

BENEDICT EJEH
THE PRINCIPLE OF SUITABILITY
IN THE PROVISION
OF ECCLESIASTICAL OFFICES
IN THE 1983 CODE OF CANON LAW

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1. THE CONCEPT OF ECCLESIASTICAL OFFICE

FOLLOWING the operative normative disposition regarding the concept of ecclesiastical office in canon 145 of the CIC 1983,¹ current canonical doctrine generally identifies ecclesiastical office with stably constituted public ecclesiastical functions for the spiritual goals of the Church, meant to be exercised by suitable members of the faithful who have been duly designated according to the norms of canon law.² The canonical legislator delineates this concept with the Latin “*officium*”, qualified more precisely with “*ecclesiasticum*” to distinguish it from other kinds of offices also referred to in the Code.³ Ecclesiastical office understood in this technical sense presupposes its formal institution and its official assignment to a responsible subject through canonical provision. Sometimes, this technical, juridical concept of ecclesiastical office offered in canon 145, which is the framework

¹ CIC, 1983, can. 145 §1: “Officium ecclesiasticum est quolibet munus ordinatione sive divina sive ecclesiastica stabiliter constitutum in finem spiritualem exercendum”.

² Cf. E. LABANDEIRA, *Trattato di diritto amministrativo canonico*, Milano, 1994, p. 98; W. AYMANS, *Amt, Kirchenrechtlich*, in *Lexicon für Theologie und Kirche*, Freiburg, 2006, p. 550; J.I. ARRIETA, *Diritto dell'organizzazione ecclesiastica*, Milano 1997, p. 144.

³ Cf. CIC 1983, cann. 285 §§3-4, 289 §2, 317 §4, 1042, 2°.

of the present article, is also expressed using other terms like *munus*⁴ and *ministerium*.⁵

However, it is important to note that the use of the term “*officium*” in the Code does not have a univocal conceptual reference but rather shows a variegated application,⁶ thus favouring a current of canonical doctrine that attributes ecclesiastical office to any responsibility or function in the Church aimed at the actualization of the goals of the Church.⁷

Our present limitation of the concept of office to the technical definition offered in canon 145 makes it necessary to distinguish this concept from ecclesiastical/sacred ministries.⁸ Both ecclesiastical realities do coincide in many aspects such that the Code itself does not always succeed in establishing a transparent distinction in its usage of both terms. They constitute the two means by which the public functions of the Church are exercised. However, the distinguishing element of an ecclesiastical/sacred ministry has been identified in its being permanently conferred on a person by the competent ecclesiastical authority, usually by means of the liturgical rite of ordination (for the sacred ministries) or installation (for the merely ecclesiastical ministries), which enables and commissions the ecclesiastical/sacred minister to carry out the acts or functions of the ministry received within the established limits.⁹ Therefore, the mere exercise of a ministerial function alone does not, in itself, constitute a member of the faithful into an ecclesiastical or sacred minister without the prior installation or ordination

⁴ See CIC 1983, cann. 253 §§ 1&3, 261 §2, 317 §3, 331, 332 §2, 333 §§1-2, 334, 337 §3, 409 §2, 413 §3, 430 §1, 452 §1, 478 §2, 481 §2, 540 §3, 622, 623, 624 §3, 627 §1, 776, 780, 810 §1, 1280, 1283, 1284 §1, 1420 §5, 1433, 1447, 1540 §1, 1747 §1, etc.

⁵ For example CIC 1983, cann. 282, 1036, 1389 §2, etc.

⁶ The term is used severally in the Code to designate various kinds of duties or functions due to various categories of the faithful, for example, in canons 96, 209 §2, 211, 212 §3, 223 §1, 225 §2, 226 §1, 339 §1, 351 §§2-3, 510 §2, 555, 747 §1, 773, 914, 1095, 2°, 1134 -1136, 1634 §2, 1711, etc) and also to refer to responsibilities and tasks assigned to members of the faithful (e.g. cann. 230 §3, 235 §1, 363 §1, 395 §2, 462 §2, 796 §2, 1741, 4°, etc). It is also used in a liturgical context to refer to divine worship (can. 556). For the various uses of “*officium*” in the 1983 Code of Canon Law see X. OCHOA, *Index erborum ac locutionum codicis iuris canonici*, Città del Vaticano, 1984, pp. 315-316; H. ZAPP, *Codex iuris canonici Lemmata – Stichwortverzeichnis*, Freiburg, 1986, pp. 442-443.

⁷ Cf. S. BERLINGÒ, *Dal «mistero» al «ministero»: l'ufficio ecclesiastico*, «*Ius Ecclesiae*», 5 (1993) 104.

⁸ See P. ERDÖ, *Ministerium, munus et officium in codice iuris canonici*, «*Periodica*» 1989, pp. 411-436 for a concise analysis of the various uses of the terms *Ministerium*, *munus* and *officium* in the CIC, 1917, Vatican II and the CIC, 1983. Cf. also, IDEM, “*Sacra ministeria*” e funzioni pubbliche nella Chiesa, «*Folia Theologica*», 4 (1993), pp. 67-76.

⁹ Cf. The Interdicasterial Instruction on Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests («*AAS*» 89 [1997] 852-877), especially pages 861-863.

required by the respective kind of ministry.¹⁰ It could be said, therefore, that while the key element of an ecclesiastical office lies in its objective stability as an articulation of ecclesiastical functions, the distinguishing element in the ecclesiastical ministry is its subjective permanence in the recipient. In other words, while the ecclesiastical ministry has to do with a stable ecclesiastical state, ecclesiastical office deals with a stable ecclesiastical duty or organ of service. However, the duties of an ecclesiastical office may include the exercise of the Church's ministries, therefore, necessitating the possession of the corresponding grade of ministerial capacity by the subject of the office, thereby leading to an overlap of both realities.¹¹

The ecclesiastical office constitutes a fundamental bastion of Church organization, an indispensable pastoral and juridical instrument for the ordered exercise of the powers, functions and activities of the Church,¹² the ordinary means for the attribution and exercise of the Church's pastoral functions.¹³ Its fundamental importance in the life of the Church made the concept of ecclesiastical office an object of intense debate in the course of the revision of the pio-benedictine Code of 1917 preparatory to the redaction of the new Code of 1983. At a time when the social reality of the Church had undergone profound changes especially in the area of the hitherto underlying patrimonial basis of its hierarchical organizational structure, it also became necessary to review the concept of ecclesiastical office to conform to the Church's updated self-understanding and actual social reality.

The pio-benedictine Code offered two different concepts of Ecclesiastical Office, a broad concept and a strict concept: "Ecclesiastical office in the broad sense is any responsibility exercised legitimately for a spiritual end", while Ecclesiastical office in the strict sense is "a divinely or ecclesiastically ordered responsibility, constituted in a stable manner, conferred according to the norms of the sacred canons, entailing at least some participation in ecclesiastical power, whether of orders or of jurisdiction".¹⁴ The broad understanding of the concept was seen as canonically improper, unless otherwise stipulated by law, whereas the strict sense was the proper canonical un-

¹⁰ Compare the usage of *ministeria* and *munera* as applied to the functions of installed lectors/acolytes and their *ad hoc* counterparts respectively in CIC, 1983, can. 230. See also, The Interdicasterial Instruction on Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests especially Art. 1 §§1-3 of the Practical Provisions, («AAS» 89 [1997] 861-863).

¹¹ Cf. P. ERDÖ, "Sacra ministeria" e funzioni pubbliche nella Chiesa, «Folia Canonica», 4 (1993), pp. 75-76.

¹² Cf. L. CHIAPPETTA, *Commento giuridico-canonico al codice di diritto canonico*, p. 229.

¹³ Cf. J. I. ARRIETA, *Governance Structures within the Catholic Church*, Canada, Wilson and Lafleur, 2000, p. 64.

¹⁴ CIC, 1917, can. 145 §1.

derstanding of ecclesiastical office,¹⁵ thus inextricably binding the notion of ecclesiastical office and participation in the ecclesiastical power of orders or of jurisdiction. In effect this meant that the possession of *potestas ordinis* (or *potestas sacra*) was a necessary suitability prerequisite for the possession of ecclesiastical office since the exercise of ecclesiastical office also meant the exercise of ecclesiastical power, which only clerics could obtain.¹⁶ Canonical doctrine added yet a third, very narrow notion according to which the concept of ecclesiastical office applied exclusively to those offices that exercised the power of governance in the Church.¹⁷

This arrangement also subordinated ecclesiastical offices to ecclesiastical benefices, which, in the 1917 Code, were the juridical entities (moral persons) upon which sacred offices were dependent as a guarantee of viability and of economic sustenance for the office holder.¹⁸ Consequently, ecclesiastical offices were effectively configured as duties, rights and privileges due to holders of ecclesiastical benefices;¹⁹ a situation that “conveyed a fragmentary presentation of ecclesiastical administration, atomized into a multitude of offices – or better stated, benefices – that made the unitary juridical treatment of the entire ecclesiastical organization difficult”.²⁰ Furthermore, the placement of the theme of Ecclesiastical Office under the section of the Code dealing with the clergy (Book 2, Part 1) leaves no doubt as to whom the legislator of the 1917 Code considered the proper subject of ecclesiastical office. The lay faithful were considered incapable of ecclesiastical office.

Canonical doctrine after the 1917 Code considered this concept of ecclesiastical office inadequate and ambiguous. The Vatican II *Decree on the Ministry and Life of Priests*, reflecting the prevalent canonical and ecclesiological understanding of the moment, called for the suppression or at least a radical review of the beneficial system of sustenance of the Church’s sacred ministers to give way to a better and more equitable system of remuneration for pastoral work. In a bid to achieve this goal it introduced a new concept of office that was intended to liberate ecclesiastical office from its dependence on ecclesiastical benefice. Accordingly, it proposed a concept of ecclesiastical office as any stably conferred duty that is exercised for a spiritual purpose,²¹ thus emphasizing its pastoral and ministerial purpose in place of the patrimonial model of the 1917 Code. However, by substituting the clause

¹⁵ Cf. CIC, 1917, can. 145 §2.

¹⁶ CIC, 1917, can. 118.

¹⁷ Cf. J. I. Arrieta, *Diritto dell’organizzazione ecclesiastica*, p. 139.

¹⁸ CIC, 1917, can. 1409. Only clerics were entitled to ecclesiastical benefices (CIC, 1917, can. 118).

¹⁹ Cf. J. I. Arrieta, *Governance Structures*, op. cit., p. 64.

²⁰ J. I. Arrieta, *Ecclesiastical Office*, in *Exegetical Commentary on the Code of Canon Law*, vol. 1, Wilson & Lafleur, Montreal Canada, 2004, p 889.

²¹ Cf. P. O. 20.

“*stabilter constitutum*” of the 1917 Code with “*stabilter collatum*” this Vatican II definition of ecclesiastical office effectively introduced a significant change in the notion of office from being an objectively established and, therefore, stable ecclesiastical institution to that of a function that is stably but subjectively conferred on a subject, therefore incapable of existing independently of the office holder. The flaw was noted and corrected in the course of the formulation of the present canon 145.²² The new canon abolished the previous ambiguous distinction of office into broad and strict senses, offering in its place a single, universally applicable concept of ecclesiastical office as “any post which by divine or ecclesiastical disposition is established in a stable manner to further a spiritual purpose”.

The above definition contains four important elements characterising ecclesiastical office, namely (a) a status of its own as a post, that is, a position of responsibility with defined rights and duties, no longer dependent on a benefice but an organ of ecclesiastical organisation in its own right (b) an objective stability that gives it an independent and lasting existence and identity of its own beyond the subjective limits of its actual occupant, (c) its divine or ecclesiastical institution that qualifies it as an organ of the Church, (d) its spiritual purpose in keeping with the ultimate pastoral goal of all ecclesiastical institutions and activities, namely the salvation of souls. It also excludes some elements associated with the concept of ecclesiastical office in the previous Code. Apart from the already mentioned dissociation of ecclesiastical office from the institution of ecclesiastical benefice, more importantly, the notion of ecclesiastical office no longer includes participation in the ecclesiastical power of orders or of jurisdiction as was the norm in the previous code. In other words, ecclesiastical offices are no longer the exclusive preserve of clerics and they are no longer configured as positions of power but of service.²³ They are means towards the achievement of the constitutional goals of the Church,²⁴ which all members of the faithful are called to promote.

The new normative disposition places emphasis on the element of integral suitability for the exercise of the responsibilities and rights of an office as a decisive element in the provision of canonical office. The canonical legislator unequivocally expressed this intention by removing the canons on ecclesiastical office from its place in the former Code under the section on clerics and locating it in the section of General Norms in the present code. Thus, both by the logic of the contextual location of “Ecclesiastical Office” in the arrangement of the Code and its defining elements, it can be held by

²² Cf. «*Communicationes*», XXIII (1991)247.

²³ Cf. E. LABANDEIRA, *Trattato di diritto amministrativo canonico*, Milano, Giuffrè Editore, 1994, p. 87.

²⁴ Cf. J. I. ARRIETA, *Governance Structures*, p. 65.

those members of the faithful (whether clergy, religious or laity, depending on the nature of the office) who are suitably endowed to exercise its responsibilities and rights and have been given the legitimate title to the office through canonical provision.

2. THE CONCEPT OF SUITABILITY FOR ECCLESIASTICAL OFFICE

The Latin adjective *idoneus*, -a, -um from which *idoneitas* (suitability) is derived means 'suitable', 'appropriate', 'having the right qualities', 'adequate', 'qualified', 'fitted for', 'fit', 'able', 'capable', 'worthy', etc thus indicating a wide and diverse field of application to all categories of nouns. Used with reference to persons, suitability generally expresses a judgement about the propriety (or lack of it) of a person to perform a certain act or be vested with some responsibility or honour, based on the onus implied by the responsibility and the capability of the person to fulfil it under given circumstances.

In the context of the Church, beyond the fundamental capacity to accomplish ecclesiastical functions, judgement about suitability for ecclesiastical office also entails an assessment of the candidate's ability to achieve the responsibility in question according to the institutional goals of the Church as well as the concrete needs of a given ecclesiastical community. In other words, suitability does not merely entail a person's material qualification for the ecclesiastical office as could be verified by the possession of those qualities and testimonials established by law for the holders of an office, but it also involves an evaluation of the quality of service that the candidate is able to offer in view of the realisation of the general and concrete mission, goals and needs of the Church, while also putting into consideration the personal attributes of the prospective office holder.

Suitability is a concept that pervades the entire system of Church organisation as a condition upon which functions, roles, offices, honours and even ecclesiastical states of life are assigned or constituted for the purpose of the optimal realisation of the mission of the Church. In this sense, it constitutes one of the principles guiding the institution and organisation of the Church, by which ecclesiastical states of life are duly or validly (as the case may be) granted to persons who are worthy and properly disposed and ecclesiastical roles are given to persons who are suited to carry them out properly, legitimately or validly, according to the particular juridical requirements of each function, in keeping with the Church's mission and goals as well as concrete historical exigencies. Therefore, it does not refer merely to subjective, meta-judicial, purely internal situations that carry no consequences beyond the person in whom the conditions exist. It has to do, on the one hand, with attributes, qualities, qualifications, testimonials, conditions and states existing in a person that are objectively verifiable and imply juridical effects in

the external order of inter-personal relationships, rights and obligations. On the other hand, it involves the evaluation of all these in the light of the mission of the Church and concrete historical factors. This second dimension of suitability belongs to the realm of administrative discretionary freedom exercised by the competent ecclesiastical authority in view of realising the good of the Church in the best way possible, given prevailing circumstances. It is the decisive element in the eventual choice of a candidate from among many suitable candidates. Though this aspect of the determination of suitability is not very easily amenable to strictly juridical standards, it is dependent on the established objective norms of suitability and determined by the good of the Church, i.e., the salvation of souls.

3. ELEMENTS OF SUITABILITY FOR ECCLESIASTICAL OFFICE

Suitability for ecclesiastical office involves various elements some of which are common to all ecclesiastical offices while others are peculiar to each given office or type of office. Some elements of suitability are indispensable while some are only accessory; some are required for the valid provision of office while some are required only for its legitimate provision; some are necessary for the material juridical exercise of the office while some are required for its more fruitful exercise in view of its immediate and ultimate goals. The elements of suitability could be synthesized under the following headings.

3. 1. *Fundamental Suitability*

By fundamental suitability is meant that element of suitability that concerns the essential constitution of the person in the order of nature or, in the supernatural order, due to a sacramental configuration within the Ecclesial community, which fundamentally qualifies him to validly possess and exercise an ecclesiastical office.

On the natural level, this kind of suitability is built on the natural constitution of the human person as male or female, on the basis of which the possession of some ecclesiastical offices would be possible or not, in accordance with the divine or merely ecclesiastical law, as the case may be. Thus, suitability for offices that require the exercise of the power of Orders requires, as a necessary condition for suitability, the natural state of being a male human person.²⁵ This requirement is of divine law institution, having as its origin the tradition handed over by the Lord Jesus Christ and the apostles to the Church.²⁶ Hence, all ecclesiastical functions that can *only* be exercised

²⁵ CIC 1983, can. 1024: "Sacram ordinationem valide recipit solus vir baptizatus".

²⁶ Cf. Sacra Congregatio pro Doctrina Fidei, Declaratio, *Inter insigniores*, «AAS» 69 (1977)

by bishops, priests or deacons presuppose the natural condition of maleness as a necessary suitability requirement. The same applies to ecclesiastical offices reserved to the stable ecclesiastical ministries of lectors and acolytes since these ministries, as stable ecclesiastical states, have been reserved only to male members of the faithful²⁷ by virtue of ecclesiastical law, because of their intimate participation in clerical functions.²⁸

At the supernatural level fundamental suitability is built on the two sacraments that constitute the basis of the Church's constitutional structure and organisation, namely baptism and Holy Orders. The sacrament of Baptism, which is the gateway to membership in the Church, constitutes the members of Christ's faithful or the people of God and makes them sharers in various ways in the office of Christ as typified in his priestly, prophetic and kingly functions, and also participants in the mission of the Church in the world.²⁹ In juridical terms, baptism incorporates members into the Church and constitutes them persons in it, with the duties and rights proper to each status,³⁰ therefore capable of effectively placing acts that accomplish the mission of Christ and his Church, within the limits of their power and their legitimate ecclesiastical status and functions. As members of Christ's mystical body, the faithful also share in his mission of redemption through a life of witnessing that is also fulfilled through the exercise of certain functions in the world and in the Church. Baptism empowers them for this responsibility at the fundamental level common to all the faithful and peculiar to the lay faithful.³¹ Hence, under the direction of the Church's hierarchical leadership authority, and in communion with it, the faithful are enabled, through the power of baptism, to exercise, whether on a stable or temporary basis, certain ecclesiastical functions that do not require a further sacramental configuration or *capacitas* other than that acquired through the first sacrament. It is by virtue of this fundamental suitability that the lay faithful are able to cooperate with the Church's hierarchy in the exercise of the power of governance in the Church,³² which belongs to those in sacred orders by divine institution.³³ Also, on the strength of this ontological suitability imparted by baptism, the sacred pastors are to "confidently assign duties to (the lay faithful) in the service of the Church leaving them freedom and scope for acting".³⁴

However, by virtue of the hierarchical constitution of the Church there

101; JOHN PAUL II, Apostolic Letter, *Ordinatio sacerdotalis*, May 22, 1994, n.4; JOHN PAUL II, Apostolic Letter, *Mulieris Dignitatem* (August 15, 1988), n. 26: «AAS» 80 (1988) 1715.

²⁷ Cf. CIC, 1983, can. 230 §1.

²⁸ Cf. P. V. PINTO, Ed., *Commento al codice di diritto canonico*, Vatican, 2001, p. 140.

²⁹ Cf. CIC, 1983, can. 204.

³⁰ Cf. CIC, 1983, can. 96.

³¹ Cf. L.G. 31.

³² Cf. CIC, 1983, can.129 §2.

³³ Cf. CIC, 1983, can. 129 §1.

³⁴ L.G. 37.

are ecclesiastical offices that entail positions and functions of pastoral care and leadership in its spiritual, liturgical, administrative and magisterial dimensions.³⁵ These are offices that entail the spiritual care of souls through Word and Sacrament as well as ecclesiastical governance. The fundamental baptismal configuration alone does not confer the capacity needed to exercise the fullness of such offices; rather, they require the post-baptismal sacramental configuration into the person of Christ, the head of the Christian community through sacred ordination.³⁶ For, while the Lord Jesus has made all the members of his mystical body sharers in his divine mission, the same Lord also constituted some ministers who, by virtue of the sacred power of orders, are able to perform the public priestly office in the name of Christ.³⁷ The sacred power of the ministerial priesthood, which is distinct from the baptismal power of the common priesthood of the faithful,³⁸ imparts on the ordained faithful the ontological capacity to represent Christ as ministers in his name and so to exercise offices and functions of pastoral leadership in the capacity of pastors after the example of Christ the head.

Since the sacred power for the ministry of full pastoral care and leadership is conferred through priestly ordination, only those members of the faithful who have received priestly orders can exercise the office of pastors.³⁹ They alone are able to validly receive and exercise offices that entail the full care for souls.⁴⁰ However, the office of deacons also involves some aspect of the care for souls,⁴¹ including *munus sanctificandi*⁴² (as ordinary ministers of baptism,⁴³ ordinary ministers of Holy Communion,⁴⁴ ordinary ministers

³⁵ "In the theological sense... community leadership goes deeper (than administration and management), since it means building up a community in the commission received from Jesus Christ and in his power.... The community is built up when it is nourished from the table of the Word and the table of the Eucharist, when it is purified and sanctified, when it is empowered and motivated to perform its own service in the world, and when the charisms that are at work in the community are integrated with one another and kept united to the church as a whole." W. Kasper, *Leadership in the Church*, New York, 2003, p. 64.

³⁶ Through the sacrament of holy orders, priests "are signed with a special character and are conformed to Christ the priest in such a way that they can act in the person of Christ the Head". P.O. 2.

³⁷ Cf. *ibidem*.

³⁸ Cf. L.G. 10.

³⁹ „Aus theologischer Sicht hätte es sich empfohlen, den Terminus Hirt (*pastor* [*animarum*]) nur auf die Amtsträger mit voller Seelsorge anzuwenden. Ihnen ist aufgegeben, nach dem Vorbild des Guten Hirten (vgl. Joh 10,1-28) und ihn repräsentierend eine Gemeinschaft von Gläubigen zu einen... und für sie in jeder Hinsicht geistlich zu sorgen. H. Socha, in *Münsterlicher Kommentar zum Codex Iuris Canonici* (Klaus Lüdicke, Hrsg.), Band 1 (cann. 1-203), Ludgerus Verlag, 2003, 150/3.

⁴⁰ Cf. CIC, 1983, can. 150.

⁴¹ Cf. L.G. 29.

⁴² CIC, 1983, can. 835 §3: "Deacons have a share in the celebration of divine worship in accordance with the provisions of the law."

⁴³ Cf. CIC, 1983, can. 861 §1.

⁴⁴ Cf. CIC, 1983, can. 861 §1.

of Eucharistic Benediction and Exposition),⁴⁵ *munus docendi* (as ministers of the Word both for the proclamation of the Gospel⁴⁶ and the preaching of the homily),⁴⁷ and some share in *munus regendi*.⁴⁸ Even lay persons, under particular circumstances of need, could be entrusted with a share in the exercise of the pastoral care of a parish under the direct pastoral care of a priest.⁴⁹

The specific content or functions of an ecclesiastical office is, therefore, the determining factor of which members of the faithful possess the requisite ontological suitability for the office. Offices that require the fullness of the priesthood, namely the so called capital or Episcopal offices that entail presidency over the Christian Community, require Episcopal ordination as an ontological suitability element (for example the offices of the Pope, diocesan Bishops, Metropolitan).

Offices that entail the full pastoral care of souls necessarily require priestly orders.⁵⁰ Socha identifies the following characteristics of full pastoral care of souls: (i) it does not involve only one kind of direct pastoral care, like the case of the canonical penitentiary (can. 508) but all the official functions of pastoral care including teaching, healing and leadership necessary to build up the Christian community; (ii) it is responsible for the overall spiritual welfare of a defined group of persons; and (iii) it accomplishes the powers that are transmitted by priestly ordination.⁵¹ Examples include the offices of the Pope (can. 331), the diocesan Bishop or its equivalent (can. 381), the diocesan Administrator (can. 427), the Abbott-prelate (can. 370), the Apostolic Vicar, Apostolic Prefect and Apostolic Administrator (can. 371), the Pro-prefect or Pro-vicar (can. 420), the Parish Priest (can. 515 §1, 519), the quasi Parish Priest (can. 516 §1), the Parish Administrator (can. 540), etc.).

Some offices require pastoral or, at least, spiritual care of the faithful but may not require one or more of the elements of full pastoral care as listed above. Such offices are regarded as offices with partial pastoral care which, depending on the content of the particular office, may necessitate the exercise of the power of orders or not.⁵² Offices and functions of a pastoral character that do not necessarily require the exercise of the power of orders can be entrusted to suitable lay persons.

Some ecclesiastical offices may not involve the care of souls at all but consist of functions that are merely technical, administrative or material.⁵³ Such

⁴⁵ Cf. CIC, 1983, can. 943.

⁴⁶ Cf. CIC, 1983, can. 757.

⁴⁷ Cf. CIC, 1983, can. 767 §1.

⁴⁸ Cf. W. KASPER, *Leadership in the Church*, op. cit. p. 23, also *Ad Gentes*, 16; can. 1008.

⁴⁹ Cf. CIC, 1983, can. 517 §1.

⁵⁰ Cf. CIC, 1983, can. 150.

⁵¹ Cf. H. SOCHA, op. cit., 150/2.

⁵² Cf. H. SOCHA, op. cit., 150/4 for examples of offices with partial pastoral care.

⁵³ Cf. J. I. ARRIETA, *Diritto dell' organizzazione ecclesiastica*, p. 155.

is the case of ecclesiastical offices like the diocesan chancellor (can. 482), diocesan financial administrator (can. 494), notaries, etc. These offices could be entrusted to priests, deacons, religious or lay persons who are suitable.

3. 2. *Communion*

“Communion with the Church” or ecclesiastical communion is a necessary prerequisite for promotion to any ecclesiastical office.⁵⁴ In the light of the comprehensive scope of our usage of the concept of suitability as encompassing all the factors that qualify a candidate for an ecclesiastical office, ecclesiastical communion constitutes an integral element of this suitability, though the legislator seems to have introduced an operational distinction between both terms (i.e. communion and suitability) in canon 149. “Communion with the Church” features in this canon as an indispensable element that must be considered by the authority responsible for the provision of an ecclesiastical office. Therefore, one who lacks it cannot hold an ecclesiastical office in its proper canonical understanding as regulated in Title IX, Chapter II of Book I of CIC 1983 on “Ecclesiastical Offices”, even though such a person may be assigned some duty to perform for the Church.⁵⁵ The question arises: What does ‘communion with the Church’ mean, given that the legislator does not explain what this suitability element entails?

The term ‘communion with the Church’ is a profound concept with a variety of meanings and various grades of manifestation. In its letter on Some Aspects of the Church Understood as Communion, *Communio notio*, the Congregation for the Doctrine of the Faith identified two dimensions of Communion in the Church: an invisible and a visible dimension: The invisible dimension consists of “the communion of each human being with the Father through Christ in the Holy Spirit, and with the others who are fellow sharers in the divine nature, in the passion of Christ, in the same faith, in the same spirit” while the visible dimension consists of “communion in the teaching of the Apostles, in the sacraments and in the hierarchical order”.⁵⁶ Considered as an element of suitability for ecclesiastical office, communion has to be seen from the juridical perspective, as a condition that is objectively verifiable or discernible, that is, as visible communion. In this sense, it is founded on the incorporation of a person into the Catholic Church through baptism⁵⁷ or by means of reception into its fold and presupposes the perma-

⁵⁴ CIC, 1983, can. 149 §1: “In order to be promoted to an ecclesiastical office, one must be in communion...”

⁵⁵ Cf. H. SOCHA, in *Münsterlicher Kommentar zum Codex Iuris Canonici*, op. cit. 149/2.

⁵⁶ Congregation for the Doctrine of the Faith, *Communio notio*, 14.

⁵⁷ Cf. CIC 1983, can. 204 §1.

nence of one's membership.⁵⁸ But beyond this, communion also includes adherence to the Church's faith as transmitted by the Church's teaching authority, participation in the Church's sacraments, and allegiance to her governing authority⁵⁹ at both the local and universal levels.

While all the elements of ecclesiastical communion are necessary for each and every ecclesiastical office, varying degrees of intimacy of communion would be required for different kinds of ecclesiastical offices depending on the nature of the office in question and its relationship to the constitutional activities of the Church, namely its teaching, sanctifying and leadership functions. For some offices of major importance, especially the capital offices and those that directly concern or influence the Church's teaching, sanctifying and governing mission, canon law demands the concrete expression of ecclesiastical communion through the profession of faith (and the oath of fidelity) as a public pledge of commitment of the ecclesiastical official to the Church.⁶⁰

3. 3. *Moral Suitability*

By virtue of an ecclesiastical office a member of the faithful is made an active subject of the Church's public functions. It is a formal engagement in the service of the Church by means of which one is directly or indirectly linked to the fulfilment of the Church's mission in the world. As such, an ecclesiastical office calls for responsibility and commitment on the part of the office holder who, by virtue of this office, has been officially entrusted with a specific function in pursuit of the Church's constitutional and organisational goals. As an agent of a public function of the Church, the ecclesiastical official also publicly represents the Church to the capacity and degree that each specific office permits. These moral dimensions of an ecclesiastical office, namely responsibility and witness, call for moral rectitude as a necessary suitability requirement for ecclesiastical office. Moral suitability for ecclesiastical office, therefore, refers to the state of worthiness of the candidate to be entrusted with the responsibilities of the office on the one hand, and on the other hand to be a vehicle of the spiritual values embedded in the office.

Moral suitability of ecclesiastical office holders has been of crucial importance to the Church right from the apostolic times. This is clearly do-

⁵⁸ Though canon 149 §1 does not specifically either the term 'Catholic' nor 'full' in the phrase 'communion with the Church', it is obvious, from the point of view of the passive subjects of the entire Code and the immediate context of the canon, that reference is to full communion with the Catholic Church.

⁵⁹ Cf. CIC 1983, can. 205.

⁶⁰ Cf. CIC 1983, cann. 380, 833; *Regolamento generale della curia romana*, Art. 18 §2, «AAS» (1999) 639.

cumented in the writings of the New Testament.⁶¹ In the present Code of Canon Law, it features constantly in the list of requirements not only for the provision of ecclesiastical offices and functions⁶² but also for promotion to the sacred ministries.⁶³

3. 4. *Maturity*

As duties that demand the exercise of responsibility and the use of discretion, ecclesiastical offices require adequate human maturity. Maturity, however, is a meta-juridical reality which, as a condition for suitability, needs to be juridically determined. Here, the objective criterion of age comes into play as a juridical index of maturity⁶⁴ among other factors.⁶⁵ Hence, the suitability requirement of maturity is normally expressed in the juridical prescription of minimum age limits for the conferment of ecclesiastical offices and the age of retirement from the offices. Thus, as a general rule, ecclesiastical offices can be conferred only on adult members of the faithful, that is, those who have attained the majority age of eighteen,⁶⁶ whereas higher age requirements are placed on offices that entail greater responsibility.⁶⁷ In this way, a *iuris tantum* presumption is established regarding the maturity that comes with age. This presumption can be disproved by contrary facts.

3. 5. *Appropriate Knowledge*

The exercise of the duties of any ecclesiastical office requires knowledge of what constitutes it: its nature, its duties, its goals, its limits, etc. Since the particular configuration of each ecclesiastical office entails the fulfilment of specific duties corresponding to the office, the type of knowledge deemed suitable for canonical provision differs from one particular office to the other. This knowledge is different from the basic knowledge about the faith and the Church that the condition of “Christ’s faithful” entails for all the baptized.⁶⁸ It is rather an additional level of knowledge that is demanded

⁶¹ Cf., Acts 6:1-3, 1 Tim. 3:1-13.

⁶² Cf. cann. 378 §1, 1^o, 2^o; 521 §2; 478 §1; 1420 §4, 1421 §3; 494 §1; 483 §2; 1435, etc.

⁶³ Cf. can. 1029.

⁶⁴ On the juridical use of age as an index of maturity see B. EJEH, *The Freedom of Candidates for the Priesthood*, Roma, 2002, pp. 123-128; L. NAVARRO, *Persone e soggetti nel diritto della Chiesa*, Roma, 2000, pp. 39-45.

⁶⁵ “Per la sua indole, maturità è un termine che fa riferimento alla storicità della persona, allo sviluppo lento dell’ uomo dall’ infanzia all’ età adulta ed al progressivo perfezionarsi delle sue capacità e conoscenze, della sua attitudine a decidere e della sua responsabilità”. J. HERVADA, *Studi sull’ essenza del matrimonio*, Milano, 2000, p. 305.

⁶⁶ Cf. CIC, 1983, can. 98 §1.

⁶⁷ Cf. cann. 1031 §1; 521 §1; 378 §1, 3^o; 478 §1; 1420 §4, etc.

⁶⁸ Cf. CIC, 1983, can. 217.

of the faithful in view of the proper exercise of an ecclesiastical office. The universal law has established the suitable knowledge required for some ecclesiastical offices. Particular law and statutes may add other specifications and regulate the necessary requirements for offices instituted within the local Church.

The suitable knowledge for an ecclesiastical office could be acquired formally through an approved relevant course of study or formation that confers the requisite qualification or informally through the direct experience and learning (apprenticeship) of the responsibilities of the office in question. Some ecclesiastical offices require specialized qualification of a technical kind and can only be exercised by persons who possess such specialization. Among such offices are those of the judicial Vicar, Associate judicial Vicars, ecclesiastical Judges, the Promoter of Justice and the Defender of the Bond (for which a doctorate or at least a licentiate in canon law is necessary)⁶⁹ and the diocesan Financial Administrator (who must be an expert in financial matters).⁷⁰ However, alongside the established formal qualifications required for the provision of ecclesiastical offices, the material possession of the knowledge required for the proper exercise of the office also features in the Code as sufficient proof of suitable knowledge needed to confer some ecclesiastical offices. Such is the case of the episcopal office,⁷¹ the Vicars General and episcopal Vicars⁷² for which specific academic qualifications in the sacred sciences are required as a general suitability condition while a profound knowledge of the requisite disciplines is acceptable as a sufficient basis for suitability.

In some cases, the possession of suitable knowledge is presumed in candidates who have been promoted to the sacred ministries having successfully passed through the course of formation necessary for the exercise of the duties of the ministry. Concerning the office of the parish priest, for example, the Code does not stipulate any formal academic qualification as a condition for suitability.⁷³ However, the possession of the requisite knowledge for the pastoral care of the parish is presumed in one who has been promoted to the priesthood after a successful period of priestly formation, unless the contrary is seen to be the case.

The competent authority is obliged to always verify that a candidate possesses the requisite knowledge before conferring an ecclesiastical office. This is necessary not only to guarantee the proper and fruitful exercise of the office but also in view of its possible nullity (if adequate knowledge is required

⁶⁹ Cf. CIC, 1983, cann. 1420 §4; 1421 §3; 1435.

⁷¹ Cf. CIC, 1983, can. 378 §1, 5.

⁷³ Cf. CIC, 1983, can. 521 §§1-2.

⁷⁰ Cf. CIC, 1983, can. 494 §1.

⁷² Cf. CIC, 1983, can. 478 §1.

ad validitatem)⁷⁴ or unlawfulness and eventual contestation through administrative recourse, possibly leading to a revocation of a canonical provision (if adequate knowledge is required *ad liceitatem*).⁷⁵ It may be necessary in some cases to verify the possession of suitable knowledge by candidates for ecclesiastical offices through some form of qualifying examination or evaluation of competence as may be stipulated by particular law.⁷⁶

3. 6. *Freedom from Ecclesiastical Censures, Irregularities and Impediments*

Suitability for ecclesiastical office does not only entail the presence of positive qualities and conditions in the candidates but also the absence of negative subjective situations that are forbidden or incompatible with the ecclesiastical office.

Ecclesiastical censures or penalties of excommunication, interdict and suspension produce different effects on the faithful in their relationship to the Church and ecclesiastical offices. They are remedial punishments imposed by the lawful ecclesiastical authority on erring members of the faithful. Excommunication brings about severance from communion with the Church leading to the prohibition of the exercise of the sacred ministries, ecclesiastical offices and functions or the reception of ecclesiastical responsibilities and honours and renders the prohibited acts invalid if excommunication has been declared or imposed.⁷⁷ Interdict prohibits the celebration of the sacred liturgy and the administration of the sacraments and sacramentals but may not necessarily affect the valid exercise of ecclesiastical office⁷⁸ unless this has been established by the law. Suspension prohibits clerics from exercising some aspects of the power of orders, the power of governance or an ecclesiastical office within the limits of the universal and/or particular law.⁷⁹

Irregularities and impediments affecting the reception and exercise of holy orders⁸⁰ also, by extension, affect the reception and exercise of the offices that are contingent on ordination. These are personal conditions of the

⁷⁴ Though adequate knowledge may not be explicitly required *ad validitatem* for the provision of ecclesiastical office, it is required for the valid placement of those acts of office for which substantial ignorance or error constitutes an invalidating factor (see can. 126) as well as acts for which a specific form, content or procedure are required *ad validitatem* (see cann. 124, 127 §§1-2).

⁷⁶ Cf. CIC, 1983, can. 521 §3.

⁷⁸ Cf. CIC, 1983, can. 1332.

⁷⁵ Cf. CIC, 1983, can. 149 §2.

⁷⁷ Cf. CIC, 1983, can. 1331.

⁷⁹ Cf. CIC, 1983, can. 1333.

⁸⁰ The list of irregularities affecting holy orders is given in canon 1041: mental sickness, apostasy, heresy and schism, attempted marriage, wilful homicide and abortion, grave self mutilation and attempted suicide, unlawful exercise of an act reserved to priests or bishops. Simple impediments affecting holy orders are listed in canon 1042: marriage (except for one who is destined for the permanent diaconate), the exercise of an office forbidden to clerics, and the condition of a neophyte in the faith.

faithful that are incompatible with or contrary to the clerical state and what it represents.

The possibility of a conflict of interests also gives rise to some impediments to ecclesiastical office relating to blood relationships and personal interests of ecclesiastical office holders. Thus, persons related to the bishop by consanguinity or affinity to the fourth degree cannot be members of the diocesan finance committee.⁸¹ By the same token ecclesiastical judges, promoters of justice, defenders of the bond, assessors and auditors of ecclesiastical tribunals have to refrain from the exercise of their offices if personal interests may be at stake due to blood relationships, patronage, acquaintance, hostility or personal financial interests. Otherwise, the exercise of their office in the particular case could be objected to by the parties.⁸²

4. ANALYSIS OF THE CONCEPT OF SUITABILITY IN THE SYSTEM OF CANONICAL PROVISION OF OFFICE

As already noted earlier, the configuration of the office necessitates suitability on the part of its holder. This is because the office holder is not to exercise the office at will but is to be the vehicle for the actualization of the ends of the office as defined in its duties and rights as well as the nature and goals of the Church. The competent ecclesiastical authority determines the suitability of a prospective office holder using the yardstick of the objective and subjective requirements of the office as well as its goals and prevailing circumstances. Hence, suitability is an external, objective judgement made by the competent ecclesiastical authority based on the verification of a person's qualification, competence and aptitude for an ecclesiastical office. It cannot be determined by the subject on his own behalf (canon 160 §2) nor by extra-ecclesiastical authorities.

The possession of an ecclesiastical office does not occur automatically as a consequence of the possession of a status. Ecclesiastical office can only be validly obtained through canonical provision (canon 146). By means of this act, the ecclesiastical authority establishes the suitability of the prospective office holder and confirms it in the act of assigning the office. Hence, it is the prerogative of the authority who exercises power over an office to assign it to its active agent (canon 148). However, canonical provision is never an arbitrary exercise of discretion. It is not to be granted as a mere favour, much less under the influence of simony. (Simony, in fact, renders the act of canonical provision invalid (canon 149 §3). It cannot be made the object of a valid promise (canon 153 §3). It is based on suitability, that is, the possession of those qualities for the office which are required by universal or particular

⁸¹ Cf. CIC, 1983, can. 492 §3.

⁸¹ Cf. CIC, 1983, cann. 1448-1449.

law or by the law of the foundation (canon 149 §1). This quality must be verified in view of the canonical provision of office.

4. 1. *Suitability and the Various Kinds of Canonical Provision*

The various kinds and procedures of canonical provision confirm the necessity of suitability as a criterion for the canonical provision of an office.

4. 1. 1. Free Conferral (can. 157)

The provision of an ecclesiastical office is ordinarily the prerogative of the ecclesiastical authority in whose power the office depends.⁸³ This is usually the diocesan Bishop or the one who presides over the community of the faithful at whose service the office exists. By means of free conferral, that is, the discretionary choice of suitable personnel for ecclesiastical offices, the competent ecclesiastical authority provides for the exercise of the public ecclesiastical functions under his jurisdiction. However, the power of free conferral, even though discretionary, is neither arbitrary nor absolute. It is rather premised on the suitability of the available candidates⁸⁴ in the light of the duties and goals of the office, the salvation of souls, the good of the Church, the qualification and capabilities of the candidates and historical circumstances. In view of this, the Directory for the Pastoral Ministry of Bishops states: “In conferring offices within the diocese, the Bishop ought to be guided solely by supernatural criteria and the pastoral good of his particular Church. Therefore he should look first of all to the good of souls, respecting the dignity of persons and making use of their talents in the most appropriate and beneficial way, in the service of the community, always assigning the right person to the right post”.⁸⁵

The 1917 Code of Canon Law stipulated that a vacant ecclesiastical office be conferred on the more suitable candidate, all things considered.⁸⁶ This rule has been modified in the present Code by omitting the adverb ‘more’ qualifying ‘suitable’, thus leaving the choice of the best suited candidate among many suitable persons to the free, discretionary judgement of the competent authority.⁸⁷ The interpretation given to this change by some commentators namely, that the competent authority is no longer obliged to confer ecclesiastical office on the more suitable candidate,⁸⁸ could be misleading. If suitability is understood in the comprehensive sense (as denoted in the

⁸³ Cf. CIC, 1983, can. 148.

⁸⁴ Cf. CIC, 1983, can. 149.

⁸⁵ Congregation for Bishops, *Apostolorum Successores*, 22 February, 2004, n. 61.

⁸⁶ Cf. CIC, 1917, can. 153 §2.

⁸⁷ Cf. «Communicationes», 22 (1990) 125-126.

⁸⁸ Cf. L. CHIAPPETTA, *Commento giuridico-canonico al codice di diritto canonico*, op. cit. p. 236.

phrase “all things considered” in the previous legislation), that is, viewed not only from the perspective of the material possession of the qualities that qualify a candidate for an ecclesiastical office but also from the perspective of the “right person” whose suitability is measured not only by the possession of the requisite qualities but also according to the ability to realise the goals of the office under the prevailing circumstances, the salvation of souls and the good of the Church, it seems obvious that the ecclesiastical office needs to be conferred on the candidate whom the competent ecclesiastical authority considers more suitable among those available.⁸⁹ This does not undermine the freedom of the competent authority in choosing suitable persons for ecclesiastical office since the evaluation of all the elements of suitability remains a prerogative of his pastoral authority but subject to the limits imposed by divine and ecclesiastical law while “rising above personal interests” and avoiding a “partisan spirit”.⁹⁰ On the contrary, the suggestion that an office could be conferred on a ‘less suitable’ person where a ‘more suitable’ person is available smacks of an endorsement of the arbitrary use of the power of discretion which is capable of compromising the good and the goals of the Church. The discretion of the competent authority in the free conferral of an ecclesiastical office is properly exercised in the global consideration of all elements (objective and subjective, supernatural and ecclesiastical, necessary and contingent) that together provide the true measure of suitability.

4. 1. 2. Canonical Presentation (cann. 158-163)

This system of canonical provision, which dates back to the traditional practice of the exercise of a right of patronage over foundations and benefices in the Church, involves the proposal of a candidate, by those to whom this right has been granted by canon law, to the competent authority who is obliged to confer the office on the presented candidate *after suitability has been established*. It is immediately obvious that the main reason for this system of canonical provision is the guarantee of the suitability of the candidate, given the particular duties, goals and circumstances of the office in view of the pastoral good of the Church. The system ensures suitability at two moments: first of all, the presenting authority has to be certain about the suitability of the candidate to be presented; and at a second moment, the

⁸⁹ In the circumstance where many candidates are suitably qualified to hold an office, the “right person” for the office is the one who, in the judgement of the conferring authority, is best suited for it having considered all necessary and legitimate factors and interests. It is a different issue altogether when more persons have been judged to be equally suitable, in which case, any of them is “right” for the office.

⁹⁰ *Apostolorum Successores*, n. 65.

conferring authority has to verify the suitability of the presented candidates before finally conferring the office.⁹¹ It is the suitability of the proposed candidates in view of fruitful service to the Church and her pastoral mission that justifies both the act of presentation and its subsequent confirmation.

4. 1. 3. Election (cann. 164-179)

Canonical provision through election to an ecclesiastical office is also built on the principle of the suitability of candidates. First of all, only qualified or suitable persons can be elected to ecclesiastical offices.⁹² Secondly, the participation of more people in the act of electing a candidate presupposes that, through a democratic process, the best suited person, according to the judgement of the majority, is assigned the office. Thirdly, the authority vested with the power to confirm an election in the case of non-constitutive elections also has the responsibility to verify the suitability of the elected candidate before approving it. He has the right and responsibility to refuse confirmation if he judges the elected candidate unsuitable for the office.⁹³

4. 1. 4. Postulation (cann. 180-183)

This option of canonical provision ensures that the consideration of the suitability of a candidate which has been established by a wide majority of the electors overrides a minor, dispensable impediment that stands in the way of conferring the office on the preferred candidate. Here, once again, there is a clear option of the canonical legislator for the suitability of a candidate for an ecclesiastical office by allowing for the dispensation of minor impediments that would have otherwise prevented the provision of the office to suitable persons in the interest of the Church's pastoral good.

The underlying motive behind the legislator's insistence on suitability is the realisation of the Church's pastoral mission at the service of which all ecclesiastical offices have been instituted and are destined. This motive, therefore, plays the decisive role in the determination of the suitability of candidates in all of the systems of canonical provision examined above.

Juridical Effects of Suitability (can. 149 §2)

Suitability for ecclesiastical office has far reaching juridical effects. It may determine the validity or lawfulness of canonical provision depending on the element of suitability involved. According to canon 149 §2 "the provision of an ecclesiastical office to a person who lacks the requisite qualities is invalid

⁹¹ Cf. CIC, 1983, can. 163.

⁹² Cf. CIC, 1983, cann. 149 §1, 179 §2.

⁹³ Cf. CIC, 179 §2.

... if the qualities are expressly required for validity by universal or particular law or by the law of the foundation; otherwise it is valid, but it can be rescinded by a decree of the competent authority or the judgement of an administrative tribunal”.

As a rule, ontological suitability is required, *ad validitatem*, for the provision of an ecclesiastical office understood in the proper sense as a public function of the Church. Of all the elements of ontological suitability, baptism is necessary for the valid provision of any ecclesiastical office properly so-called, since without it, one lacks communion with the Church and, therefore, does not possess a necessary condition to exercise a function on her behalf, which, *ex natura rei*, is implied by the notion of ecclesiastical office.⁹⁴ In the same vein, offices that require the fullness of the priesthood can only be validly received by bishops, those with the full care of souls belong exclusively to those who have received the priesthood and those that require the exercise of the power of orders can only be validly conferred on the ordained faithful. Similarly, the natural state of being a male is required at the natural ontological level for offices that require the power of orders and those reserved to men by ecclesiastical law. Particular law can also establish other suitability requirements for the valid provision of ecclesiastical office. The provision of ecclesiastical office to one who lacks an *ad validitatem* element of suitability is null and void.

The element of ecclesiastical communion admits of degrees ranging from the mere condition of being baptized to the condition of active membership by participation in the life, mission and discipline of the Church. For the valid provision of ecclesiastical office it is necessary that not only communion through baptism is required but also the state of permanence of the bond of communion with the Catholic Church, or rather, the absence of excommunication or formal abandonment of the Church. Excommunication effectively renders a person incapable of validly assuming any ecclesiastical dignity or office.⁹⁵ The act of formal defection, with all the elements established by law (namely “a) the internal decision to leave the Catholic Church; b) the realization and external manifestation of that decision; and c) the reception of that decision by the competent ecclesiastical authority”),⁹⁶ effectively means rupturing the bonds of communion – faith, sacraments, and

⁹⁴ The ecclesiastical character of an office lies in its being an office of the Church as a means instituted for the realisation of her pastoral goals. Thus, there is such an intimate relationship between the nature and goals of the Church and her offices, and by extension, between ecclesiastical office holders and the Church, that only those in ecclesiastical communion (which begins with baptism) are qualified to hold an ecclesiastical office.

⁹⁵ Cf. CIC, 1983, can. 1331 §2, 4°.

⁹⁶ Pontifical Council for Legislative Texts, *Actus formalis defectionis ab Ecclesia Catholica*, n. 1, 13 March, 2006.

pastoral governance – with the Catholic Church⁹⁷ and, therefore, has the same juridical effect as excommunication. Nonetheless, those who only virtually abandoned the Church⁹⁸ through a public or notorious act can, in the interest of the common good or in order to avoid scandal, be prohibited, by ecclesiastical law, from holding ecclesiastical office. More intimate communion involving various kinds and degrees of participation in the life and discipline of the Church may be requested for offices that demand greater responsibility in the Church.

Some elements of suitability may be required only for the lawful provision of ecclesiastical office. In fact, a validity element of suitability has to be expressly stipulated by the law itself or necessitated by divine or natural law, otherwise, suitability is presumed to be only *ad licitatem*.⁹⁹ However, the provision of an ecclesiastical office to someone who lacks an *ad licitatem* element of suitability can be challenged through administrative recourse or a judicial canonical process leading to a possible revocation of the act through a decree or a judgement of an administrative tribunal, where this exists. But, the *ad licitatem* elements of suitability can be dispensed by the competent authority within lawful limits.

CONCLUSION

The suitability of candidates operates as a veritable principle within the structure of ecclesiastical organisation. As a fundamental canonical prerequisite for the distribution of competences in ecclesiastical administration, it is both a condition for the legality of the attribution of ecclesiastical functions, powers and their corresponding authority, and also a guarantee of the successful achievement of the purposes for which ecclesiastical duties are instituted, using the right ecclesiastical subjects.

The legislator's insistence on the suitability of candidates to be invested with ecclesiastical offices places the good of the Church first above subjective interests of individual members in the distribution and exercise of ecclesiastical responsibilities and powers. Thus, the nature and content of each ecclesiastical office as well as the ultimate good of the Church and her members constitute the decisive elements that determine the proper subjects to be appointed to ecclesiastical posts. These elements together constitute the content of the principle of suitability for ecclesiastical office.

Ordinarily, the ecclesiastical status of a person already forms a part of the canonically established elements of suitability where this is demanded by the nature of the office; otherwise, it does not constitute a proper basis for

⁹⁷ *Op. cit.*, . n. 2.

⁹⁸ That is, in a manner “deduced from behaviours”, *op. cit.* (introduction).

⁹⁹ Cf. CIC 1983, can. 10.

discrimination in disregard of the principle of suitability for ecclesiastical office. This, in effect, means that unless the ecclesiastical status of a person constitutes an element of suitability for a particular ecclesiastical office, the principle of suitability demands that the office be conferred on the member of the faithful who is in the position to realize its immediate and ultimate goals more adequately, after due consideration of all the elements (subjective, objective and ecclesiastical) of suitability.

Following the above reasoning, the suitability of the lay members of the faithful for offices in the Church would have to be subject to their qualification, aptitude, capability and capacity to achieve the goals of the office in response to the concrete historical needs of the Church and not necessarily to their status in the Church. Thus, while they would be unsuitable to hold offices that require the clerical status or the power of orders, their suitability for other offices would depend on the possession of those qualities and qualifications that make them able and capable of exercising the duties of the office and realising its goals as well as prevailing pastoral circumstances. By their special calling, they have a responsibility to “permeate and perfect the temporal order of things with the spirit of the gospel”,¹⁰⁰ but they are also able to be conferred with ecclesiastical offices for which they are suitable.¹⁰¹ In fact, some offices may require the kind of expertise that is more readily accessible to the lay faithful but are not provided for in the classic curriculum of ecclesiastical studies preparatory to ordination or admission into ecclesiastical ministries. Examples of such offices include those that require the knowledge of civil law, finance, communications technology, etc. The code establishes that the lay faithful could be engaged as experts and advisors to the Church’s pastors in those areas where they are eminently qualified, without ignoring their moral suitability for such ecclesiastical responsibilities.¹⁰²

The signs of the times also pose enormous challenges to the exercise of pastoral leadership in the Church. The responsibility of leadership in the present age of globalisation has also come to assume a complex global dimension, more so for the Church as she comes to terms with a highly critical and more demanding social milieu. In this climate, leadership is not only to be understood as the mere exercise of lawfully conferred competence or power, it also involves the suitability that comes from capability and invests power with necessary authority. In view of this, the canonical provision of ecclesiastical offices that entail the exercise of pastoral leadership or sacred power needs to take into consideration the concrete historical needs of the Church in the appointment of persons to the exercise of such offices. It

¹⁰⁰ CIC, 1983, can. 225 §2.

¹⁰¹ Cf. CIC, 1983, can. 228 §1.

¹⁰² CIC, 1983, can. 228 §2.

is not enough that someone materially possesses the status, qualities and qualifications stipulated by law for the provision of an office, it is also necessary to ensure that the candidate is able to realize the goals of the office and the Church in the given historical circumstances. This assessment, in itself, forms an essential part of the process of ascertaining the suitability of a candidate for ecclesiastical office, since, as already stated suitability is necessitated and ultimately determined by the pastoral good of the Church.