sup>

<sup>58</sup> CCEO c. 889 §4: "A vow is public if it is accepted in the name of the Church by a legitimate ecclesiastical superior. Otherwise it is private." T. Bahillo, commenting on the distinction between public and private vows in the Latin Code, writes, "El voto público es el vínculo sagrado con el que los religiosos se comprometen; para los eremitas, también se establece que este compromiso se asume mediante votos u otros sagrados vínculos. Por tanto, entre los diversos modos posibles de asumir los consejos evangélicos en la Iglesia actualmente, uno específico es el de aquellos que los profesan mediante votos públicos, forma específica según la legislación vigente en religiosos y eremitas" (T. BAHILLO, "Votos públicos en IVC", in *Diccionario General de Derecho Canonico*, 980). I believe that this same commentary applies to consecrated widows, which are established in the same canon (CCEO c. 570) with ascetics who imitate eremitical life. P. Etzi also agrees that hermits make public vows. Cf. P. ETZI, "Voto [Impedimento de]", *Diccionario General de Derecho Canónico*, Eds. J. OTADUY, A. VIANA, J. SEDANO (Navarra: Thomson Reuters Aranzadi, 2012) 978.

<sup>59</sup> VI Parisiense, c. 40 in *Monumenta Germaniae Historica* Tom. II, 2, Societas Aperiendis Fontibus Rerum Germanicarum Medii Aevi, Ed. (Berlin: Hannover and Leipzig, 1908) 637: "... ut viduae inconsultis episcopis non velentur. Comperimus, quod quidam praesbyterorum incaute et extraordinarie velum viduarum inconsultis episcopis suis consecrarent, et ob id eidem religioni macula ingerebatur, quia eisdem velatis per diversa vagandi occasio praebebat. Ut autem nullus pontificum viduas velare adtemptet, canonica auctoritas inhibet. Quod vero praesbyteri inconsultis episcopis suis velum viduarum consecrare non presumant, prorsus interdicimus. Quodsi quisquam praesbyterorum huius constitutionis contumaciter transgressor extiterit, canonicae correptionis poenas luet." English translation by NITSCHKE-ROBINSON.

<sup>60</sup> *Catechism of the Catholic Church*, 922.

The CCEO suppresses entirely the distinction between solemn and simple vows, so any further classification of the widow's vow proves unnecessary. Finally, although public, the widow's vow of chastity would not be an impediment to marriage if CCEO c. 805/ CIC c. 1088 is interpreted strictly; only perpetual profession of chastity in religious institutes can be considered invalidating. Moreover, CCEO canon 792 establishes that particular law of the Oriental churches *sui iuris* may not establish new impediments without prior consultation with each other and with the Holy See, while CCEO canon 793 reprobates any custom that establishes a new impediment.

*Who is qualified to receive the widow's profession?* According to ancient liturgical rites, only the bishop could receive the *propositum* of a virgin and veil her, but a presbyter was qualified to receive the profession of a widow.<sup>61</sup> However, CCEO canon 570 does not specify a preference for the minister or the means by which a consecrated virgin or widow can be established. (This contrasts with CIC canon 604, which specifies that the diocesan bishop must consecrate the virgin by means of the approved liturgical rite.) Presumably, however, the profession of the widow would occur in the context of a liturgy. Thus, any rite proposed for the profession and consecration of a widow within a Church *sui iuris* would require either review or approbation by the Congregation for Divine Worship and the Discipline of the Sacraments.

Canon 570 does not mention the public profession of the other two evangelical councils. Particular law could hypothetically specify how the consecrated widow is to live at least the spirit of poverty and obedience under the guidance of the local hierarch, even while living in the world. It should be noted, however, that the widow's specific form of poverty is the separation from her husband,<sup>62</sup> which in ancient times was the decisive factor that put the widow into a state of destitution. Modern consecrated widows have also expressed that the death of their husband is the catalyst for their sense of being "humbled and stripped of everything."<sup>63</sup>

e) *Benediction vs. Consecration*

Canon 570 unequivocally states that widows are "consecrated" [*viduae consecratae*] by their public profession of chastity. However, E. Sastre strongly opposes the dyad, or canonical pairing, of virgin and widow. Sastre argues

<sup>61</sup> For example, Tenth Council of Toledo (656) c. 4; Sixth Council of Paris (829) cc. 40, 43.

<sup>62</sup> BEYER, 265.

<sup>63</sup> BLAQUIERE, quoted in REES, 400.

that the current language of canon 570 is inappropriate because historically, a strict hierarchy and differentiation existed among the consecration of the virgin, the blessing of the widow, and the nuptial blessing of the bride. The consecrated virgin was said to give fruit a hundred-fold in the Kingdom of God; the professed widow was said to give fruit sixty-fold, and the bride to give fruit thirty-fold. The virgin was historically (and is once more in modernity) consecrated as an integral and intact Spouse of Christ; she lives in this life that union with Christ which the marital bond signifies sacramentally. To underscore the theological difference between these two states of life (virginity and widowhood), medieval liturgies specified that the virgin received the veil of consecration, while the widow received the veil of profession.<sup>64</sup> Nonetheless, liturgical evidence suggests that, while ancient rites employed different terminology (consecration vs. blessing), the structure of the rite was essentially identical: a *propositum* emitted before ecclesiastical authority, followed by a prayer (consecratory prayer or constitutive blessing) through which the woman was set apart for the exclusive service of God in a new state of life.

#### F. PRACTICAL CONSIDERATIONS: THE SCOPE OF PARTICULAR AND MORE-PARTICULAR LAW

Canon 570 of the CCEO legislates for consecrated widows in only the most cursory fashion. All practical considerations are remanded to the level of Church *sui iuris* or even to the individual eparchy. Presumably, the substance of particular law, while always complementary and supplementary to common law, could include the qualifications of eligible candidates for consecration, impediments to consecration, spiritual and intellectual formation, rights and obligations between the consecrated widow and her eparchy, and apostolic life of the widow in the local church.

##### 1. *Qualifications of eligible candidates for consecration*

Canon 570 does not specify qualifications for a candidate to consecration other than that she be a widow, as described above. Drawing from parallel

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<sup>64</sup> E. SASTRE, "Sobre la novedad de viudas y viudos consagrados", *Claretianum* 38, 279-284. Cf. A. VERMEERSCH, "Religious Veil", *The Catholic Encyclopedia*, v. 15 (New York: Robert Appleton Company, 1912). Accessed 30 Mar. 2014 <<http://www.newadvent.org/cathen/15321c.htm>>.

canons regarding other persons seeking entrance into consecrated life, the following qualifications of an eligible candidate would seem reasonable:

- The candidate must be a fully initiated Catholic. This is parallel to CCEO canon 450, 1° which stipulates that only Catholics may be lawfully admitted to the novitiate.<sup>65</sup>
- The candidate must be a Catholic enrolled in the Church *sui iuris* to which she applies to be received as a consecrated widow, unless permission is granted by the Apostolic See. This is parallel to CCEO canon 517 § 2, which stipulates that candidates to the novitiate in a religious institute belong to the Church *sui iuris* of the institute.<sup>66</sup>
- The candidate must not be affected by an impediment. This is parallel to CCEO canon 448 concerning the admission to the novitiate.<sup>67</sup>
- The candidate must be suitable for consecration, enjoy a good reputation, and have correct motivation for seeking the consecration. This is parallel to CCEO canon 448 concerning the admission to the novitiate.<sup>68</sup> It is also in keeping with the Scriptural exhortation found in 1 Tim 3-16: “Let a widow be enrolled if she is not less than sixty years old, married only once, with a reputation for good works, namely, that she has raised children, practiced hospitality, washed the feet of the holy ones, helped those in distress, involved herself in every good work.”
- The candidate must have attained the minimum age requirement, as prescribed by particular or more particular law. (The ancient Church proscribed a minimum age of 60 years, which was occasionally lowered to 40.<sup>69</sup>)

## 2. *Impediments to the consecration*

The primitive and medieval Church restricted the *ordo viduarum* to those widows who had been married only once. No such limitation is suggested by the

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<sup>65</sup> CCEO c. 450: “Without prejudice to prescriptions of the typicon which require more, the following cannot be validly admitted to the novitiate: 1° non-Catholics.”

<sup>66</sup> CCEO c. 517 §2: “No one is admitted lawfully to the novitiate of a religious institute of another Church *sui iuris* without the permission of the Apostolic See, unless it is a candidate who is destined for a province or house, mentioned in can. 432, of the same Church.”

<sup>67</sup> CCEO c. 448: “For one to be admitted into a monastery *sui iuris* it is required that the person is moved by the right intention, is suited for leading a monastic life and is not prevented by any impediment established by the law.” Cf. CIC 597 § 1, 642.

<sup>68</sup> Cf. *ibidem*.

<sup>69</sup> Cf. *Didascalia* III, 1, 1.

current CCEO canon 570, although the spirituality of widowhood as the ascetic conclusion of the marital vows still suggests the rationale for this restriction.

While the impediment of coniugicide is, generally speaking, not a major concern in modern times, it remains an impediment to marriage in both the CCEO (c. 795 §§1, 2) and in the CIC '83 (c. 1090 §§1, 2).<sup>70</sup> Therefore, coniugicide would clearly be a reserved impediment to receiving the widow's consecration.

Finally, because the state of consecrated widowhood lived in the world is a distinct and unique form of consecrated life, it is incompatible with simultaneous profession in another institute, as suggested earlier. Thus, those who are currently bound by vow or other sacred bonds to an institute of consecrated life would not be eligible candidates. This is parallel to CCEO canon 450, 7<sup>o</sup>.<sup>71</sup>

### 3. *Requirements for a candidate's consecration (e.g., formation, time of probation, etc.)*

One requirement dating back to medieval times was that a woman must not receive the consecration until she had been widowed for a prescribed length of time. For example, the Council of Paris (829), canon 44 stipulated that a woman should reflect for at least 30 days after the death of her husband before deciding to consecrate her life.<sup>72</sup> Even today, it would be highly

<sup>70</sup> CCEO c. 795 §1: "The local hierarch can dispense the Christian faithful subject to him wherever they are as well as other Christian faithful enrolled in another Church *sui iuris* actually present within the territorial boundaries of his eparchy from impediments of ecclesiastical law except those which follow:

1<sup>o</sup> holy orders;

2<sup>o</sup> public perpetual vows of chastity in a religious institute, unless it is a case of congregations of eparchial right;

3<sup>o</sup> coniugicide.

§2. Dispensation from these impediments is reserved to the Apostolic See; however, the patriarch can dispense from the impediment of coniugicide as well as of the one of public perpetual vow of chastity made in congregations of any juridical condition."

CIC c. 1090 §1: "One who, with a view to entering marriage with a particular person, has killed that person's spouse, or his or her own spouse, invalidly attempts this marriage.

§2 They also invalidly attempt marriage with each other who, by mutual physical or moral action, brought about the death of either's spouse."

<sup>71</sup> CCEO c. 450, 7<sup>o</sup>: "Without prejudice to prescriptions of the typicon which require more, the following cannot be validly admitted to the novitiate: those who are held by the bond of religious profession or by another sacred bond to an institute of consecrated life, unless it is a case of lawful transfer."

<sup>72</sup> Council of Paris, c. 44 in *Monumenta Germaniae Historica* Tom. II, 2, *Societas Apriendiis Fontibus Rerum Germanicarum Medii Aevi*, Ed. (Hannover and Leipzig, 1908) 638-639: "Et abhinc

prudent to require that a suitable length of time transpire before a widow is formally accepted as a candidate for consecration in order to help guarantee that the woman chooses her new state of life without the undue influence of grief or bewilderment after the death of her spouse.

Related to this required length of time from the death of the spouse is the issue of the probationary period. Entrance into religious life is preceded by the novitiate, during which a candidate enters into the life of the community, but without the obligation of vows (CIC '83 cc. 641ff.; CCEO c. 461 §§1, 2).<sup>73</sup> It would be similarly prudent to establish a length of time during which a widow is officially accepted as a candidate for consecration but during which her own intention is solidified and the hierarch or his delegate has the opportunity to observe her suitability.

As in the case of any other candidate to consecrated life, a minimum of formation, psychological aptitude, and depth of spiritual life should be fostered. In the case of consecrated widows, this would necessarily be tailored toward older or even elderly candidates who will never have to live in community with one another and who will perform a wide variety of (possibly non-public) apostolates. The formation could obviously be much less exacting than what would be required for a young person preparing to live common life. The formation of each widowed candidate could be based on the charism of widowhood and the individual plan of life adopted by her with the approval of her hierarch.

#### 4. *The liturgical rite of consecration*

The liturgies for the consecration/blessing of a widow have been studied in detail elsewhere.<sup>74</sup> Particular law would have to determine the rite used in each Church *sui iuris*, with review or approbation from the Holy See.

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ab omnibus observandum statuimus ut hujuscemodi viduae amissis viris repente non velentur sed cum conhibentia episcopi sui, triginta diebus, ut a glorioso principe domno Hludovico cum consensu venerabilium sacerdotum jamdudum constitutum est, exspectant, quibus peractis, aut nubant, aut si potius Deo se sacrari expostulaverint, admoneantur et instituantur ut non in domibus propriis sed in monasteriis sub spiritalis matris regimine Deo se servituras subdant quoniam hujuscemodi adulescentulas, viros amittentes et in sanctimoniali habitu propriis domibus residentes, persaepe in laqueum diaboli lapsas esse didicimus.”

<sup>73</sup> CCEO c. 461 § 1: “A novice can freely leave the monastery or be dismissed for a just cause by the superior or the synaxis in accord with the typicon. §2: At the end of the novitiate, if judged suitable, a novice is to be admitted to profession; otherwise the novice is to be dismissed...” Cf. CIC cc. 641ff.

<sup>74</sup> Cf. G. RAMIS, *La Consagración de la Mujer en las Liturgias Occidentales* (Rome: C.L.V., Edizioni Liturgiche, 1990). Cf. G. RAMIS, “Los Formularios Romanos de las Misas de Bendición de Vir-

## 5. *Notation*

Since the widow's profession is a public vow accepted by the legitimate ecclesiastical superior in the name of the Church, the vow should obviously be recorded both in the eparchial records and on the widow's baptismal certificate. We have a witness to this, for example, in the Diocese of Lincoln archives, which record several widows' professions as late as the mid fifteenth century.<sup>75</sup>

## 6. *Relationship between the consecrated widow and the hierarch*

Canon law requires that institutes of consecrated life have a clearly articulated rule of life approved by competent authority (CIC cc. 576, 578, 587; CCEO c. 426). By analogy, it seems most reasonable that the consecrated widow should also have a rule or plan of life approved by the competent authority in each Church *sui iuris* or individual eparchy. The rule of life should treat the constitutive dimensions of the widow's life (particularly her profession of chastity), as well as her spiritual progress, her apostolic endeavors, and her Christian witness. Furthermore, it should set out the practical means employed by the widow to assume her new consecrated state of life. The plan of life adopted by the widow should also specify the frequency of contact with her ecclesiastical superior or his delegate. Indeed, the hierarch's responsibility of vigilance over the consecrated widow is parallel to his responsibility of vigilance towards all religious, as stated in CCEO canon 415 §§ 1, 2, 3.<sup>76</sup>

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genes y Viudas", *Traditio et Progressio, Studi Liturgici in Onore del Prof. Adrien Nocent, OSB a cura di Giustino Farnedi* (Rome: Benedictina-Edizioni Abbazi S. Paulo, 1988) 437-467. Cf. C. HIP-FLORES, *Ordo Viduarum, Consecrated Widows in Canon Law* (Pamplona: University of Navarre Doctoral Dissertation, 2015) C. 3.

<sup>75</sup> A. CLARK, *Lincoln Diocese Documents 1450-1544, Edited with Notes and Indexes* (London: Kegan Paul, Trench, Trübner & Co., Ltd., 1914) 245.

<sup>76</sup> CCEO c. 415 §1: "All religious are subject to the authority of the local hierarch in matters which pertain to the public celebration of divine worship, to the preaching of the word of God to the people, to the religious and moral education of the Christian faithful, especially of children, to catechetical and liturgical instruction and to what becomes the clerical state, as well as to various works of the apostolate. §2. It is the right and duty of the eparchial bishop to make a visitation of each monastery and of houses of orders and congregations in his territory in respect to the matters mentioned in 1 as often as he conducts a Canonical visitation there or whenever he judges that grave reasons suggest it. §3. The eparchial bishop can entrust apostolic work or duties pertaining to the eparchy to religious only with the consent of the competent superiors, without prejudice to common law and with observance of the religious discipline of the institutes safeguarding their own character and specific purpose."

### 7. *Apostolic duties of the consecrated widow within her eparchy*

Historically, the widows of the ancient *ordo viduarum* were commissioned to pray, perform works of charity, undertake penances, and minister to the sick and female catechumens.<sup>77</sup> In contemporary society, the arena for women's participation in the life of the local church is much broader. Women make invaluable contributions to the catechetical effort, liturgical ministries, care of the sacristy, pastoral and finance councils, etc. When these duties are performed by a consecrated widow, they take on a more public profile because she has made public profession of chastity and been admitted to a state of consecrated life.

### 8. *Obligations and Rights of the Consecrated Widow*

Once again, CCEO canon 570 specifies virtually no rights and obligations established between the widow and her eparchy. The widow, clearly, has the obligation to maintain chastity in the widowed state of life. She makes a public profession of chastity which is accepted in the name of the Church by ecclesiastical authority. The tradition of the Church, especially as expressed in the *Didascalia* and the Apostolic Constitutions, strongly indicates that the widow assumes an obligation of prayer for the local church community, and perhaps of performing some other charitable works.<sup>78</sup>

The widow acquires the fundamental right to have her spiritual needs met by the ministers of the Church, in order to persevere in the vocation and spirituality she has assumed with the Church's consent. These needs are met through ministry of the Word and sacraments.<sup>79</sup> Medieval liturgical rites also demonstrate that the consecrated widow acquired the right to wear a veil and distinctive dress. Other specific rights which the eparch could consider extending to the widow, in view of her consecrated witness in the local church and her obligation of prayer, include the right to participate in eparchial gath-

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<sup>77</sup> Cf. POLYCARP, *Epistula ad Philippenses*, in FUNK, *Opera Patrum Apostolicorum* v. 1 (London: H. Laupp, 1887) 271; CLEMENT, *Pædagogus*, in MIGNE, *Patrologia Graeca* v. 8 (Paris, Imprimerie Catholique, 1857) 675; ORIGEN, *Isaiam Hom. VI*, 3 in MIGNE, *Patrologia Graeca* v. 13 (Paris: Imprimerie Catholique, 1842-1847) 242; ORIGEN, *Commentariorum in Evangelium secundum Joannem XXXII*, 12 in MIGNE, *Patrologia Graeca* v. 14 (Paris: Imprimerie Catholique, 1842-1847) 771; AUGUSTINE, *De bono viduitatis*, cc. 26-27 in MIGNE, *Patrologia Latina* v. 40 (Paris: Garnier, 1844-1855) 447-448; OKULIK, 948-950.

<sup>78</sup> *Didascalia*, XV; Apostolic Constitutions, III, 1.

<sup>79</sup> CIC c. 213, 214; CCEO cc. 16, 17.

erings of members of consecrated life, the right to access a chapel for retreats, and the right and the obligation to communicate with the hierarch periodically, for example.

9. *Transfer of the consecrated widow from one eparchy to another*

The consecrated widow lives in a public state of consecrated life for the good of the Church, and is therefore accountable to the local hierarch. If the widow should move from the territorial jurisdiction of one local church to another, it would be fitting that her hierarch *ad quo* formally inform the hierarch *ad quem*. The purpose of this communication between hierarchs would not be to request permission for the relocation of the widow (since the widow enjoys no right to sustenance in the eparchy, neither can she have an obligation of residence), but rather to cross-notify both ordinaries that a person in a public state of consecrated life with a charism that exists for the good of the community will be relocating. The receiving hierarch should want to establish communication with the widow, in order to fulfill his obligation of providing ministerial attention and exercising vigilance over all those in consecrated life within his territory and over any public apostolate she might undertake.

10. *Separation from the state of consecrated widowhood*

As argued above, the widow's public profession of chastity is a public vow because it is received by a legitimate ecclesiastical superior in the name of the Church. Therefore, it cannot be dispensed or commuted privately as established in CCEO canon 893 § 3 (CIC canons 1196 and 1197).

The question then becomes *which* authority is competent to dispense the widow's vow made under CCEO canon 570. Since the CCEO is silent on this matter, one must take recourse to parallel places. The CCEO does establish that religious who are members of institutes of eparchial right are under the special care of the eparchial bishop. For example, CCEO canon 414 establishes that eparchial bishops are competent to approve the *typica* of monasteries and the statues of congregations of eparchial right, and to give dispensations from, and conduct canonical visitations of the same. Most importantly, dispensation from religious vows emitted in religious institutes of any juridic status can be granted by the patriarch in patriarchal churches. In other *sui iuris* churches, such dispensation is reserved to the Holy See

*unless* the religious institute is of eparchial right (CCEO c. 795 §2).<sup>80</sup> The same logic applies in the CIC with respect to the dismissal of religious from congregations of diocesan right: the diocesan bishop is competent to extend excommunication for more than three years, or to confirm a decree of imposed excommunication (CIC c. 686 §§ 1, 3). Consecrated widows can be considered equivalent to religious who are members of eparchial/diocesan right institutes in that they are under the special care of, and depend directly on, the eparchial bishop. Thus, he would be competent to grant a dispensation from the widow's profession of chastity.

And likewise, for a grave reason that is external, imputable and juridically proven, the eparchial bishop would be competent to dismiss her. For example, should the local eparch – after conducting a transparent and just investigation, always safeguarding the widow's right of defense – verify the widow's notorious defection from the Catholic faith (CIC c. 694 §1, 1°; CCEO c. 497 §1, 1°), or any of the other the delicts mentioned in CCEO canons 500 §2, 1°; 551; 552 §2, 1°; 562 §3, 562 §3 (CIC canons 695 and 696), he might deem that dismissal from the state of widowhood were warranted to avoid scandal and protect the common good of the Church. Contracted or attempted marriage by a professed widow might warrant an *ipso facto* dismissal, which should subsequently be declared so that the dismissal is established juridically (CIC c. 694; CCEO c. 497 §1, 2°). Of course, similar to a religious, the widow could always make hierarchical recourse to CICLSAL if she felt that she was unjustly dismissed from the state of consecrated widowhood.

### 11. *Economic considerations*

The Church's concession of sustenance or remuneration was a prominent aspect of the ancient widows' relationship with the bishop and the particular church. The poor destitute widows received charity while the enrolled widows received "honor" on account of their ministry of prayer.<sup>81</sup> Indeed, the reception of sustenance seems to have been at least one key aspect of enrollment in the order of widows dating as far back as Paul's first epistle to Timothy.<sup>82</sup>

<sup>80</sup> OKULIK, 948-950.

<sup>81</sup> B. THURSTON, *The Widows: A Women's Ministry in the Early Church* (Philadelphia: Fortress Press, 1989) 44; cf. J. ERNST, "Die Witwenregel des ersten Timotheusbriefs", *Theologie und Glaube* 59 (1969) 439.

<sup>82</sup> E. HATCH, "Widows", *A Dictionary of Christian Antiquities* v. 2, W. SMITH and S. CHEETAM, Eds. (London: Clowes and Sons, Ltd., 1880) 2033-2037.

Fast-forwarding the centuries, CCEO canon 570 establishes no specific right of consecrated widows to remuneration in consideration of their service to the Church. Indeed, CCEO canon 570 does not actually specify that the consecrated widows and virgins are “dedicated to the service of the Church” at all, which is the language used by CIC 604, the Eastern canon’s closest Latin analogue.<sup>83</sup> The type of service, if any, which the widow should provide to her eparchy is remanded to particular or more particular law. Nevertheless, even without the articulation in common law of a specific right of consecrated widows dedicated to the service of the Church to remuneration, the widows are protected by CCEO canon 409 § 2 (CIC canon 231 §2) which applies to all laypersons, i.e., all non-clerics.<sup>84</sup>

Canon 409 § 2 of the CCEO establishes:

[Laypersons] have a right to a decent remuneration suited to their condition; by such remuneration they should be able to provide decently for their own needs and for those of their family with due regard for the prescriptions of civil law; they likewise have a right that their own and their family’s pension, social security and health benefits be duly provided.

Likewise, canon 231 § 2 of the CIC establishes:

Without prejudice to the prescript of c. 230 §1 and with the prescripts of civil law having been observed, lay persons have the right to decent remuneration appropriate to their condition so that they are able to provide decently for their own needs and those of their family. They also have a right for their social provision, social security, and health benefits to be duly provided.<sup>85</sup>

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<sup>83</sup> CIC c. 604 § 1: “Hisce vitae consecratae formis accedit ordo virginum quae, sanctum propositum emittentes Christum pressius sequendi, ab Episcopo dioecesano iuxta probatum ritum liturgicum Deo consecrantur, Christo Dei Filio mystice desponsantur et Ecclesiae servitio dedicantur.”

<sup>84</sup> I use the term layperson in this context as defined by CIC c. 207, that is, all of the non-ordained faithful. I do not mean to imply that the consecrated widows are not members of consecrated life. I realize that this cleric-lay binary does not perfectly encapsulate the three-fold classification of the faithful (cleric-religious-lay) defined by CCEO c. 399.

<sup>85</sup> CCEO c. 409 § 2: “Ipsi ius habent ad iustam remunerationem suae conditioni aptatam, qua decenter, servatis quoque iuris civilis praescriptis, necessitatibus propriis ac familiae providere possint; itemque ius habent, ut sui suaeque familiae congruenti praeventiae et securitati sociali necnon assistentiae sanitariae provideatur.”

CIC c. 231 § 2: “Firmo praescripto can. 230, § 1, ius habent ad honestam remunerationem suae conditioni aptatam, qua decenter, servatis quoque iuris civilis praescriptis, necessitatibus propriis ac familiae providere valeant; itemque iis ius competit ut ipsorum praeventiae et securitati sociali et assistentiae sanitariae, quam dicunt, debite prospiciatur.”

Both of these canons have as their source *Apostolicam actuositatem* 22:

Deserving of special honor and commendation in the Church are those lay people, single or married, who devote themselves with professional experience, either permanently or temporarily, to the service of associations and their activities...

The pastors of the Church should gladly and gratefully welcome these lay persons and make sure that the demands of justice, equity, and charity relative to their status be satisfied to the fullest extent, particularly as regards proper support for them and their families. They should also take care to provide for these lay people the necessary formation, spiritual consolation, and incentive.<sup>86</sup>

Thus, applying these canons to the situation of consecrated widows dedicated permanently or even temporarily to service of the Church (which could be the case, for example, of widows dedicated to missionary life, catechesis, hospice ministry, or even widows appointed to an ecclesiastical office), one can easily conclude that they would have the right to decent remuneration sufficient to provide for their own needs and that of their families. On the other hand, consecrated widows who serve the Church in a volunteer capacity, or in a non-stable capacity (such as participation on a pastoral or finance council, as extraordinary ministers of the Eucharist, lectors, etc.), do not thereby establish with the institutional Church a bond of obligations-rights based on this activity.<sup>87</sup> They would not receive remuneration. Reciprocally, consecrated widows who are not thus bound cannot be construed as acquiring an obligation of residency in their eparchy because this might impinge upon their ability to independently sustain themselves.

Of course, the eparchy is free to provide sustenance to the widow – even without her service – in charitable consideration of her economic need. Indeed, this would seem most fitting considering the Lord’s predilection for widows and the Church’s consequent solicitude toward them in response to her fundamental vocation of charity.

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<sup>86</sup> *Apostolicam actuositatem* 22: “Speciali honore et commendatione in Ecclesia digni sunt laici, sive caelibes sive matrimonio iuncti, qui perpetuo aut ad tempus servitio institutionum earumque operum seipsum, sua peritia professionalī, devovent... Pastores Ecclesiae hos laicos libenter et grato animo recipiant, curent ut eorum condicio exigentiis iustitiae, aequitatis et caritatis quam maxime satisfaciatur, praesertim quoad honestam eorum familiarumque sustentationem, ipsique necessaria institutione, spirituali solamine et incitamento gaudeant.” *Ad Gentes* 17 also affirms the right of full-time catechists to a just wage.

<sup>87</sup> Cf. J. OTADUY, “El Derecho a la Retribución de los Laicos al Servicio de la Iglesia”, *Fidelium Iura* 2 (1992) 194-195.

## G. COMPARISON TO 1983 CIC c. 604

As noted earlier, the juridic figure of the consecrated widow has no direct counterpart in the Latin Church. The most related and roughly comparable juridic figure in the *Codex Iuris Canonici* 1983 is the consecrated virgin, resurrected in CIC canon 604 after an almost equally long period of desuetude. Not surprisingly, the CIC lists the consecrated virgins near the hermits (CIC c. 603) – the only other individual form of consecrated life recognized in the Latin Church. The 1983 Code makes no mention of widows or widowhood whatsoever.

1. *Structural comparison*

CIC canon 604 is nestled in Book II, Part III of the CIC, “Institutes of Consecrated Life and Societies of Apostolic Life.” As already noted earlier, the CCEO lacks norms common to all institutes of consecrated life. Instead, it compares and describes all forms of consecrated life to monastic life, which establishes the norms to be adapted by the rest. In contrast, Section I, Title I of Book II, Part III of the CIC sets out general norms common to all forms of consecrated life (CIC cc. 573-606). It then specifically regulates Religious Institutes (Title II), Secular Institutes (Title III), and Societies of Apostolic Life in a separate section (Book II, Section II).

Based on this outline structure, we see clearly that the CCEO includes the consecrated widows as the ninth form of consecrated life, while affirming that the Societies of Apostolic Life “resemble institutes of consecrated life” (*quaeque institutis vitae consecratae accedunt*) but are not such.<sup>88</sup> The CIC, on the other hand, distinguishes religious institutes and secular institutes as the two overarching categories of consecrated life, and then affirms that consecrated virgins “are similar to”, or “are added to” the other forms of consecrated life (*Hiscæ vitae consecratae formis accedit ordo virginum*). The rationale for separating the Latin consecrated virgins from the other forms of consecrated life is certainly that, like the Oriental consecrated virgins and widows, they do not profess the evangelical counsels of poverty and obedience. And in the CIC, consecrated life is explicitly defined by the profession of the three evangelical

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<sup>88</sup> CCEO c. 572.

counsels.<sup>89</sup> While in the CCEO, *religious* life is explicitly defined by profession of the same counsels. Thus canon 570 is nestled within Title I, “Monks and Other Religious”, with the tacit acceptance that not all forms of consecrated life are religious.<sup>90</sup>

Luis Okulik notes the canonical inconsistencies (or perhaps simply a *lacuna legis*) evident in the Latin Code with respect to consecrated virginity and marriage impediments, and then assumed into the CCEO with respect to both virgins and widows, ostensibly for the sake of legislative uniformity. Submitting CIC canon 1088 to strict interpretation (c. 18), the Legislator has established that only a public perpetual vow of chastity in a religious institute invalidates marriage.<sup>91</sup> Thus, the consecration of virginity (even despite the fact that the woman is established as *Sponsa Christi*) is not a diriment impediment to marriage. The Oriental Code assumes this same disposition in CCEO canon 805.<sup>92</sup> Thus, according to the current legislation articulated in both codes, the marriages of consecrated virgins and consecrated widows in either the Latin or the Eastern Churches *sui iuris* would be illicit but not invalid.<sup>93</sup>

## 2. Exegetical comparison

Canon 604 of the *Codex Iuris Canonici* reads:

§ 1. *Hiscæ vitæ consecratæ formis accedit ordo virginum quæ, sanctum propositum emittentes Christum pressius sequendi, ab Episcopo dioecesano iuxta probatum ritum liturgicum Deo consecrantur; Christo Dei Filio mystice desponsantur et Ecclesiæ servitio dedicantur.*

<sup>89</sup> CIC c. 573 §2: “The Christian faithful freely assume this form of living in institutes of consecrated life canonically erected by competent authority of the Church. Through vows or other sacred bonds according to the proper laws of the institutes, they profess the evangelical counsels of chastity, poverty, and obedience and, through the charity to which the counsels lead, are joined in a special way to the Church and its mystery.”

<sup>90</sup> CCEO c. 410: “The religious state is a stable mode of common life in an institute approved by the Church, in which the Christian faithful, by closer following Christ, the teacher and exemplar of holiness, under the action of the Holy Spirit, totally dedicate themselves by a new and special title through public vows of obedience, chastity and poverty, observed according to the norms of the statutes under a lawful superior, they renounce the world and totally dedicate themselves to the acquisition of perfect charity in service to the Kingdom of God for the building up of the Church and the salvation of the world as a sign of the foretelling of heavenly glory.”

<sup>91</sup> CIC c. 1088: “Those who are bound by a public perpetual vow of chastity in a religious institute invalidly attempt marriage.”

<sup>92</sup> CCEO c. 805: “Persons who are bound by a public perpetual vow of chastity in a religious institute invalidly attempt marriage.”

<sup>93</sup> OKULIK, 949-950.

§ 2. *Ad suum propositum fidelius servandum et ad servitium Ecclesiae, proprio statui consonum, mutuo adiutorio perficiendum, virgines consociari possunt.*

§1. Similar to these forms of consecrated life is the order of virgins who, expressing the holy resolution of following Christ more closely, are consecrated to God by the diocesan bishop according to the approved liturgical rite, are mystically betrothed to Christ, the Son of God, and are dedicated to the service of the Church.

§2. In order to observe their own resolution more faithfully and to perform by mutual assistance service to the Church in harmony with their proper state, virgins can be associated together.

Canon 570 of the CCEO is more succinct than its Latin counterpart. Canon 604 of the CIC elaborates on the motive for the virgin's consecration – namely, to follow Christ more closely. Canon 604 also makes mention of a liturgical rite, highlights the virgin's mystical betrothal to Christ which is central to the virginal consecration and spirituality, and states that the virgins are dedicated to the service of the Church. Canon 570 of the CCEO, on the other hand, makes no mention of any of this. It merely lists the barest juridic requirements (“having publically professed chastity”) and states that consecrated virgins and widows may be established by particular law.

#### a) *Professione publica profitentes vs. consecrantur*

Canon 570 of the CCEO emphasizes the profession emitted by the widow and the virgin (*professione publica profitentes*) as the means by which the woman enters the consecrated state of life.<sup>94</sup> Canon 604 of the CIC, on the other hand, emphasizes the consecration conferred by the diocesan bishop (*ab Episcopo dioecesano iuxta probatum ritum liturgicum Deo consecrantur*) through the approved liturgical rite as the means by which the virgin is consecrated. In fact, the Latin canon's emphasis on the consecration imparted by the bishop, above and beyond the *propositum* emitted by the virgin, has led Raymond Cardinal Burke to conclude with respect to virgins, “The consecration [of a virgin] is not a vow that a woman herself makes, but rather a solemn blessing that she receives being set apart as a sacred person by the action of the Holy Spirit through the hands of the bishop. One cannot ‘undo’ a Consecration.

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<sup>94</sup> SASTRE, 306.

One cannot ‘undo’ the bond of Christ with His bride.”<sup>95</sup> Because the consecration of a virgin constitutes her as *Sponsa Christi* by an indissoluble marital bond, Cardinal Burke holds that the consecration of a virgin cannot be dispensed like a vow.

The theology and discipline of the widow’s consecration or blessing, on the other hand, is entirely different. Recall the words of St. Augustine: “far be it that this be the thought of holy widows, that Christ seem unto them as a second husband...”<sup>96</sup> The widow is not established as *Sponsa Christi*. The juridical bond of marriage has ended, but yet she receives a blessing on her new state in order to live out the ascetic conclusion of her original marital vows.

#### b) Competent authority

Canon 604 of the CIC unambiguously states that the diocesan bishop – not even another ordinary – consecrates the virgin. Moreover, the Rite of Consecration also specifies the bishop as the one who consecrates.<sup>97</sup> Canon 570 of the CCEO, however, does not name a competent authority to consecrate a widow (or a virgin). The canon simply states that they can be established (*constitui possunt*) while the details are remanded to particular law. One could argue by consulting parallel laws (CIC ’83 c. 19) that the Legislator intended that at least the virgins should also be consecrated by the eparch. However, the benediction of a widow was traditionally imparted by a presbyter.<sup>98</sup> Not surprisingly, development of the liturgy is also in the purview of particular churches *sui iuris*, with review or approbation of the Holy See.

#### c) *Seorsum in saeculo*

Canon 604 of the CIC does not specify that the consecrated virgins live *seorsum in saeculo*. This omission surely reflects the continuous practice in the

<sup>95</sup> Questions and Answers by Bishop Raymond L. Burke, June 14, 1997. United States Association of Consecrated Virgins (USACV) Informational Retreat. <<http://www.consecratedvirgins.org/q-a/qa-b.html>>.

<sup>96</sup> AUGUSTINE, *De Bono Viduitatis*, cc. 12, 13 in J.P. MIGNE, *Patrologia Latina* v. 40 (Paris: Garnier, 1844-1855) 439-440: “Deinde cum primae nuptiae melioris sint meriti quam secundae, absit, ut sanctorum viduarum iste sit sensus, ut Christus eis videatur quasi secundus maritus...” English translation by C. L. CORNISH in P. SCHAFF, *NPNF* 1/03, 446.

<sup>97</sup> *Ordo consecrationis virginum, Prenotanda*.

<sup>98</sup> M. ANDRIEU, “Le Pontifical Romain au moyen-âge”, Tome I, *Le Pontifical Romain de XIIe siècle, Studi e testi*, 86; Città del Vaticano 1938, 559-562; cf. SASTRE, 33; cf. 10<sup>th</sup> Council of Toledo, c. 4; VI Council of Paris, cc. 40, 43.

Latin Church of conferring the virginal consecration on enclosed nuns who were virgins after their solemn profession.<sup>99</sup> The monasteries were thus the only venue where the juridic figure of consecrated virgin survived for 700 years after *Periculoso*. The Second Vatican Council restored the ancient Order of Virgins who lived *in the world*. Thus, the liturgical Rite of Consecration of a Virgin, promulgated on May 31, 1970, has two variations: one for nuns, and one for secular virgins.<sup>100</sup> By contrast, the explicit insistence of CCEO canon 570 on the individuality of the consecrated widow living in the world seems to exclude the analogous possibility of consecrating widows who simultaneously belong to monasteries, orders, or congregations.

d) Associations of consecrated widows?

The CCEO has no canon comparable to CIC canon 604 § 2 by which the Latin code affirms the possibility of associations of consecrated virgins for the purpose of mutual support and service to the Church.<sup>101</sup> The somewhat more succinct CCEO takes as implicit the right of the consecrated widows to associate like any member of the Christian faithful (CCEO c. 18).<sup>102</sup> Moreover, the right of association in the ecclesial community is a natural right rooted in

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<sup>99</sup> Francisco Suárez mentions the veil of virginal consecration given only to virgins at the age of 25 years to distinguish them from other nuns in the convent (cf. F. SUAREZ, *De religione*, tr. VI, t. I, col. 11, n. 5). This custom was practiced among the ancient monastic orders until the sixteenth century. The practice was then restored in 1868 by Dom Guéranger for the Benedictine nuns of Solesmes (cf. ELMSLEY, 331). In the eighth and ninth centuries, the bishops at their regional councils found it necessary to issue ecclesiastical decrees to restrain abbesses from usurping the function of the bishop and solemnly conferring the veil themselves (cf. Sixth Council of Paris in 829, c. 43). In the twelfth century Abelard made a rule that a white cross on the head should distinguish the veil given to virgins by the bishop from that of the other nuns (Ep. viii, P.L., CLXXVIII, 301; cf. VERMEERSCH, “Religious Veil” in *The Catholic Encyclopedia*. v. 15. Accessed 16 Feb. 2015 <<http://www.newadvent.org/cathen/15321c.htm>>.

<sup>100</sup> *Pontifical Romanum, Ordo consecrationis virginum*, editio typica (Vatican: Polyglot Press, 1970).

<sup>101</sup> CIC c. 604 §2: “In order to observe their own resolution more faithfully and to perform by mutual assistance service to the Church in harmony with their proper state, virgins can be associated together.”

<sup>102</sup> CCEO c. 18: “The Christian faithful are free to found and to govern associations for charitable and religious purposes or for the promotion of the Christian vocation in the world; they are free to hold meetings to pursue these purposes in common.” Cf. CIC c. 215: “The Christian faithful are at liberty freely to found and direct associations for purposes of charity or piety or for the promotion of the Christian vocation in the world and to hold meetings for the common pursuit of these purposes.”

baptism. Del Portillo articulated this in his 1969 seminal study on the bases of juridic statuses in the Church:

... The notion of People of God implies that the principle of sociality in the Church resides in the union of all the faithful, with a view towards the sole and common purpose of the Church, for which all are responsible, according to the unique mission of each one. The mission of the Church is not exclusively the mission of the Hierarchy... The participation of the faithful – their responsibility – for the mission of the Church is connatural with their condition of members of the people of God; it is an *officium nativum* which engenders a natural right to participate actively in the mission of the Church.<sup>103</sup>

Cenalmor further comments on this natural right:

Canon 215, therefore, proclaimed an authentic right, a right which, in an analogous manner to what occurred with the human right of association, as can be inferred from *Apostolicam actuositatem* 18, does not derive from a concession granted by ecclesiastical authority, but rather is immediately grounded in the social nature of people and of the community of the children of God, and, most distantly, in the insufficiency of individual efforts to attain to the ends inherent to the baptized. For this reason, it can be considered an *innate* or *fundamental* right of all the members of the people of God, inherent to – as Hervada suggests – the *communio fidelium*.<sup>104</sup>

Thus, an association of consecrated widows would be fully possible and consistent with the fundamental rights of the faithful (despite the CCEO's silence on the matter). However, such an association could not be mandated, even by the eparch, nor could it be akin to a communal form of living con-

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<sup>103</sup> A. DEL PORTILLO, *Fieles y Laicos en la Iglesia. Bases de sus respectivos estatutos jurídicos* (Pamplona: Ediciones Universidad de Navarra, S. A. 1969) 133: "... la noción de Pueblo de Dios implica que el principio de socialidad en la Iglesia reside en la unión de todos los fieles en orden al fin único y común de la Iglesia, del que todos son responsables, según la misión propia de cada uno. La misión de la Iglesia no es exclusivamente la misión de la Jerarquía. Por otra parte, esa participación de los fieles – esa responsabilidad – en la misión de la Iglesia es connatural a su condición de miembros del Pueblo de Dios, es un *officium nativum* que engendra un derecho natural a participar activamente en la misión de la Iglesia." Translation from the Spanish is my own.

<sup>104</sup> D. CENALMOR, "Right of Association" in *Exegetical Commentary* v. 2/1, 98, 99. Cf. L. NAVARRO, *Diritto di associazione e Associazioni di Fedeli* (Milan: Giuffrè Editore, 1991) 7-17. Cf. J. HERVADA, *Elementos de Derecho Constitucional Canónico* (Pamplona: Ediciones Universidad de Navarra S. A., 1987, 2001) 130-133. Cf. Vatican II, decree *Apostolicam actuositatem*, November 18, 1965: *AAS* 58 (1966).

secrated life because this would alter the individual, secular characteristics of this ninth form of consecrated life.<sup>105</sup>

### 3. *Omission or exclusion?*

Finally, this comparison between CCEO canon 570 and CIC canon 604 begs the question: Why were consecrated widows not established in the Latin code? One possible explanation is that the CCEO simply benefited from seven additional years before its promulgation, during which time its drafters studied and reflected upon the CIC and aimed for improvements. Beyer certainly suggests this:

If the Code [CIC] has spoken of virgins in a special canon, this is due to the ritual of consecration of virgins approved in 1970. The widows did not yet have a ritual of benediction, if not that one prepared in France, which was authorized by the Archbishop of Paris and had received approbation from the Congregation for Divine Worship, on February 2, 1984.<sup>106</sup>

It is also possible, however, that the inclusion of consecrated widows in the CCEO and their absence in the CIC reflects the diverse patrimonies of the various Churches *sui iuris* throughout the centuries. Historian Mathew Brendan Smyth recounts that from earliest times, Eastern ministers conferred a special blessing on continent widows, thus ratifying their holy *propositum* not to remarry. In contrast, many of the Latin churches were initially skeptical about such a blessing – most especially when the consecrated widows were conflated with deaconesses. But conversely, from the fourth century onward, bishops in the West conferred a special consecration upon virgins in the form of a solemn *velatio* at the hands of the bishop.<sup>107</sup>

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<sup>105</sup> This is also the opinion of F. Coccopalmerio in writing about possible associations of consecrated virgins: “Ma il Vescovo diocesano può esigere la vita in comune? Rispondiamo di no. Ciò infatti sarebbe contrario allo ‘spirito’ proprio dell’Ordo Virginum. Tale ‘spirito’ – relativamente al quale la dottrina canonistica risulta concorde (cf. gli scritti sopra citati) – è quello di lasciare alle vergini la libera decisione nella strutturazione della loro vita.” Cf. F. COCCOPALMERIO, “L’Ordo Virginum: note di esegesi del can. 604”, *Vita Consecrata* 32, 1996/5, 531.

<sup>106</sup> BEYER, *Le Droit de la Vie Consacrée*, 153: “Si le Code a parlé des vierges dans un canon spécial, cela est dû au rituel de la consécration des vierges approuvé en 1970. Les veuves n’ont pas encore un rituel de bénédiction, si ce n’est celui qui, préparé en France, fut autorisé par l’Archevêque de Paris et a reçu l’approbation de la Congrégation pour le Culte Divin et la Discipline des Sacrements, le 2 février 1984.” Translation from the French is my own.

<sup>107</sup> M. SMYTH, “Widows, Consecrated Virgins and Deaconesses in Ancient Gaul”, *Magistra* 8, 1 (July 1, 2002).

## CONCLUSION

The extremely succinct establishment of consecrated widows in canon 570 of the common law of the Oriental Churches remands all further specification to particular law. But the prominent issues in medieval canon law, to a large extent, remain salient today. Among these, the qualifications and impediments to receiving the consecration of widowhood, the obligations assumed by the consecrated widow, the theological significance of the consecration, and relatedly, the remedies for consecrated widows who retract their pledge, still seek resolution today. Particular lawmakers must look to the long history of consecrated widows in canon law, in order to foster a just and coherent praxis.

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