

# The manifestation of the will of the faithful in the context of *Anglicanorum cœtibus* and other ecclesiastical circumscriptions

Ernest Caparros

University of Ottawa

Pontificia Università della Santa Croce

SUMMARY: 1. INTRODUCTION: THE RELATIONSHIP «ORDO-PLEBS», FOUNDATION OF HIERARCHICAL CIRCUMSCRIPTIONS.—2. THE ROLE OF THE WILL IN CONSTITUTING THE «ORDO-PLEBS» IN ECCLESIASTICAL CIRCUMSCRIPTIONS: 2.1. *The portion of the People of God: the lay faithful*: a) The role of the will in asking for Baptism: becoming components of Eastern or Latin Church. b) The role of the will in choosing a domicile: becoming components in a territorial circumscription. c) The role of the will in becoming part of a personal circumscriptions. 2.2. *The presbyterium*: a) The role of the will of the candidate in answering God's calling. b) The role of the will of the Ordinary in discerning the vocation of the candidate. c) The role of the will of the incardinated priest and of the Bishop (Ordinary) *ad quem* and the Bishop (Ordinary) *a quo* in the changing of the incardination. d) The role of the will of the priest and of the Bishop *ad quem* and the Bishop *a quo* in order to establish a contractual agreement for the priest to temporally exercise his ministry in the diocese *ad quem*.—3. SPECIFICATION OF THE ROLE OF THE WILL IN PERSONAL CIRCUMSCRIPTIONS: HOW ARE THE LAY FAITHFUL ATTACHED TO THESE CIRCUMSCRIPTIONS?: 3.1. *The Precedents*: a) Joiners of the Armed Forces (legal conscription or contractual commitment) and members of their families, and other contractual personnel. b) Answering to a specific calling manifested by a contractual commitment to fulfil an explicit mission. c) Inscription in a registry in order to be assigned to a specific pastoral circumscription (Saint John Mary Vianney personal Apostolic Administration). 3.2. *The way of joining the Personal Ordinariates to be established in the context of Anglicanorum cœtibus*: a) The role of the will in establishing each personal ordinariate. b) The role of the will in the demand of the former Anglican clergy to be ordained in the Catholic Church. c) The role of the will of former Anglican lay faithful to be inscribed in the registry of each personal ordinariate.—4. CONCLUDING REMARKS.

It is always a joyful experience to write a contribution to a *Festschrift* to honour a friend and a colleague. I have had the privilege of knowing Professor Rafael Navarro-Valls for many years and have had very enjoyable meetings and events together with him. I do not need to mention his well-established reputation as a perspicacious canonist and fierce debater. I recall a memorable trip from Pamplona to Madrid, at the end of the X International Congress held at the Universidad de Navarra, by the *Consociatio* in September 1998. I remember the many exchanges and discussions with Professor Navarro and two other Professors, Martínez-Torrón and Palomino, also good friends of mine, and competent collaborators in many projects with Professor Navarro. When you receive the invitation

from these two latest mentioned friends to contribute to a publication to honour Professor Navarro-Valls, you find the time to do it.

## 1. Introduction: the relationship «ordo-plebs», foundation of hierarchical circumscriptions

On November 4, 2009, Benedict XVI with the Apostolic Constitution *Anglicanorum cœtibus*<sup>1</sup>, established a canonical framework to welcome former members of the Anglican Communion into full communion within the Catholic Church, by establishing personal ordinariates. In this new personal circumscription the role of the will is of great importance, starting with the formal request presented by some groups of Anglicans to the Catholic Church<sup>2</sup> and in its concretion in the *Complementary Norms* to the Apostolic Constitution<sup>3</sup>. The new canonical framework put me on the path of considering the role of the will in ecclesiastical circumscriptions in general.

Nevertheless, my purpose is not to present a complete study of all those ecclesiological questions, not even to deal with the canonical interrogations linked to the sacramental dimension of the Church. Neither more specifically, it is to study the incorporation into the Church sacramentally caused by Baptism. The answer to this question was clearly given in the letter *Communioneis notio*: «Every member of the faithful, through faith and Baptism, is inserted into the one, holy, catholic and apostolic Church. He or she does not belong to the universal Church in a *mediate* way, *through* belonging to a particular Church, but in an *immediate* way, even though entry into and life within the universal Church are ne-

<sup>1</sup> Not yet promulgated in A.A.S. Italian version in *L'Osservatore Romano* 9-10-XI-2009, pp. 6-7. English translation in *L'Osservatore Romano*, Weekly Edition in English, 11 Nov. 2009, pp. 3 & 5; also in *Communiones* 41 (2009) 231-236 [= AC] and in [http://www.vatican.va/holy-father/benedict\\_xvi/apost\\_constitutions/documents/hf\\_ben-xvi\\_apc\\_20091104\\_anglicanorum-coetibus\\_en.html](http://www.vatican.va/holy-father/benedict_xvi/apost_constitutions/documents/hf_ben-xvi_apc_20091104_anglicanorum-coetibus_en.html) (09-04-2010).

This publication was accompanied by: CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Complementary Norms for the Apostolic Constitution Anglicanorum cœtibus*, 4-XI-2009. Italian version in *L'Osservatore Romano* 9-10-XI-2009, p. 7. English translation in *L'Osservatore Romano* Weekly Edition in English, 11 Nov. 2009, p. 4; also in *Communiones* 41 (2009) 307-312 [= CN] and in [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20091104\\_norme-anglicanorum-coetibus\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20091104_norme-anglicanorum-coetibus_en.html) (09-04-2010). Cf. also J. I. ARRIETA, *Gli Ordinariati personali*, in «Ius Ecclesiæ» 22 (2010) 151-172; E. BAURA, *Personal Ecclesiastical Circumscriptions. The Personal Ordinariates for Faithful From the Anglican Communion*, in «Philippine Canonial Forum» 12 (2010) 101-130.

I am very grateful to Professor Eduardo Baura and Ms. Patricia M. Dugan for their comments and suggestions in order to improve this paper.

<sup>2</sup> This is mentioned in the very first line of the Preamble of the Apostolic Constitution. Also in CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Note on Personal Ordinariates for Anglicans entering the Catholic Church*, 20 Oct. 2009, in *L'Osservatore Romano* Weekly Edition in English, 28 Oct. 2009, pp. 20-21 [= CDF, Note].

<sup>3</sup> Cf. CN, art. 5 § 1.

cessarily brought about *in* a particular Church»<sup>4</sup>. Hence it is the Baptismal sacramental grace which incorporates ontologically the baptised into the Church, which is universal and particular, and manifests herself in some particular ecclesiastical circumscriptions. My aim is only to explore, in a general and rather technical manner, the role of the will in the relationship of the faithful with the ecclesiastical circumscriptions, mainly the personal ones. We will see how in some cases this role has an accidental or accessory impact, specifically in the incorporations to the Church which only the Baptismal sacramental grace can produce; contrariwise, in other cases, as we will see, this role is the efficient cause of the determination of the relationship of the subordination of the faithful to the hierarchy. But before getting there, let us recall a fundamental principle of the hierarchical circumscriptions: the need of a good, solid established relationship between the *ordo* and the *plebs*, the ministerial priesthood and the common priesthood.

It is well known that hierarchical circumscriptions are the way the Church organises herself to answer the needs of her mission<sup>5</sup>. The normal parameters of those circumscriptions are simple: a Prelate, as the head of each circumscription (in most cases a Bishop); a group of priests incardinated in the circumscription (the presbyterium); and a portion of the People of God, the laity (the *plebs*) entrusted to the pastoral care of the Prelate and his presbyterium (the *ordo*)<sup>6</sup>.

How are these three components of each ecclesiastical circumscription put together? The Prelate is appointed by the Supreme Authority in the Church, either directly or accepting some proposal by ecclesial bodies (like as in Eastern Churches as well as some circumscriptions having a say in the proposal of candidates). The priests became a component of the circumscription by the first incardination, or by a change of the incardination, or an ascription. For the lay faithful the efficient cause of his incorporation to the Universal Church in a particular Church is Baptism and his will can modify the accidents of this incorporation as he or she moves to other circumscriptions through a diversity of modes in which one manifests one's will.

<sup>4</sup> CONGREGATION FOR THE DOCTRINE OF THE FAITH, Letter *Communio notio*, May 28, 1993, no. 10 (emphasis in the original) AAS 86 (1993) 838-850, and in [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_28051992\\_communio-notio\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_28051992_communio-notio_en.html) (17-05-2010). In the context of *AC*, cf. J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 159-161.

<sup>5</sup> Cf. J. I. ARRIETA, *Chiesa particolare e circoscrizioni ecclesiastiche*, in «*Ius Ecclesiae*» 6 (1994) 3-40; ID., *Le circoscrizioni personali*, in «*Fidelium iura*» 4 (1994) 207-243.

<sup>6</sup> Cf. can. 369, 370, 371, 295, 296 CIC; can. 177, 311, 312 CCEO. Cf. J.I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 154-157; ID., *Governance Structures within the Catholic Church*, Montreal, 2000, p. 4; J. HERVADA, *Elementos de Derecho Constitucional Canónico*, 2.<sup>a</sup> ed., Pamplona, 2001, pp. 181-226; ID., *Las raíces sacramentales del derecho canónico*, in «*Vetera et Nova - Cuestiones de Derecho Canónico y afines (1958-2004)*», Pamplona, 2005, pp. 313-319; ID., *Pensamientos de un canonista a la hora presente*, 2.<sup>a</sup> ed., Pamplona, 2004, pp. 159-161; ID., *Pueblo cristiano y circunscripciones eclesíásticas*, Pamplona, 2003, pp. 97-98; A. VIANA, *Sacerdocio común y ministerial. La estructura «ordo-plebs» según Javier Hervada*, en «*Escritos en honor de Javier Hervada*», «*Ius Canonicum*», volumen especial 1999, pp. 219-245.

We will limit our considerations to two aspects of these questions: the role of the will in constituting the components of those circumscriptions, and how this role of the will is specified in some personal circumscriptions.

## 2. The role of the will in constituting the «ordo-plebs» in ecclesiastical circumscriptions

If we let aside the Prelate of each circumscription, always appointed, confirmed or given the assent by the Holy Father <sup>7</sup>, the will intervenes always in constituting the components of the ecclesiastical circumscriptions, as well for the lay faithful as for the presbyterium, although this will is not always the efficient cause and in some cases this role can be hidden behind other considerations or dimensions <sup>8</sup>. Let us first analyse our affirmation in relation with the portion of the People of God, and then with the presbyterium.

### 2.1. *The portion of the People of God: the lay faithful*

#### a) *The role of the will in asking for Baptism: becoming components of Eastern or Latin Church*

It is recognised that each baptised person becomes a member of the Universal Church either in one of the Eastern Churches <sup>9</sup> or in the Latin Church <sup>10</sup>. Baptismal Grace is the efficient cause of this incorporation into one specific Particular Church. This then opens the door to receiving all the other sacraments. It can be said in a proper sense, that one becomes a component of the Church (either Eastern or Latin) by one objective reason: reception of this sacrament.

Nevertheless, the administration of the sacrament is not imposed on any person. The «candidate for baptism who has completed the fourteenth year of age may freely choose to be baptised either in the Latin Church or in another autonomous ritual Church; in which case the person belongs to the Church which he or she has chosen» <sup>11</sup>. Each person should demand it to the appropriate authorities and Baptism is administered after the convenient preparation. Hence the will of the catechumen, to be catholic, is the very first element leading to the recep-

<sup>7</sup> Cf. can. 377 § 1 CIC; can. 181 § 2; 182 §§ 3 & 4; 184; 185 CCEO.

<sup>8</sup> Cf. For a comprehensive study of these questions, J. I. ARRIETA, *Fattori territoriali e personali di aggregazione ecclesiale*, in «Territoriality and Personality in Canon Law and Ecclesiastical Law», P. ERDŐ and P. SZABÓ eds., Budapest, 2002, pp. 393-425; also Id., *Le circoscrizioni personali*, cit., note 5, pp. 232-234.

<sup>9</sup> Cf. can. 29-30 CCEO.

<sup>10</sup> Cf. can. 96 & 11 CIC.

<sup>11</sup> Cf. can. 111 § 2 CIC. Cf. also can. 30 CCEO. Both Codes present a variety of options, for an analysis cf. A. DE FUENMAYOR, *sub* can. 111, in *Exegetical Commentary on the Code of Canon Law*, A. MARZOA, J. MIRAS & R. RODRÍGUEZ-OCAÑA (Ed.), English Edition (E. CAPARROS, Gen. Ed.), Montreal/Chicago, 2004 [= *ExComCIC*], I, pp. 737-741.

tion of the sacrament and the inscription into one of the twenty-two autonomous Churches. Note that the will cannot produce the incorporation into the Church, as such incorporation supposes an ontological change caused only by Baptismal sacramental grace.

The same can be said about the infant brought to baptism by his or her parents, although some specific dispositions restricts the possibility of choosing as freely as the fourteen year's old candidate<sup>12</sup>. It is always the will of the parents, which intervenes to ask for the Baptism of their infant, so much so that both Codes require the consent of parents, or at least one of them, or the person who lawfully holds their place, for an infant to be baptised lawfully<sup>13</sup>.

Therefore, it is clear that it is through Baptismal sacramental graces that a person becomes a component of the People of God within the Universal Church, either in one of the Eastern Churches or in the Latin Church, and specifically in a Particular church, the one that is welcoming the new Christian into her bosom.

Henceforth, Baptism is not only the efficient cause of the incorporation to the Church and the door to the reception of all the other sacraments, but it also places the newly baptised within the realm of the Eastern or the Latin Codes, and more specifically into one of the autonomous Churches. The canonical personality will then be manifested in principle for the whole life of the newly baptised, unless a transfer to another Church is granted<sup>14</sup>.

b) *The role of the will in choosing a domicile: becoming components in a territorial circumscription*

Notwithstanding the fact that since *Christus Dominus* no. 11, inserted in canon 369 CIC and in canon 177 § 1 CCEO, the definition of the diocese or eparchy does not include the concept of territory<sup>15</sup>, the territory is still a specific way of determining the exercise of the jurisdiction in some circumscriptions: hence, «as a rule, the portion of the people of God which constitutes a diocese or other particular Church is to have a definite territory, so that it comprises all the faithful who live in that territory»<sup>16</sup>. This jurisdiction is exercised over the portion of the

<sup>12</sup> Cf. can. 29 CCEO. For a succinct enumeration of the cases: cf. A. de FUENMAYOR, *sub* can. 111, in *Code of Canon Law Annotated*, 2<sup>nd</sup> edition, E. CAPARROS & H. AUBÉ, editors, Montreal, 2004 [=CCLA], pp. 94-96.

<sup>13</sup> Cf. can. 868, § 1, 1.º CIC; can. 681 §1, 2.º CCEO.

<sup>14</sup> Cf. can. 112 CIC; can. 31-38 CCEO, presenting more elaborated provisions. Cf. L. OKULIK, *Circoscrizioni orientali*, in «Dizionario di Ecclesiologia», G. CALABRESSE, Ph. GOYRET, O. F. PIAZZA (eds.), Roma, 2010, pp. 217-218.

<sup>15</sup> Although can. 177 § 2 CCEO refers to the «territorial boundaries of the Patriarchal Church» to determine the jurisdiction of the Patriarch or the Apostolic See in modifying eparchies within or outside of that territory.

<sup>16</sup> Can. 372 §1; also can. 370 CIC. CCEO does mention the territory as one of the limits for an exarchy cf. can. 311 § 1, but not for the eparchy. Cf. A. CATTANEO, *Circoscrizioni territoriali*, in «Dizionario di Ecclesiologia», cit. note 14, pp. 234-246.

People of God domiciled or residing within a specific territory, but each person chooses, for a large variety of reasons, to establish residence, quasi-domicile or domicile in a particular location<sup>17</sup>. Although by this decision the faithful changes only accidental elements of his or her belonging to a particular Church, the role of the will is nevertheless present.

Certainly, jurisdiction is exercised territorially, but the faithful is there by choice: the possibility of finding a good job, a healthier environment, at being closer to other members of their family, and many other imaginable reasons make each one move freely from one location to another, passing from one territorial diocese or circumscription to another<sup>18</sup>.

Those people became components of the territorial circumscription where they established themselves because of their free choice of their new residence or domicile. There is an automatic submission to the jurisdiction of the territorial Bishop or Prelate of the circumscription, without him having done any specific action, in most cases, to call them into the circumscription.

c) *The role of the will in becoming part of a personal circumscriptions*

In all hitherto existing personal circumscriptions<sup>19</sup> the role of the will of the lay faithful intervene, normally to become part of the portion of the People of God under the jurisdiction of the Bishop or Prelate, although in different ways and with different effects<sup>20</sup>.

The personal circumscriptions erected up to now are not into particular Churches in the full ecclesiological sense; this is the reason why they are characterised by Hervada and other canonists as «complementary or cumulative circumscriptions»<sup>21</sup>. Hence, as a consequence, the role of the will of the faithful is normally the efficient cause of their incorporation into those circumscriptions which are not a particular Church, in cases where the faithful is already incorporated by Baptism in a particular Church (diocese) and desires to be incorporated into one of those «complementary circumscriptions». However, if in the future, the Su-

<sup>17</sup> Cf. M. DELGADO, *La libertad de los fieles y la institución canónica del domicilio*, in «Territoriality and Personality», cit. note 8, 461-466; C. J. ERRÁZURIZ, *Corso fondamentale sul diritto nella Chiesa*, I, Milano, 2009, pp. 199-201.

<sup>18</sup> Cf. J. I. ARRIETA, *Considerationi sulla giurisdizione ecclesiastica determinata per via di convenzione ex can. 296 CIC*, en «Escritos en honor de Javier Hervada», «Ius Canonicum», volumen especial 1999, pp. 169-183, at pp. 176-177.

<sup>19</sup> Cf. E. BAURA, *Personal Ecclesiastical*, cit. note 1, pp. 109-115; A. CATTANEO, *Circoscrizioni personali*, in «Dizionario di Ecclesiologia», cit. note 14, pp. 221-234.

<sup>20</sup> Cf. J. I. ARRIETA, *Le circoscrizioni personali*, cit. note 5, pp. 232-234; 237-238.

<sup>21</sup> Cf. J. HERVADA, *Elementos*, cit. note 6, pp. 296-301; Id., *Pensamientos*, cit. note 6, pp. 159-165; Id., *Pueblo cristiano*, cit. note 6, pp. 94-100; J. I. ARRIETA, *Governance Structures*, cit. note 6, pp. 179-189; E. BAURA, *Personal Ecclesiastical*, cit. note 1, pp. 104-109; A. CATTANEO, *Circoscrizioni personali*, cit. note 19, p. 225; C. J. ERRÁZURIZ, *Corso*, cit. note 17, pp. 423-436.

preme Authority decides to establish personal circumscription which could be particular Churches, in the full ecclesiological sense, then Baptism will be the efficient cause of the incorporation of the faithful and their will plays an accidental role.

Nevertheless, even in complementary circumscriptions there are cases in which the role of the will is not obvious. I have in mind herethe countries where the incorporation into the Armed Forces is still done by conscription. Obviously, the people drafted are not in the Army by a free will decision, and if they are Catholics, they will be, *a iure*, under the jurisdiction of the Military Ordinary of the Country. Nevertheless, in a good number of countries, the Armed Forces are composed by voluntary enrolment, and as a consequence in those cases, they will be under the jurisdiction of the Ordinary because of this free decision to join the Army.

There are also some eventual personal circumscriptions, mentioned in Vatican documents and by authors; they are proposals of foreseeable personal prelatures for the *ordinaria cura animarum* of groups of faithful. In some cases, the way to determine the lay faithful of the circumscription could be by ethnic or national rai-sons. Hence, in the *Guidelines for the Pastoral Care of Gypsies* the possibility of establishing a personal prelatore to take care of those people is mentioned<sup>22</sup>. A similar proposal was made to take care of migrants<sup>23</sup> and the Venerable John Paul II makes reference to it in the context of immigrants in two Apostolic Exhortations<sup>24</sup>. Some authors have also given, as example the care of migrants of same nation displaced in other territories<sup>25</sup>, or the pastoral care of the people of the sea<sup>26</sup>, as possible, specific pastoral tasks for personal prelatures. The role of the will of the faithful is not always present. In some cases their membership will be determined *a iure*. In others, like the people of sea, their will is of the essence, as they are exercising a profession or trade in virtue of contractual relationships.

In these cases were the will does not play a determinant role, like for the recruits in the Military Ordinariate in countries with compulsory recruitment, or

---

<sup>22</sup> PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE, *Guidelines for the Pastoral Care of Gypsies*, December 8, 2005, no. 88, in «People on the Move» no. 100 (Suppl.), April 2006, and in [http://www.vatican.va/roman\\_curia/pontifical\\_councils/migrants/documents/rc\\_pc\\_migrants\\_doc\\_20051208\\_orientamenti-zingari\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/migrants/documents/rc_pc_migrants_doc_20051208_orientamenti-zingari_en.html) (13-04-2010).

<sup>23</sup> PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE, *Instruction Erga migrantes caritas Christi*, May 3, 2004, no. 24, in [http://www.vatican.va/roman\\_curia/pontifical\\_councils/migrants/documents/rc\\_pc\\_migrants\\_doc\\_20040514\\_erga-migrantes-caritas-christi\\_en.html#Canonical%20norms](http://www.vatican.va/roman_curia/pontifical_councils/migrants/documents/rc_pc_migrants_doc_20040514_erga-migrantes-caritas-christi_en.html#Canonical%20norms) (13-04-2010); also in J. I. ARRIETA, *Il sistema dell'organizzazione ecclesiastica -Norme e Documenti* Roma, 2009, pp. 713-725.

<sup>24</sup> Cf. Venerable JOHN PAUL II, Post-Synodal Apostolic Exhortation *Ecclesia in America* (6 November 1999), no. 65, note 237, in *AAS* 91 (1999) 800, and Post-Synodal Apostolic Exhortation *Ecclesia in Europa* (28 June 2003) no. 103, note 166 in *AAS* 95 (2003) 707.

<sup>25</sup> Cf. E BAURA, *Le attuali riflessioni della canonistica sulle prelature personali*, in «Le prelature personali nella normativa e nella vita della Chiesa», S. GERRO, ed., Padova, 2002, pp. 15-53, at pp. 20-22.

<sup>26</sup> Cf. L. M. DE BERNARDIS, *La giurisdizione ecclesiastica sulle navi*, in «Rivista de Diritto della Navigazione», 6 (1940) pp. 425-426 (quoted by BAURA, *ibidem*, note 10).

the eventual prelatures for the gypsies or some types of migrants, we can consider that the Church is facing the need to care for these souls in specific situations. These circumstances lead her to establish circumscriptions to welcome, *a iure*, the People of God with special pastoral needs, because of their situation. In future personal circumscriptions, if such circumscriptions are erected as particular Churches<sup>27</sup>, the role of the will could be only accidental.

Let us now analyse the situation of the clergy.

## 2.2. *The presbyterium*

The will of the candidate to the priesthood, or of the priest who desires to move to another circumscription, is also of the essence of the incardination, although priestly ordination is not a subjective right of the baptized. Here, thought as well, the efficient cause is the sacrament of Holy Orders<sup>28</sup>. Hence, his will is only one of those present; other manifestations of will need to be present as well. There is God's calling, and the proper discernment by the ecclesiastical authorities that this call from God is really present in the desire of the candidate to become a priest. Hence, his desire alone is not enough. Let see each of this aspects.

### a) *The role of the will of the candidate in answering God's calling*

Obviously, the triggering gesture starting the process which could end in the priestly ordination, is the request of the candidate to a bishop<sup>29</sup>. This request is done out of the free will of the candidate<sup>30</sup>. He can choose the diocese or other similar circumscription that he likes with no limitation whatsoever<sup>31</sup>. His free will and firm resolution to be ordained and accept all the clerical obligations<sup>32</sup> needs to be renewed in writing before the ordination to the diaconate and the presbyterate<sup>33</sup>.

The first manifestation of the will of the candidate, if accepted by the bishop, welcomes him into the formational program leading to the ordination.

---

<sup>27</sup> As it seems to be envisaged by canon 372, § 2 CIC for Personal dioceses. CCEO does not consider this option.

<sup>28</sup> Cf. J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 154-157.

<sup>29</sup> As we are in the context of ecclesiastical circumscriptions we will not be dealing with the possibility of incardination or change of it in the context of institutes of consecrated life and other associations.

<sup>30</sup> Cf. can. 219 CIC; can. 22 CCEO; D. CENALMOR, *sub* can. 219, in *ExComCIC* II/1, pp. 121-125.

<sup>31</sup> Cf. can. 1016 CIC; can. 748 § 1 CCEO; D. LE TOURNEAU, *sub* can. 1016, in *ExComCIC* III/1, pp. 917-918.

<sup>32</sup> Cf. can. 1026 CIC; can. 756 CCEO; D. CENALMOR, *sub* can. 1026, in *ExComCIC* III/1, pp. 941-944.

<sup>33</sup> Cf. can. 1036, 1050 § 3 CIC; can. 761, 769 § 1, 1.º CCEO; also J. I. ARRIETA, *Considerazioni*, cit. note 18, pp. 176-177; D. CENALMOR-J. MIRAS, *El derecho de la Iglesia*, Pamplona, 2001, pp. 433-434.



b) *The role of the will of the Ordinary in discerning the vocation of the candidate*

Once accepted in the seminary, the Ordinary, by himself or by the people directing the seminary, discerns with the candidate if he has effectively received God's calling to the priesthood and if he possesses the proper qualities to respond positively to such a calling.

An important part of this discernment is the lengthy preparation not only intellectually, but also spiritually, pastorally and humanly, to discover if the candidate could assume properly all the priestly pastoral activities<sup>34</sup>. At the end of the formation it is the bishop's responsibility to determine if the candidate «possesses the requisite qualities» and if he «is considered beneficial to the ministry of the Church»<sup>35</sup>.

However, once ordained to the diaconate, he is incardinated in the particular Church or the personal Prelature for whose service he is ordained<sup>36</sup>, the deacon and afterwards the priest can still manifest his will to be transfer to another circumscription. In such a case three manifestations of will are required.

c) *The role of the will of the incardinated priest and of the Bishop (Ordinary) ad quem and the Bishop (Ordinary) a quo in changing of the incardination*

Although in most cases each priest keeps his first (original) incardination in the circumscription or institution of his ordination, Canon Law foresees the possibility for a priest to change his incardination (derived incardination). In such cases, the conjunction of three manifestations of will is required: where the priest desiring a change of incardination and the will of each one of the ordinaries *ad quem* and *a quo*<sup>37</sup>. The ordinary of the original circumscription has to accept to excardinate the priest and the ordinary of the derivate circumscription needs to incardinate the priest. The different steps have to be taken in the proper order, as established by the Codes, to avoid having a *clericus vagus*. The efficient cause of the original incardination was the reception of the first degree of the sacrament of Holy Orders (the diaconate) received as consequence of the manifestation of the free will of two people, not to mention God's call, to reach the derivate incardination, accidental change in the condition of the priest, the will of three people is required.

But the canonical norms also foresee the possibility of a temporal transfer of a priest from a circumscription to another to satisfy pastoral needs of a welcoming circumscription or institution.

<sup>34</sup> Cf. D. CENALMOR-J. MIRAS, *El derecho*, cit. note 33, pp. 178-179.

<sup>35</sup> Cf. can. 1025 §§ 1 & 2 CIC; D. CENALMOR-J. MIRAS, *El derecho*, cit. note 33, pp. 432-433.

<sup>36</sup> Cf. can. 226 § 1 CIC, can. 357, 358, CCEO; cf. our comments note 28.

<sup>37</sup> Cf. can. 267 CIC; can. 359, 364 CCEO; D. LE TOURNEAU, *sub* can. 267, in *ExCom CIC II/1* pp. 309-310; C. J. ERRÁZURIZ, *Corsò*, cit. note 17, pp. 305-309; D. CENALMOR-J. MIRAS, *El derecho*, cit. note 33, p. 180.

- d) *The role of the will of the priest and of the Bishop ad quem and the Bishop a quo in order to establish a contractual agreement for the priest to temporarily exercise his ministry in the diocese ad quem*

In these cases, the canonical framework to accomplish the temporary transfer of a priest is a contractual agreement between the two Ordinaries<sup>38</sup>. In this situation, the priest keeps his original incardination and exercises his ministry in another circumscription or at the service of an ecclesiastical institution. This canonical figure, known as *addictio* or aggregation of the clergy<sup>39</sup>, was presented by the Second Vatican Council<sup>40</sup> as a way to facilitate a better distribution of the clergy. This also existed in the first centuries of Christianity<sup>41</sup>, and before Vatican II in several concrete circumstances, like the *Fidei donum*, envisaging the transfer of priest to missionary circumscriptions<sup>42</sup>. It is also possible to find such types of agreements for a priest to be at the service of Military Ordinariates, or even for working in curial functions or similar situations<sup>43</sup>.

The important point in the context of this paper is that all these situations are determined by a contractual agreement between the two ordinaries (or the heads of the institution where the priest will be working) following the demand of the priest to be at the service of this other circumscription or institution, and although such a change does not affect the incardination, it indicates that the will plays a definite role in those circumstances. Although when the specific circumstances envisaged in canon 268 § 1 CIC (can. 360 § 2 CCEO) are fulfilled, the original manifestation of the will of the priest to the two ordinaries, provokes the change of incardination.

Once we have made this rapid presentation of the different effects of the will in a diversity of situations, let us study the role of the will more specifically in personal circumscriptions.

<sup>38</sup> Cf. can. 271 CIC; can. 360-362 CCEO; D. LE TOURNEAU, *sub* can. 271, in *ExCom CIC II/1* pp. 319-322; C. J. ERRÁZURIZ, *Corso*, cit. note 17, pp. 308-309; D. CENALMOR-J. MIRAS, *El derecho*, cit. note 33, p. 180. Cf. J. I. ARRIETA, *Il sistema dell'organizzazione ecclesiastica - Norme e Documenti*, Roma, 2009, pp. 545-547, for a model of convention proposed by the Vicariate of Rome.

<sup>39</sup> Cf. D. LE TOURNEAU, *sub* can. 265, in *ExCom CIC II/1*, pp. 300-301.

<sup>40</sup> Cf. Decree *Presbyterorum ordinis*, 10a. For a comprehensive study historically rooted, cf. J. HERVADA, *La incardinación en la perspectiva conciliar*, in «*Ius Canonicum*» 7 (1967), 479-517, and in «*Vetera et Nova*», pp. 149-186.

<sup>41</sup> For some example cf. J. HERVADA, *La incardinación*, cit. note 40, pp. 157-158.

<sup>42</sup> Cf. PIUS XII, Enc. *Fidei donum*, April 21 1957, in AAS 49 (1957) 225-248.

<sup>43</sup> For some examples, cf. D. LE TOURNEAU, *sub* can. 265, in *ExCom CIC II/1*, p. 301; and *Id.*, *sub* can. 271, in *ExCom CIC II/1*, pp. 321-322.

### 3. Specification of the role of the will in personal circumscriptions: how are the lay faithful attached to these circumscriptions?

Let us consider briefly the notion of complementary circumscriptions. Hervada distinguishes between the particular Churches, whose prototype is the diocese, defined as *cætus fidelium hierarchice instructus*, and characterised, among other concepts, by the fullness of the *cura animarum*. At the same time, the complementary circumscriptions, which could be of a personal nature, are supporting circumscriptions to the particular Church, either because they are taking responsibility over the *cura animarum* of people in specific circumstances, which the particular Church cannot easily reach, or because they receive an specific pastoral mission (*peculiariora opera pastoralia*)<sup>44</sup>.

We will limit our presentation to the complementary personal circumscriptions actually in existence in the Church (as they are not particular Churches, the way faithful incorporate into them is not Baptism as an efficient sacramental cause), leaving aside the personal particular Churches (mostly Eastern Churches) as well as the possible personal circumscriptions suggested in several Vatican documents for the pastoral care of different groups of people (gypsies, migrants, people of the sea, etc.).

Our aim is to identify the provisions of *Anglicanorum cætibus* and of the *Norms* in the perspective of the precedents already in force and which have been used in other personal circumscriptions.

#### 3.1. The Precedents

For a very long time the Church is answering the pastoral needs of the People of God in specific circumstances, the most ancient record of such pastoral care in a personal context is found in the priestly care for the armies, it is an epistle of 560 from Pope Gelasius I to the bishop of Civitavecchia<sup>45</sup>. Viana presents a well-documented study of the historical evolution of the pastoral care of the Armies through the centuries passing from an episcopal responsibility, to the pontifical vicarious structure and ending with the nowadays-canonical personal cir-

<sup>44</sup> For an explanation of the complementarity function of personal circumscriptions in relation with the particular Churches, in most cases territorial circumscriptions, cf. J. HERVADA, *Elementos*, cit. note 6, pp. 283-301; ID., *Pensamientos*, cit. note 6, pp. 159-165; ID., *Pueblo cristiano*, cit. note 6, pp. 94-100; J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 159-162; ID., *Governance Structures*, cit. note 6, pp. 179-189; E. BAURA, *Personal Ecclesiastical*, cit. note 1, pp. 104-109; A. CATTANEO, *Circoscrizioni personali*, cit. note 19, p. 225; C. J. ERRÁZURIZ, *Corso*, cit. note 17, pp. 423-436; M. SEMERARO, *Chiesa locale*, in «Dizionario di Ecclesiologia», cit. note 14, pp. 145-158; A. VIANA, *Derecho canónico territorial. Historia y doctrina del territorio diocesano*, Pamplona, 2002, pp. 315-318; in the context of the communion in the universal Church, cf. Letter *Comunionis notio*, cit. note 4, no. 16.

<sup>45</sup> Cf. A. VIANA, *Territorialidad y personalidad en la organización eclesiástica. El caso de los ordinariatos militares*, Pamplona, 1992, p. 24.

cumscriptions<sup>46</sup>. The evolution of the canonical framework in the case of the pastoral care of the Armies has experienced a good number of solutions. All this experience was taken into consideration during the Second Vatican Council to conceive, mainly in the Decree *Pesbyterorum ordinis* no. 10, a diversity of canonical figures of personal circumscriptions, which had resulted in military ordinariates, personal prelatures, and through the pontifical praxis taking advantage of those different canonical frameworks to find solutions to answer to other pastoral needs.

We will briefly present the Military ordinariates, personal prelatures and personal apostolic administrations as precedents for the personal ordinariates to welcome Anglicans.

a) *Joiners of the Armed Forces (legal conscription or contractual commitment) and members of their families, and other contractual personnel*

*Spirituali militum curæ* establishes in its Introduction, that military people constitute «a particular social body and on account of the special nature of their life, whether they belong permanently to the armed forces by virtue of voluntary enrolment, or are called up temporarily by law, they have a need of a concrete and specific form of pastoral assistance»<sup>47</sup>. Hence, the pastoral task of the military ordinariates (which in several countries are named diocese or even archdiocese<sup>48</sup>) is precisely the *ordinaria cura animarum* of the military personnel. The manifestation of the will of the members of the circumscription is not always the determining factor: the conscripts, in the countries where enrolment by law is the rule, belong to it *a iure* (SMC X 1.<sup>o</sup>). Nevertheless, in a large number of countries such a procedure is not followed any longer. The armed forces are constituted by way of voluntary enrolment, which is also always present, even in countries with compulsory enrolment, for the officers and other people in command. There will always be in all military ordinariates a good number of people, who constitute the *ordo* and the *plebs* by way of a manifestation of the will.

The *ordo* of the ordinariate could be either by original incardination, if the ordinariate has obtained the permission from the Holy See to have its seminary, or by derived incardination<sup>49</sup>, or by way of agreement between the military ordi-

<sup>46</sup> Cf. ID., pp. 22-58.

<sup>47</sup> Venerable JOHN PAUL II, Apost. Const. *Spirituali militum curæ*, 21 April 1986, AAS 78 (1986) 481-486, English translation in CCLA pp. 1411-1421 [=SMC]. Introduction, p. 1411. Cf. J. I. ARRIETA, *El ordinariato castrense (Notas en torno a la Constitución apostólica Spirituali militum curæ)*, in «Ius Canonicum» 26 (1986) 731-748; ID., *Chiesa particolare*, cit. note 5 p. 29-31; E. BAURA, *Personal Ecclesiastical*, cit. note 1, pp. 109-115; CATTANEO, *Circoscrizioni personali*, cit. note 19, pp. 227-228.

<sup>48</sup> The *Annuario pontificio 2010*, pp. 1041-1048, lists 35 countries with Military ordinariates and indicates the name each one has taken in accordance with the specific needs of the country. Cf. J. I. ARRIETA, *Le circoscrizioni personali*, cit. note 5, p. 236.

<sup>49</sup> Cf. SMC VI §§ 3 & 4. Cf. J. I. ARRIETA, *El ordinariato castrense*, cit. note 47, pp. 743-745; Few

nary and the ordinary of the incardination of the priest<sup>50</sup>. In all these cases, as we have already seen, there is a need of a concerted manifestations of several wills.

As for the *plebs*, leaving aside the conscripts, military personnel became part of the ordinariate by their choice of the carrier in the army, as it happens also to the people attending military training schools, living or working in military hospitals or similar institutions, as well as people with tasks committed to them by the Military Ordinary<sup>51</sup>. However, other faithful of the circumscription have not necessarily manifested their will to be under the jurisdiction of the military ordinary. This is the case of course of the conscripts, but also of the families, relatives and servants of the military personnel<sup>52</sup>. We have then in the case of the *plebs* of the military ordinariates a mixture of clear manifestations of the will of a large part of the faithful, and of being under the jurisdiction of the ordinary *a iure*, as a consequence of the conscription or by the circumstance of being part of the family or of the household of military persons. In some of these cases, a contractual relationship with the military person (for instance the servants) could be at the origin of this dependence.

But we cannot forget that the jurisdiction of the military ordinary is not exclusive but cumulative or complementary to the territorial or the ritual ordinary, as the faithful of the military ordinariate do not cease to be faithful of the territorial circumscription of their residence, or domicile, or of the personal circumscription of their rite<sup>53</sup>. In these cases, the role of the will is still the rule.

We have limited this summary exposé to the general canonical framework of *Spirituali militum curæ*. But each one of the ordinariates is «governed by proper statutes issued by the Apostolic See, in which will be determined in greater detail the prescriptions of the present constitution»<sup>54</sup>.

b) *Answering to a specific calling manifested by a contractual commitment to fulfil an explicit mission*

The succinct canonical framework embodied in the Code of Canon Law about personal prelatures open a variety of possible prelatures «established by the Apostolic See, in consultation with the Bishop's Conference concerned,» «to pro-

---

ordinariates incardinate their own priests: cf. A. CATTANEO, *Circoscrizioni personali*, cit. note 19, p. 228; cf. J. I. ARRIETA, *Le circoscrizioni personali*, cit. note 5, p. 237.

<sup>50</sup> Cf. SMC VI §§ 1 & 2. This seems to be the most generalized way to constitute the clergy, using agreements with incardinating ordinaries following the dispositions of can. 271 CIC.

<sup>51</sup> Cf. SMC X 1.°, 3.°, 4.° Cf. J. I. ARRIETA, *El ordinariato castrense*, cit. note 47, pp. 745-747.

<sup>52</sup> Cf. SMC X 2.°

<sup>53</sup> Cf. SMC IV 3.° & V.

<sup>54</sup> Cf. SMC I § 1; E. BAURA, *Legislazione sugli ordinariati castrensi*, Milano, 1992, presents a comprehensive analysis of the general canonical framework (pp. 3-57) as well as the statutes of 26 ordinariates.

mote an appropriate distribution of priests<sup>55</sup>, or to carry out special pastoral or missionary enterprises in different regions or different social groups»<sup>56</sup>. This framework also foresees that it «is governed by statutes laid down by the Apostolic See»<sup>57</sup>.

Let us point out that as a general rule, a personal prelature is constituted by the prelate, the clergy incardinated or ascribed to the prelature, and the laity to which the pastoral attention is addressed and that are also cooperating organically to the special pastoral enterprise<sup>58</sup>. Any personal prelature, is a new form of organization of the constitutional structure of the Church, ends up being structured on the *ordo-plebs* relationship<sup>59</sup>, note that the *plebs* can not be an exclusive portion of the People of God, because that portion is actually shared with another territorial or ritual ecclesiastical circumscription<sup>60</sup>.

Nevertheless, as we are dealing with actual precedents, and not the variety of possibilities which could spring from the general framework, we will limit our presentation to the personal circumscription established so far as personal prelature, namely the Prelature of the Holy Cross and Opus Dei<sup>61</sup>, and more specifically to the incorporation of the lay faithful into it.

---

<sup>55</sup> We need to keep in mind that for the distribution of priests *simpliciter*, for instance in order to pastorally help other circumscriptions, there are already appropriate systems, like the *fidei donum* formula. To establish a personal prelature there is a need of *peculiaria opera pastoralia* requiring an ecclesiastical circumscription, and hence a *cætus fidelium* in need of pastoral care by the prelate and the clergy; cf. J. I. ARRIETA, *Considerazioni sulla*, cit. note 18, p. 183, note 40; A. VIANA, *Introducción al estudio de las prelaturas*, Pamplona, 2006, pp. 53-55.

<sup>56</sup> Can. 294 CIC; cf. J. HERVADA, *sub can. 294*, in *ExCom CIC II/1*, pp. 420-423; also *sub. Tit. IV*, *ibid.*, pp. 413-419; J. I. ARRIETA, *Chiesa particolare*, cit. note 5, pp. 26-29.

<sup>57</sup> Can. 295 § 1 CIC; cf. J. HERVADA, *sub can. 295*, in *ExCom CIC II/1*, pp. 424-426.

<sup>58</sup> We need also to keep in mind that since the Vatican II ecclesiological and canonical deepening of the mission and vocation of the lay people and their role in the Church, they cannot be considered simply as passive subjects, receivers of the pastoral care of the clergy, they need to act as partakers and co-responsible of the mission of the Church; cf. for instance: *LG* 31-36; *GS* 43; *AA* 2, 6-8, 10, 16, 19, 24; *AG* 11-12, 21; also can. 208, 225 CIC; can. 11, 401 et 406 CCEO; for an application: *SMC IX*; A. VIANA, *Introducción*, cit. note 55, pp. 62-63.

<sup>59</sup> Cf. A. STANKIEVICZ, *Le prelature personali e i fenomeni associativi*, in «Le prelature personali,» cit. note 25, pp. 142-145.

<sup>60</sup> Cf. J. HERVADA, *Pueblo cristiano*, cit. note 6, pp. 98-100, his main point is that it is impossible to have an ecclesiastical circumscription without people at least to offer them the proper pastoral care, although this people could not be *proprio* [in the sense that it is not exclusive] to the circumscription. Cf. also A. VIANA, *Introducción*, cit. note 55, pp. 62-63; S. GHERRO, *Le prelature personali nel sistema costituzionale canonico. Relazione introduttiva*, in «Le prelature personali,» cit. note 25, pp. 8-9.

<sup>61</sup> Cf. Venerable JOHN PAUL II, *Apost. Const. Ut sit*, November 28, 1982, *AAS* 75 (1983) pp. 423-425, original Latin and English translation in, *Studies on the Prelature of Opus Dei*, P. HAYWARD (trans. and ed.), Montreal, 2008, pp. 220-225; cf. also A. DE FUENMAYOR, V. GÓMEZ-IGLESIAS, J. L. ILLANES, *The Canonical Path of Opus Dei*, W. H. STETSON (trans.), Princeton/Chicago, 1994, including, among other sources the statutes or *Codex Iuris Particularis* laid down by the Apostolic See for it, at pp. 610-645;

Let us mention that the general framework in the Code establishes that deacons and priest of the secular clergy constitute the presbyterium of Personal prelatures (can. 294); they could be coming from the seminary erected by the Prelate. He can promote the candidates to orders and incardinate them in the Prelature (can. 295 § 1). The Prelate would then have the same obligations as the diocesan bishop to provide them spiritual formation and their becoming support (can. 295 § 2). The *Statuta* or *Codex iuris particularis Operis Dei*<sup>62</sup>, specify that the priests incardinated into the Prelature will all proceed from the laymen already incorporated into the Prelature and as a consequence, having manifested their will to be incorporated into the Prelature by an agreement with it. It is to be noted that in this Prelature the figure of the «ascribed» priest is not considered<sup>63</sup>. There is an internal logic in these provisions as the *peculiariora opera pastoralia* of the Opus Dei Prelature is aimed at accomplishing a specific mission<sup>64</sup> rather than to offer the *ordinaria cura animarum*. Hence the priest needs to have assimilated the spirit of Opus Dei, which they do since their incorporation as laymen, and be trained to help other to put it into practice, formation given to them in the Prelature's seminary.

For the lay faithful the canonical framework in the Code foresees in canon 296: «Lay people can dedicate themselves to the apostolic work of the personal prelatore by way of agreements made with the prelatore»<sup>65</sup>. A restrictive reading of the beginning of this canon has driven some authors to consider that such agreements between the lay people and the prelatore were to offer and deliver their professional skills<sup>66</sup>. But for such a type of agreement or contract you don't need a specific norm in the Code. Any ecclesiastical institution, any person can, and in fact does, enter into contractual relationships with an array of professionals or tradesmen for their own needs, respecting the Law of the country. The beginning of canon 296 cannot be read in this perspective. It is even less so when the canon continues: «The manner of this organic cooperation and the principal obligations and rights associated with it, are to be duly defined in the statutes.» Obviously, the Legislator cannot be referring to the agreement with a doctor to work in a mission hospital, or to a teacher to take responsibility of a class in a school, or a lawyer to defend the rights of the institution, or to a plumber to repair the drainage of a rectory. For such and similar contracts cannot be considered as an «organic cooperation» because they are simply professional services to the

<sup>62</sup> Promulgated by article II of the Apostolic Constitution *Ut sit*. Full original text in A. DE FUENMAYOR *et al.*, *The Canonical Path*, cit. note 61, pp. 610-645.

<sup>63</sup> Cf. *Statuta*, article 1 § 2, and article 36, in *Id*, pp. 610 and 617.

<sup>64</sup> Cf. *Statuta*, article 2, in *Id*, pp. 610-611.

<sup>65</sup> Cf. J. HERVADA, *sub can. 296*, in *ExCom CIC II/1*, pp. 427-432; also J. L. GUTIÉRREZ, *sub can. 296*, in *CCLA* pp. 244-245; J. I. ARRIETA, *Considerazioni sulla*, cit. note 18, pp. 19-183; *Id.*, *Le circoscrizioni personali*, cit. note 5, pp. 232-234; S. GHERRO, *Le prelatore personali*, cit. note 60, pp. 10-12; A. VIANA, *Introducción*, cit. note 55, pp. 60-63.

<sup>66</sup> For a critical study of some of those authors in a larger context, cf. G. LO CASTRO, *Le prelatore personali*, Milano, 1999, pp. 279-322.

institution; for these type of contracts no one needs specific provisions in the statute of a personal prelature laid down by the Apostolic See. This canon is clearly referring to the specific «organic cooperation» of the lay people in the *peculiariora opera pastoralia* of the prelature. And «organic cooperation» necessarily brings to mind the *ordo-plebs* relationship, a requirement for all and everyone of the ecclesiastical circumscriptions<sup>67</sup>.

In relation to the lay people, the statutes or *Codex iuris particularis Operis Dei*<sup>68</sup>, specify the form in which such agreement will establish the «organic cooperation» of the lay people into the Prelature of Opus Dei<sup>69</sup>. The *Statuta*, sanctioned by the Holy See, characterises the «organic cooperation» by the noun *incorporatio*<sup>70</sup> and the verb *incorporare*<sup>71</sup>. The incorporation is the maximum degree of belonging and collaborating with the mission entrusted to the Prelature by the Church.

In this case a serious commitment is required to cooperate organically in pursuing the specific mission of the Prelature of Opus Dei. It is very fitting that the incorporation demands a manifestation of the will of the faithful and an acceptance from the Prelate, made in the contract.

There is one last point. Some authors reading the canons of the general framework in a restrictive way, have pretended that because of the formulation of canon 294, personal prelatures are constituted only by the Prelate and the clergy. How can anyone read one Title of the Code, of any code, isolating one canon from the rest of the surrounding canons? It seems obvious that the reading of codified law demands keeping in mind the effect of the codification<sup>72</sup>. One canon of the four of that title cannot be in contradiction with another. If our reading leads us to discordance, we need to think of Master Gratianus and find the proper concordance. Obviously, each personal prelature needs to have lay people, committed in different degrees, in the case of Opus Dei, with a very serious commitment to fulfil the mission entrusted to the Prelature by the Holy See, with the

<sup>67</sup> Cf. A. STANKIEWICZ, *Le prelature personnelle*, cit. note 59, pp. 156–162.

<sup>68</sup> Full original text in A. DE FUENMAYOR *et al.*, *The Canonical Path*, cit. note 61, pp. 610–645.

<sup>69</sup> For an explanation of the Legislator reasons for choosing the expression «organic cooperation» in can. 296 CIC, cf. J. HERRANZ, *The preparatory work of the Apostolic Constitution «Ut Sit», in «Studies on the Prelature»*, cit. note 61, p. 35.

<sup>70</sup> *Statuta*, n. 27, original in A. DE FUENMAYOR *et al.*, *The Canonical Path*, cit. note 61, pp. 615–616. The terms of this commitment are in English translation in D. LE TOURNEAU, *What is Opus Dei?*, Dublin, 1987, p. 80.

<sup>71</sup> *Statuta*, n. 6, original in A. DE FUENMAYOR *et al.*, *The Canonical Path*, cit. note 61, p. 612. Cf. also SACRED CONGREGATION FOR BISHOPS, *Declaration concerning Opus Dei*, August 23, 1982, I, c) in «L'Osservatore Romano» Weekly Edition, January 17, 1983, p. 8; Original *Declaratio De Prælatūra Sanctæ Crucis et Operis Dei*, 23 augusti, 1982, in *AAS* 75 (1983) 464–468, and in A. DE FUENMAYOR *et al.*, *The Canonical Path*, cit. note 61, pp. 600–603.

<sup>72</sup> We have mentioned shortly this question: cf. E. CAPARROS, *sub can. 224*, in *ExCom CIC II/1*, p. 157.



support of the Prelate and the clergy. As the Venerable John Paul II put it in a Discourse in 2001:

You are here representing the components by which the Prelature is organically structured, that is, priests and lay faithful, men and women, headed by their own Prelate. This hierarchical nature of Opus Dei, established in the Apostolic Constitution by which I erected the Prelature (cf. Apos. Const. *Ut sit*, 28 Nov. 1982), offers a starting point for pastoral considerations full of practical applications. First of all, I wish to emphasize that the membership of the lay faithful in their own particular Churches and in the Prelature, into which they are incorporated, enables the special mission of the Prelature to converge with the evangelizing efforts of each particular Church, as envisaged by the Second Vatican Council in desiring the figure of personal prelatures.

The organic way that priests and laity work together is one of those privileged areas where pastoral activity will take life and be strengthened, activity marked by that «new energy» (cf. Apost. Let. *Novo millennio ineunte*, n. 15) which has encouraged us all since the Great Jubilee. In this connection, we should recall the importance of that «spirituality of communion» stressed by the Apostolic Letter (cf. *ibid.*, nn. 42-43)<sup>73</sup>.

---

<sup>73</sup> JOHN PAUL II, *Address to the participants in the workshop on Novo millennio ineunte organized by the Prelature of Opus Dei*, March 17, 2001, in [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/speeches/2001/documents/hf\\_jp-ii\\_spe\\_20010317\\_opus-dei\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/speeches/2001/documents/hf_jp-ii_spe_20010317_opus-dei_en.html) (26-03-2010); also in E. CAPARROS, *The Juridical Mind of Saint Josemaria Escriva*, Montreal, 2007, pp. 59-63; for a commentary cf. C. RUINI, *The service of the Prelature of Opus Dei to the dioceses*, in «Studies on the Prelature», cit. note 61, pp. 145-149. There exists a letter, dated 17 January 1983, from the Prefect of the Congregation for Bishops to Msgr. Alvaro del Portillo (Prot. N 639/82), which sheds light on the hierarchical nature of the Personal Prelature and the intention of the Supreme Legislator (*mens legislatoris*), as expressed in the Ap. Const. *Ut sit* and in the CIC. The letter is in the General Archives of the Prelature of Opus Dei (Serie L. 1.2). Included below is the full text in the original Italian.:

«Rev.mo Monsignor Prelato,

Nell'Udienza dell'8 gennaio corrente il Santo Padre mi ha illustrato la sua augusta Mente in merito alla collocazione dei canoni sulle Prelature personali nel testo definitivo del nuovo Codice di Diritto Canonico, che verrà da Lui promulgato il 25 p.v.

Sono lieto di comunicarLe che Sua Santità mi ha pienamente confermato quanto aveva esposto nell'Udienza accordata a Lei, ossia:

1) la collocazione nella pars I del Liber II non altera il contenuto dei canoni che riguardano le Prelature personali, le quali pertanto, pur non essendo Chiese particolari, rimangono sempre strutture giurisdizionali, a carattere secolare e gerarchico, erette dalla Santa Sede per la realizzazione di peculiari attività pastorali, come sancito dal Concilio Vaticano II;

2) con la diversa scelta di ordine sistematico del nuovo Codice non viene compromessa la dipendenza delle Prelature personali da questa sacra Congregazione, ai sensi della Const. Ap. "Regimini Ecclesiae Univesae", 49 § 1.

3) rimangono, infine, pienamente validi, a tutti gli effetti, i documenti della Santa Sede che hanno costituito l'Opus Dei in Prelatura personale.

Nella certezza che le assicurazioni fornitemi dal Santo Padre Le torneranno gradite, mi valgo ben volentieri dell'incontro epistolare per confermarvi di Lei dev.mo nel Signore

+S. Card. Baggio, Pref.»

The last precedent we need to address is the Apostolic Administration of Saint John Mary Vianney, in Campos, where the Legislator has also chosen a manifestation of the will of the faithful to make them part of it.

c) *Inscription in a registry in order to be assigned to a specific pastoral circumscription (Saint John Mary Vianney personal Apostolic Administration)*

In this last precedent there are similarities in the *species facti* and in the way in which the faithful will manifest their will to become part of the personal Apostolic Administration or the personal Ordinariates.

In both cases the Church is welcoming a group of Christians separated from Rome. In the case of the *Saint John Mary Vianney personal Apostolic Administration*<sup>74</sup> the group is much smaller than in the case of the Traditional Anglican Communion, but both asked to be part of the Catholic Church<sup>75</sup>. Besides the number of people involved (clergy and laity), there is also a serious difference in relation to the priests, as the priests in the Saint John Mary Vianney Union were excommunicated, but validly ordained, while the ordinations in the Anglican Communion were declared invalid by Leo XIII in 1896<sup>76</sup>. Another important difference is the length of time each one has been separated. The group constituting the Campos circumscription become schismatics towards the end of the 20th Century<sup>77</sup>, while the Anglican Communion dates back to 1534<sup>78</sup>. They have also another common point: both groups requested that some litur-

<sup>74</sup> Cf. JOHN PAUL II, Autograph Letter *Ecclesiae Unitas* to Bishop Licinio Rangel, December 25, 2001, in *AAS* 94 (2002) 267-268, lifting the censures; CONGREGATION FOR BISHOPS, Decree *Animum bonum*, erecting the personal Apostolic Administration «Saint John Mary Vianney», 18 January 2002, in *AAS* 94 (2002) 305-308, also in «*Ius Ecclesiae*» 14 (2002) 850-852; Italian trans. and annotations in J. I. ARRIETA, *Il sistema*, cit. note 38, pp. 281-284; cf. also G. INCITTI, *Note sul decreto di erezione dell'Amministrazione apostolica personale S. Giovanni Maria Vianney*, in «*Ius Ecclesiae*» 14 (2002) 851-860; A. CATTANEO, *Circoscrizioni personali*, cit. note 19, pp. 232-233.

<sup>75</sup> Called Roman-Catholic in the Anglican milieu, since Henry VIII broke the communion with Rome, as some parts of the Anglican Communion consider that they are also Catholics.

<sup>76</sup> Cf. LEO XIII, Ap. Letter *Apostolicae curae*, September 17, 1896, in «*Leonis XIII Pontificis Maximi Acta*» 16 (1896) 258-275; also in «*The American Catholic Quarterly Review*» 21 (1896) 846-857. For a succinct presentation of other sources in relation with this question, cf. E. TEJERO, *sub can.* 845, CCLA 670-671.

<sup>77</sup> Bishop Marcel Lefebvre was suspended by Paul VI in 1976, cf. *Lettre du Pape Paul VI à Mgr Marcel Lefebvre*, 15 August 1976, in [http://www.vatican.va/holy\\_father/paul\\_vi/letters/1976/documents/hf\\_p-vi\\_let\\_19760815\\_mons-lefebvre\\_fr.html](http://www.vatican.va/holy_father/paul_vi/letters/1976/documents/hf_p-vi_let_19760815_mons-lefebvre_fr.html) (26-04-2010); and excommunicated by John Paul II in 1988 after ordaining bishops without the papal mandate, cf. *Motu Proprio Ecclesia Dei*, July 2, 1988, in *AAS* 80 (1988), 1498; also in [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/motu\\_proprio/documents/hf\\_jp-ii\\_motu-proprio\\_02071988\\_ecclesia-dei\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/motu_proprio/documents/hf_jp-ii_motu-proprio_02071988_ecclesia-dei_en.html) (26-04-2010). The excommunications were lifted by Benedict XVI, cf. *Motu Proprio Ecclesiae Unitatem*, July 2, 2009, in *AAS* 101 (2009) 710-711; also in [http://www.vatican.va/holy\\_father/benedict\\_xvi/apost\\_letters/documents/hf\\_ben-xvi\\_apl\\_20090702\\_ecclesiae-unitatem\\_en.html](http://www.vatican.va/holy_father/benedict_xvi/apost_letters/documents/hf_ben-xvi_apl_20090702_ecclesiae-unitatem_en.html) (26-04-2010); cf. F. PUIG, *Mutamenti strutturali della Commissione Ecclesia Dei*, in «*Ius Ecclesiae*» 21 (2009) 701-703.

<sup>78</sup> For a short historical background cf. CDF, *Note*, pp. 20-21.

gical specificities be kept by them while coming back to full communion with the Church.

But let us concentrate now on the personal Apostolic Administration, localised in the diocese of Campos <sup>79</sup>, in the context of Bishop Lefebvre schismatic actions and the efforts of the Roman Pontiffs and the Roman Curia to bring those people back to full communion.

In the *motu proprio Ecclesia Dei* Venerable John Paul II pronounced the canonical sanctions to Bishop Lefebvre and the priests he illicitly ordained as bishops, and at the same time established the Commission of identical name to continue the efforts of conciliation with the Saint Pius X Fraternities. These efforts had produced many fruits and several groups were welcomed back into the Church, through different canonical arrangements, while respecting their liturgical sensibilities <sup>80</sup>, and while no one was erected as an ecclesiastical circumscription.

After Bishop Rangel and the priests of the Saint John Mary Vianney Priestly Union, manifested their perfect communion in writing with the Chair of Peter, followed by the letter of John Paul II lifting the censures, the Congregation for Bishops emanated the Decree *Animarum bonum*, erecting the personal Apostolic Administration. On January 18, 2002 Cardinal Castrillón Hoyos, President of the Commission *Ecclesia Dei* received the oath of fidelity and the declaration of the full acceptance of the teachings of the Second Vatican Council by Bishop Rangel. The new personal circumscription was then established <sup>81</sup>.

It is not our purpose to study in detail this new circumscription, but to point out the way the will of the faithful is manifested in becoming part of the personal Apostolic Administration. Let us mention only that the act of erection transform a previous institution (Saint John Mary Vianney Union) into an ecclesiastical circumscription (the personal apostolic administration), albeit with some specificities <sup>82</sup>.

The main point to underline, in our context, is the way the lay people <sup>83</sup>, which by the baptismal sacramental grace were already faithful of a particular Church (Diocese of Campos or another diocese), became part of the personal

---

<sup>79</sup> A. CATTANEO, *Circoscrizioni personali*, cit. note 19, make the distinction between *purely personal* circumscriptions (military ordinariates and personal prelatures of universal scope) and *personal-territorial circumscriptions* (like the Campos Apostolic Administration and some Eastern Church circumscriptions), p. 222.

<sup>80</sup> Cf. J. LANDETE, *La Pontificia Comisión «Ecclesia Dei»: nuevas formas de organización eclesial para la tutela de los derechos de los fieles*, in «Territoriality and Personality», cit. note 8, pp. 753-768.

<sup>81</sup> Cf. G. INCITTI, *Note*, cit. note 74, pp. 851-852.

<sup>82</sup> Cf. *Decree Animarum bonum* article III. For some of those questions G. INCITTI, *Note*, cit. note 74, pp. 852-856; J. I. ARRIETA, *Il sistema*, cit. note 38, pp. 282-284.

<sup>83</sup> The *Decree Animarum bonum* article VI, establishes that the priests been part of the Saint John Mary Vianney Union become incardinated in the Apostolic Administration. Their manifestation of will happened when they joined the Union. Cf. J. I. ARRIETA, *Il sistema*, cit. note 38, *sub* VI, p. 283.

apostolic administration. The Decree recognises three groups of lay faithful which could become incorporated into the Apostolic Administration, keeping their membership in the diocese; the first group is constituted by the former lay members of the Saint John Mary Vianney Union; the second by other lay people which identify themselves with the specificity of the Apostolic Administration; and the third is formed by lay people baptised in it<sup>84</sup>. In the second group, the lay faithful have to formulate a request in writing<sup>85</sup>.

To better understand the requirements both paragraphs of article IX need to be read in conjunction; as the groups constituting the eligible candidates are presented in both paragraphs. If we read them separately it could be pretended that the first group of lay faithful belong automatically to the Apostolic Administration<sup>86</sup>, although the second paragraph demands for this first group as well the inscription in the registry.

It appears more consistent to consider the three groups mentioned, all faithful of a particular Church (diocese of Campos or other) by their baptism, to be faithful who are eligible to be part of the Apostolic Administration, and as a consequence, in all three cases the formal incorporation requires the inscription in a registry, as article IX § 2 clearly indicates<sup>87</sup>. There is reasonableness in requesting the manifestation of the will of the faithful, as they will be part of a circumscription with specific liturgical characteristics. Hence a clear manifestation of the will of the person or, in the case of the baptised infants of their parents, seems logical. At the same time, the will of the faithful could be manifested in withdrawing from the Apostolic Administration, as they will be still faithful of the diocese of Campos or another one.

We have here one more way of manifesting the will of the faithful to become part of or to withdraw from a personal complementary or cumulative circumscription *quæ iure diocæsibus æquiparatur*.

Let us turn now, finally to the personal ordinariates for former Anglicans.

### **3.2. *The way of joining the Personal Ordinariates to be established in the context of Anglicanorum cætibus***

Through history several members of the Anglican Communion had return to the Catholic Church. One of the most famous of these is Cardinal John Henry Newman, who will be beatified in September 2010. But there are also other great examples in English literature such as G. K. Chesterton, J. R. R. Tolkien or Evelyn Waugh, as well as a large number of more or less anonymous converted people, among them ministers, asking to be ordained to the priesthood in the

<sup>84</sup> Cf. Decree *Animarum bonumm*, IX §1 et § 2, *in fine*.

<sup>85</sup> Cf. *Id.*, IX § 1.

<sup>86</sup> Cf. G. INCITTI, *Note*, cit. note 74, p. 857.

<sup>87</sup> Cf. *Id.*, IX § 2, and J. I. ARRIETA, *Il sistema*, cit. note 38, sub IX, pp. 283-284.

Catholic Church and, in some cases, obtaining the dispensation from the obligation to celibacy. The conversions had not only been individual. «Sometimes there have been groups of Anglicans who have entered while preserving some “corporate” structure. Examples of this includes, the Anglican diocese of Amritsar in India and some individual parishes in the United States which maintained an Anglican identity when entering the Catholic Church under the “pastoral provision” adopted by the Congregation for the Doctrine of the Faith and approved by Pope John Paul II in 1982»<sup>88</sup>.

The movement toward the reunion with Rome had been developing during the last third of the 20<sup>th</sup> century, provoked by the large shifting away of the Anglican Communion from the Catholic tradition, mainly in relation with the way they had been administering Holy Orders and of moral matters related to marriage<sup>89</sup>. Several associations of Anglicans had been grouping under the leadership of Archbishop John Hepworth of Australia under the general title of *Traditional Anglican Communion (TAC)*, although in each country the grouping could receive different denominations (*Forward in Faith*, in Britain; *Anglican Catholic Church of Canada*; *Anglican Church in America*; *Anglo Catholics*). The decisive step of this movement was a letter to the Holy See in October 2007 asking for full communion with the Catholic Church and manifesting their desire to keep liturgical practices and books from the Anglican Tradition. In July 2008 the answer from the Congregation for the Doctrine of the Faith indicated that they would study the request. «Those Anglicans who have approached the Holy See have made clear their desire for full visible unity in the one, holy, catholic and apostolic Church»<sup>90</sup>. With all those precedents, which we have only sketched, the Holy Father was moved to promulgate the Apostolic Constitution *Anglicanorum cœtibus*<sup>91</sup>, on November 4, 2009. Benedict XVI succinctly presents this in the first paragraph of the Apostolic Constitution:

In recent times the Holy Spirit has moved groups of Anglicans to petition repeatedly and insistently to be received into full Catholic communion individually as well as corporately. The Apostolic See has responded favorably to such petitions. Indeed, the successor of Peter, mandated by the Lord Jesus to guarantee the unity of the episcopate and to preside over and safeguard the universal communion of all the Churches<sup>92</sup>, could not fail to make available the means necessary to bring this holy desire to realization.

---

<sup>88</sup> CDF, *Note*, p. 21; cf. J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 153–155; E. BAURA, *Personal Ecclesiastical*, cit. note 1, pp. 115–116.

<sup>89</sup> Cf. CDF, *Note*, p. 21.

<sup>90</sup> Cf. CDF, *Note*, p. 20. This has become one of the essential elements of each personal ordinariate, AC, I § 5 establishes: «The *Catechism of the Catholic Church* is the authoritative expression of the Catholic faith professed by members of the Ordinariate».

<sup>91</sup> Cf. note 1.

<sup>92</sup> Cf. SECOND VATICAN COUNCIL, Dogmatic Constitution *Lumen gentium*, 23; CONGREGATION FOR THE DOCTRINE OF THE FAITH, Letter *Communio in notio*, 12; 13 [note 1 of AC].

a) *The role of the will in establishing each personal ordinariate*

Although in the canonical norms there is no specific provision to that effect, it is obvious that each group of former Anglicans desiring to become a personal ordinariate, should petition the Holy See<sup>93</sup>. The study of each petition will be started by the Congregation for the Doctrine of the Faith, the dicastery under which those ordinariates had been primarily placed and which will be erecting them<sup>94</sup>. There will also be eventual intervention by other curial bodies<sup>95</sup>, and in consultation with the Conference of Bishops of the territory where the ordinariate will be erected<sup>96</sup>, and where it would become a member of this specific Conference<sup>97</sup>.

The Holy Father Benedict XVI, in his address of February, 1<sup>st</sup> 2010, to the Bishops of England and Wales, at the end of their *ad limina* visit, concluded with those words:

I would ask you to be generous in implementing the provisions of the Apostolic Constitution *Anglicanorum Coetibus*, so as to assist those groups of Anglicans who wish to enter into full communion with the Catholic Church. I am convinced that, if given a warm and openhearted welcome, such groups will be a blessing for the entire Church<sup>98</sup>.

This is the context in which the Catholic Church is prepared to welcome those groups of Anglicans. Cardinal Levada, in a speech delivered in Queen's University (Kingston, Canada) on March 5, 2010 presented *Anglicanorum coetibus* in the context of ecumenism as a symphonic concert<sup>99</sup>, underlining the same idea expressed by Benedict XVI at the end of his address to the British Bishops.

The departure point for each member of the Anglican Communion, wishing to enter into full communion with the Catholic Church, will be the profession of Faith and admission into the universal Catholic Church in the particular Church of his or her domicile or residence. Afterwards, with an autonomous act of the will each one could ask to be inscribed in a personal Ordinariate, as each one

---

<sup>93</sup> Since November 2009 and more abundantly in February and March 2010, several news items have been published in different media about groups of Anglicans from Australia, Britain, Canada, United States, having formally petition the Holy See to be erect as personal ordinariates in accordance with and in the aftermath of the publication of *Anglicanorum Coetibus*.

<sup>94</sup> Cf. *AC*, I, § 1; *CN*, 1.

<sup>95</sup> Cf. *AC*, II; *CN*, 1; J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 158-159.

<sup>96</sup> Cf. *AC*, I § 1, *in fine*.

<sup>97</sup> Cf. *CN*, 2. As a consequence these ordinariates will fall into the category of «territorial-personal circumscriptions»; cf. A. CATTANEO, *Circoscrizioni personali*, cit. note 19, pp. 222 & 231-233.

<sup>98</sup> *Address of His Holiness Benedict XVI to Bishops of the Episcopal Conference of England and Wales on their 'ad limina' visit*, February 1, 2010. In [http://www.vatican.va/holy\\_father/benedict\\_xvi/speeches/2010/february/documents/hf\\_ben-xvi\\_spe\\_20100201\\_bishops-england-wales\\_en.html](http://www.vatican.va/holy_father/benedict_xvi/speeches/2010/february/documents/hf_ben-xvi_spe_20100201_bishops-england-wales_en.html) (09-05-2010).

<sup>99</sup> *Cardinal Levada Explains Ecumenism: Says the World Is Longing for Symphonic Unity*, in <http://zenit.org/article-28592?l=english> (09-05.2010).

could also withdraw from it, if he or she so wish. This is the touchstone of the role of the will in those ordinariates.

The canonical norms contain a number of thoughtful provisions respecting the sensibility of former Anglicans, Catholics to be. But what we have mentioned could suffice on this point. Let us move towards the manifestation of the will of the Anglican clergy wanting to become priests in a personal ordinariate.

b) *The role of the will in the demand of the former Anglican clergy to be ordained in the Catholic Church*

In establishing the canonical provisions in the *Anglicanorum cœtibus* and the *Complementary Norms*, the Holy See has taken into consideration the reality of the married Anglican clergy. As a consequence, the provisions concerning the clergy foresee the possibility of promoting to Holy Orders in the Catholic Church of married former Anglican ministers, in as much as they are not impeded by irregularities or other impediments<sup>100</sup>. The request for the ordination should be studied on a personal basis and the dispensation from the obligation of celibacy would also be granted personally<sup>101</sup>. The accumulated experience of former Anglican ministers becoming Catholics and asking to be ordained priests in the Catholic Church should be of great benefit in these circumstances.

In the same perspective, it is also envisaged that the Ordinary «may be a bishop or a priest appointed by the Roman Pontiff»<sup>102</sup> and that «a married former Anglican Bishop is eligible to be appointed Ordinary. In such a case, he is to be ordained a priest in the Catholic Church»<sup>103</sup>. One important point is that the power (*potestas*) of the Ordinary is personal and ordinary, as in the other personal circumscriptions, but in this case it is vicarious, hence exercised in the name of the Roman Pontiff<sup>104</sup> (as it used to be in the former military vicariates), besides being exercised jointly with the local Diocesan Bishop<sup>105</sup>.

<sup>100</sup> Cf. AC, VI § 1 referring to can. 1040-1049 CIC; CN, 6 § 2 explicitly forbade the exercise of sacred ministry in the Ordinariate to previously ordained in the Catholic Church and subsequently becoming Anglicans; and Anglican clergy in irregular marriage situations are excluded from receiving Holy Orders in the Ordinariate. Cf. also J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, p. 163.

<sup>101</sup> Cf. AC, VI § 1; CN, 6. As a consequence, it is also foresee the possibility of the permission of the Ordinary for priests to engage in secular professions compatible with the exercise of their ministry, cf. CN, 7, § 3.

<sup>102</sup> CN, 4 § 1. Cf. also J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 162-163.

<sup>103</sup> CN, 11 § 1. Another provision consider the possibility of a former Anglican Bishop, belonging to the Ordinariate, to be called to assist the Ordinary in the administration of the Ordinariate, cf. CN, 11 § 2. In this case, the need for the ordination as a priest is not mentioned.

<sup>104</sup> Cf. AC, IV, cf. A. VIANA, *Naturaleza canónica de la potestad vicaria de gobierno*, in «Ius Canonium», 28 (1988), pp. 99-130; J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 162, 167-168.

<sup>105</sup> Cf. AC, IV, NC, 3, J. I. ARRIETA, *Gli Ordinariati*, cit. note 1, pp. 168-170; E. BAURA, *Personal Ecclesiastical*, cit. note 1, pp. 116-117.

In all these cases the will of the candidate to the priesthood in the Catholic Church, needs to be clearly manifested in the same way as we have seen above, in relation with the ordination. Nevertheless, married clergy in these ordinariates could be a reality fading out with time, as the rule is that the Ordinary will admit only celibate men to the order of presbyter <sup>106</sup>, although the possibility of requesting to the Holy Father the admission of married men is also foreseen <sup>107</sup>. Obviously, time will be needed to prepare the clergy for each personal ordinariate. The candidates requesting the ordination in the Catholic Church must take the appropriate time to complete their theological formation, before being ordained. One option, which could facilitate the constitution of the presbyterium of the Ordinariate, is the faculty given to the Ordinary «to incardinate [...] former Anglican ministers who have entered into full communion with the Catholic Church» <sup>108</sup>. It is not clear if this proviso will allow former Anglican ministers already ordained Catholic priests to change their incardination. The reason for the doubt is that while the prohibition is clearly mentioned for lay people, there is not such a limitation clearly imposed for priests. However, there is always the possibility of establishing agreements envisaged in canon 271, which is explicitly foreseen in the *Complementary Norms* <sup>109</sup>.

There are other provisions concerning the clergy in the Ordinariates <sup>110</sup>, but for our purpose the ones we have presented should suffice.

c) *The role of the will of former Anglican lay faithful to be inscribed in the registry of each personal ordinariate*

No layperson automatically becomes a member of a personal ordinariate, in the same way as they do by the profession of Faith, faithful to the particular Church of their domicile. Each lay faithful originally of the Anglican Tradition who wishes to belong to an Ordinariate, needs to formulate a request in writing <sup>111</sup> to be received in the Catholic Church, and then be inscribed in the appropriate register of the Ordinariate <sup>112</sup>. Interestingly enough, those baptised previously as Catholic outside of the Ordinariate, are not ordinarily eligible for membership, unless they are members of a family belonging to the Ordinariate <sup>113</sup>.

In relation with Institutes of Consecrated Life and of Societies of Apostolic Life *Anglicanorum cœtibus* besides foreseeing the possibility of erecting new reli-

<sup>106</sup> Cf. AC, VI § 2.

<sup>107</sup> Cf. CN, 6 § 1.

<sup>108</sup> Cf. CN, 4 § 2.

<sup>109</sup> Cf. CN, 9 § 2 & 3.

<sup>110</sup> Cf. For instance: AC, VI § 3-5; CN, 6-10.

<sup>111</sup> Cf. AC, IX; E. BAURA, *Personal Ecclesiastical*, cit. note 1, pp. 118-119.

<sup>112</sup> Cf. CN, 5 § 1.

<sup>113</sup> Cf. *Ibid*, in *fine*



gious communities with the approval of the Holy See, envisages the reception in the Ordinariate of religious communities, originating in the Anglican Communion and entering into full communion with the Catholic Church, by mutual consent<sup>114</sup>. In this case, obviously, the mutual consent should be established following the decision of the community, after the appropriate intervention of the governing bodies of the institution. At the same time, it is also requested for members of religious communities, and in the same article as the lay faithful, that they «must manifest their desire in writing»<sup>115</sup> to enter the Ordinariate. However both situations are not similar. In the case of the lay faithful it is necessary for each one to manifest his or her own free will to belong to the Ordinariate. But in the case of members of institutes of consecrated life or societies of apostolic life, more canonical specifications seems to be needed. If their Superiors have made an agreement with the Ordinary, are the individual members of the community obliged to follow the decision? Should there also be also a personal request in writing from each member of the community? As in the new personal ordinariates, the norms of the Code are to be followed as well; individual members could eventually request the passage to another institute<sup>116</sup>. Obviously, the statutes<sup>117</sup> of each ordinariate could specify such procedures, but a more specific rule for the religious communities would have been more convenient if included at the level of the canonical framework.

The *Complementary Norms* does not even mention Institutes of Consecrated Life or Societies of Apostolic Life in the article concerning the way the lay faithful could belong to the Ordinariate<sup>118</sup>. They are mentioned in the following paragraph in limiting the jurisdiction of the Ordinary and the Diocesan Bishop in cases of collaboration in diocesan or parochial pastoral or charitable activities<sup>119</sup>.

Once more, the will of the faithful desiring to belong to a personal complementary circumscription (although in this case it is also territorially delimited) is the determining factor to constitute the *cætus fidelium* of the personal Ordinariates, in as much as they are part of the eligible group of members of the Anglican communion, which have been admitted into the Catholic Church following their profession of Faith.

---

<sup>114</sup> Cf. AC, VII.

<sup>115</sup> Cf. AC, IX.

<sup>116</sup> Cf. Can. 684-685 CIC.

<sup>117</sup> Cf. AC, II, *in fine* mention «any other specific Norms given for each Ordinariate» avoiding the term Statutes.

<sup>118</sup> Cf. CN, 5 § 1.

<sup>119</sup> Cf. CN, 5 § 2.

#### 4. Concluding Remarks

This overview of the way people become part of the Church, Latin or Eastern, and within those general parameters, how each person enters into a specific ecclesiastical circumscription, either as lay people or as priest, and can move from one circumscription to another, manifests its roots in the great freedom of each member of the People of God, and how each one exercise this freedom. Obviously, any legal system, while respecting the freedom of its citizens, or faithful, needs to also have a kind of «default setting» to respond to the needs of those who have not made any choice, or who are in situations were the choice is not possible.

Taking into consideration the canonical *suprema lex, salus animarum*, and the obligation of all pastors to assist the Christ's faithful from the spiritual riches of the Church, especially by the Word of God and the Sacraments, there is a need to establish specific circumscriptions. Although some Prelates with personal jurisdiction have existed for many centuries in the Church, the more recent mobility of the faithful and the needs of *peculiaria opera pastoralia* have moved the Church to give herself new ecclesiastical circumscription to answer those in need. Since the beginning of the XXI<sup>st</sup> century the answer to ecumenical needs has brought the Church to adaptations of personal circumscription to welcome back into the Catholic Church former members of Saint Pius X groups as well as former Anglicans.