



1. THE CONSTITUTIONS – PROPOSITUM VITAE EXPRESSED IN LEGAL FORM

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The object of this reflection is the Constitutions as the fundamental code of a religious institute that expresses in legal form the *propositum vitae*. Undoubtedly, this reflection is extremely important in the whole process of revising the Discalced Carmelite Nuns Constitutions. It is necessary to deepen the understanding of the fundamental code, pay attention to the principles of revising the Constitutions, and clarify some doubts or inaccuracies that may arise as part of this process.

First of all, it should be noted that the entire process initiated on the basis of a letter from the Dicastery for Institutes of Consecrated Life and Societies of Apostolic Life to the Superior General dated 1 March 2022, is not primarily aimed at introducing changes to the Discalced Carmelites Nuns' law, but to revise their Constitutions. The goal is to listen to the voices of nuns from all over the world to verify if the 1991 Constitutions, which have been in force so far, adequately express the Teresian charism in the current – in a certain sense new - context of the life of the world, of the Church and of the Order. The Holy See, by introducing a new universal legislation through the apostolic constitution *Vultum Dei quaerere* and the instruction *Cor orans*, introduced some changes in the lifestyle of autonomous contemplative monasteries. And these changes had to be integrated into their own law. However, a question arises: While integrating these innovations coming from outside, would it not be right to make an overall revision of the Constitutions, that is to check whether other elements of the same law should be integrated, modified (both in content and form) or removed, because during the time they have proved to be inadequate to the current reality? In any case, it is the nuns who live according to the 1991 Constitutions who are to pronounce on this matter and to make the appropriate decisions, and the Superior General of the Order – pursuant to Articles 17-18 of the Nuns' Constitutions, as well as in accordance with the Dicastery's letter of 1 March 2022 – has only to coordinate this work and finally submit the results to the Holy See for approval.

It is significant that in response to the Superior General's letter and to the questionnaire sent to the communities on 9 April 2023, 25% of the Federations indicated the opportunity of a completely new drafting of the Constitutions, 5% of the Federations expressed a willingness to remain with the text of the 1991 Constitutions without any changes other than those imposed by *Cor orans*, and 70% of the Federations deemed advisable to introduce major or minor changes, not excluding the simplification of the current Constitutions and the addition of particular Statutes. These opinions of nuns from all over the world have become the basis for further discernment, consulting the above results and trying to extract arguments for and against each of the above- mentioned orientations.

At this stage of the work, it is necessary to conduct an open dialogue in order to finally work out a formula that faithfully expresses the Teresian charism in today's reality.

1.1. The nature and content of the Constitutions

Any study of the Constitutions, and even more so the process of revising them, must take into account first of all the essence of this fundamental code. This essence is defined in canon 587, § 1 which states: “To protect more faithfully the vocation and identity of each institute, the fundamental code or constitutions of the institute are to contain, in addition to those elements which are to be preserved in accordance with canon 578, basic norms about the governance of the institute, the discipline of the members, the admission and formation of members, and the proper object of their sacred bonds”.

And the aforementioned can. 578 significantly reiterates: “The whole patrimony of an institute must be faithfully preserved by all. This patrimony is comprised of the intentions of the founders, of all that the competent ecclesiastical authority has approved concerning the nature, purpose, spirit and character of the institute, and of its sound traditions”.

The Constitutions are, of course, a set of different legal norms, but these norms have a clear purpose: the faithful preservation of the vocation and consequent identity of a given institute. It is this end that determines the means. The legal norms collected in the Constitutions are not ends in themselves. The legal norms collected in the Constitutions aim to lead to the goal and help to live according to the charism.

It can be said without a doubt that the reason why the fundamental code of a given institute is created is the *propositum vitae*, that is the desire to live in a certain way. In Carmel this is particularly visible in two constitutive moments: 1) the primitive Rule put in writing a specific way of life created by the hermits in the Wadi es-Siah valley; 2) Teresa's primitive Constitutions put in writing a specific form of being ("ser tales") shaped in the monastery of St. Joseph of Avila. This original charism, this desire to live like Teresa is expressed in legal form and submitted to the approval of the competent authority¹.

Of course, it is not a matter of considering the Constitutions more important than the Gospel. Nor is it about falling into the slavery of the law, reducing life to the scrupulous fulfillment of minute rules. It is a matter of discovering the original meaning of the fundamental code, of entering into the reality of the covenant with God through the rule of life. Without this covenant with God all legal provisions would be of no use. Lacking this covenant with God would lead to the paradox of establishing a regulatory system that is perfect but devoid of spirit, devoid of life. This would be equivalent to denying the Constitutions' essence.

From this perspective, it seems more than justified to compare the Constitutions to the Torah of the Old Testament... obviously with due distinctions. The Torah is God's work, while the Constitutions are merely the fruit of human effort to express in the simplest way possible God's gift – the call to a specific form of consecrated life. However, the Constitutions, like the Torah, should be an expression of the covenant between God and man, between God and a chosen part of the Church: the community or, more broadly, a religious institute. It is in this perspective that religious profession is made "to live faithfully a life of allegiance to Jesus Christ, [taking vow of] chastity, poverty and obedience according to the Rule and Constitutions" (*Formula of Religious Profession*).

To adequately understand the new vision of the Constitutions according to the teachings of the Second Vatican Council, it is necessary to take a step back and quote, for example, the instruction on the Constitutions issued in 1921 by the Sacred Congregation for Religious which stated, among other things, "The following are to be excluded from the text of the Constitutions:

¹ M. DORTEL-CLAUDOT, *Codice fondamentale*, in: C. CORRAL SALVADOR – V. DE PAOLIS – G. GHIRLANDA (ed.), *Nuovo Dizionario di Diritto Canonico*, Cinisello Balsamo 1996². 201

(a) prefaces, introductions, prologues, historical news, encouraging or laudatory letters, except for decrees of praise and approval granted by the Holy See;

(b) quotations from the texts of the Holy Scriptures, of Councils, of holy Fathers, of theologians and of any books or authors;

(c) quotations of the provisions either of a special directory, or of a private ceremonial/manual, or of any custom or traditions' code of the congregation."

And in the next number is unequivocally stated, "The code of the Constitutions must contain those [formulas] respecting the concepts and provisions on:

(a) the nature, vows, members and way of life of the religious congregation;

(b) the government, administration and offices of the congregation" ².

Monastic life – then also called "regular life" – was scrupulously regulated by the Constitutions and collections of various customs.

"The Second Vatican Council – as J Alvarez Gómez notes – renewed the concept of Constitutions, abandoning a very partial, very restricted way [...] of understanding them as a detailed code, almost like a community regulation, to return to their primordial meaning, that is to consider them as a fundamental law that defines the substantial elements of a religious institute life and mission"³.

Of particular importance in the development of conciliar thought are the orientations regarding the content of the renewed Constitutions given by Paul VI through the motu proprio *Ecclesiae Sanctae II*, 12-13:

² SACRA CONGREGATIO DE RELIGIOSIS, *Normae secundum quas Sacra Congregatio de Religiosis in novis religionis congregationibus approbandis procedere solet*, n. 22-23, in: *AAS* 13 (1921), 317.

³ J Alvarez Gómez, *Costituzioni*, in: T. GOFFI - A. PALAZZINI (ed. it.), *Dizionario teologico della vita consacrata*, Milano 1994, 536.

“The general laws of each institute (constitutions, Typika, rules or whatever name they bear) should ordinarily include these elements:

(a) The evangelical and theological principles of the religious life and of its union with the Church and suitable and clear words in which “the spirit of the founders and their specific aims and healthy traditions, all of which constitute the patrimony of each institute, are acknowledged and preserved.”

(b) The necessary juridical norms for defining clearly the character, purpose and means of the institute, which norms should not be excessively multiplied but should always be presented in an adequate manner.

The union of both elements, spiritual and juridical, is necessary so that the principal codes of the institutes have a stable foundation and that the true spirit and life-giving norm pervade them; care must therefore be taken that a merely juridical or purely exhortatory text is not composed.”

⁴.

It is essential to grasp this renewed vision of the fundamental code. This must be, first of all, a document that clearly states the foundations of monastic life, that is its biblical and theological foundation and especially its specific charismatic foundation. That is it must be a document that defines the identity of the institute according to the *propositum vitae* designated by the Founder. At the same time, it must not be just a treatise on the theology of spiritual life, a collection of *pia desiderata* or the like. There cannot be a lack of juridical norms regulating life in its various aspects and defining a way of life according to a given charism. The change in perspective is great.

What is particularly noteworthy in the motu proprio *Ecclesiae Sanctae* is the indication of two different but necessary elements of the fundamental code and their mutual connection. As M. Dortel-Claudot notes, “The Fundamental Code is not just a book of meditation. It must indicate a concrete way of life and cannot be limited to enunciating principles of spiritual theology or suggesting interior dispositions. In it must appear, in close connection with each other, the spiritual principles inspiring the life

⁴ PAOLO VI, Motu proprio *Ecclesiae Sanctae* (6.08.1966), in: *AAS* 58 (1966), 777.

and action of the consecrated person and the demands deriving from them for personal and community action and behavior”⁵.

The renewed view of the Constitutions better expresses the idea that the fundamental code determines the obligations of consecrated life permeated by the charism of a given institute, in such a way that the Constitutions actually appear as a *regula vitae*. Such a rule brings together in a unitary manner doctrinal and spiritual elements and legal norms; not all norms, but those that are considered fundamental in defining the life and evangelical commitment of the religious family itself ⁶.

This principle – that could be considered general – takes on a special significance in Carmel. The fundamental code of Carmel *ex natura rei* should define a lifestyle that is a clear response to the Teresian ideal: “ser tales.” Therefore, in the revision of the Constitutions, in their possible modifications and above all in their ordinary and daily observance, comes first the fundamental question: “¿Que tales queremos que ser?”. The Constitutions should express this ideal using their own legal language. This is the nature of the fundamental code.

It should be remembered that it is through the approval of the Constitutions by the competent authority that a particular religious institute is recognized in the Church. In other words, the Constitutions define the institute’s identity. This identity can obviously be differently expressed by making a new or partially revised version of the text, but its essence cannot be changed. A change in the essence would inevitably lead to the creation of a different form of life in the Church. As T. Rincón-Pérez notes: “It is no less important for each institute to preserve its identity as it is described in the foundational charism – in the original source – without forgetting the healthy traditions, that is the historical contributions, appropriately incorporated into the patrimony of each institute”⁷.

1.2. The *accomodata renovatio*

Considering that the Constitutions are to be an expression of the charism in a given period of time, they are by their nature subject to certain changes.

⁵ M. DORTEL-CLAUDOT, *Codice fondamentale*, in: C. CORRAL SALVADOR – V. DE PAOLIS – G. GHIRLANDA (ed.), *Nuovo Dizionario di Diritto Canonico*, Cinisello Balsamo 1996², 201.

⁶ Cfr. R. ZUBIETA, *Las Carmelitas Descalzas. Vocación y misión*, Burgos 2006², 14-15.

⁷ T. RINCÓN-PÉREZ, *Comentario al can. 578*, in: A. MARZOA – J. MIRAS – R. RODRIGUEZ-OCAÑA (ed.), *Comentario exegético al Código de Derecho Canónico*, vol. 2/2, Pamplona 2002³, 1416.

These changes are related to the interventions of the supreme authority of the Church, namely the Holy See, which can introduce various changes to the religious law. At the same time, these changes are related to the development of the institution over time. We only have to look at the history of the Discalced Carmelite Nuns' Constitutions to see how many changes have been introduced throughout history.

Consequently, fidelity to the charism does not mean safeguarding the Constitutions from any editorial modification, but taking care of the faithful custody of the *propositum vitae* and, at the same time, the deep discernment whether the existing provisions adequately express this charism. Teresa's original Constitutions were already reformulated and approved by the Alcalá Chapter in 1581⁸. In 1590, under the breve *Salvatoris* of Sixtus V, the Constitutions of Alcalá were approved with some modifications ("examinadas, corregidas y aumentadas")⁹. Only two years later the Constitutions were promulgated with further changes approved by Gregory XIV's breve *Quoniam non ignoramus*. In 1607 the Constitutions of Alcalá were published in Brussels in French with previous amendments from 1588¹⁰. And so in different regions different versions of the Constitutions were preserved¹¹ ... After the promulgation of the Code of Canon Law in 1917, in 1926 Pius XI approved the Constitutions adapted to the new general legislation, and the then Sacred Congregation for Religious expressed the desire that "such a text [could be] unanimously adopted by all those monasteries which although belonging to the same Order use somewhat different draftings not yet subjected to the latest revision of this Sacred Congregation"¹². This desire became a precept 10 years later when, by the decree of 19 September 1936, the Sacred Congregation for Religious affirmed: "In order that among the pious nuns who honor the name and spirit of one Mother, Saint Teresa, the desired uniformity of Constitutions,

⁸ As A. Fortes notes: "El texto de las Constituciones de 1581, llamadas de Alcalá, nació no porque las leyes que regían la vida de las Descalzas no satisfacían sus sencillas necesidades jurídicas sino porque a lo largo de los años se había recargado un tanto la legislación existente con las actas de los visitadores apostólicos [...], además se sentía la necesidad de completar algunas lagunas y uniformar las prácticas que algunas prioras cambiaban un poco a su antojo" [A. FORTES, *Constituciones del capítulo de Alcalá 1581*, in: AA.VV., *Constituciones de las Carmelitas Descalzas (1562-1607)*, Roma 1995, 51].

⁹ As R. Zubieta explains: "El recurso a Roma tenía como objetivo descargarse del gobierno de la Consulta y obtener la confirmación pontificia de las Constituciones de Alcalá" [R. ZUBIETA, *Las Carmelitas Descalzas. Vocación y misión*, Burgos 2006², 22].

¹⁰ Cfr. AAVV., *Constituciones de las Carmelitas Descalzas (1562-1607)*, Roma 1995, 51-55; 109-112; 263-272.

¹¹ Cfr. REDAZIONE, *Costituzioni delle monache carmelitane*, in: E. BOAGA - L. BORIELLO (ed.), *Dizionario carmelitano*, Roma 2008, 201-202.

¹² *Regola e Costituzioni delle monache scalze dell'Ordine della B. Vergine Maria del Monte Carmelo*, Milano 1926, 27-28.

so sweetly prepared during these years, may be realized as soon as possible, His Holiness [...] deigned to order that in the future in all the monasteries of the Discalced Nuns of the Order of the BVM of Mount Carmel [...] the aforementioned text of the Constitutions given the year 1926 be accepted and observed, all others abolished, and it alone be the form of the regular observance to all the Daughters of St. Teresa”¹³. In other words, the Holy See unified the fundamental code of the Order. After the Second Vatican Council, the work of renewing Carmel’s own law was undertaken. In this process are worthy of note the *Decreta de monialibus* drawn up by the Extraordinary General Chapter of the Discalced in 1968, the *Statutes on Enclosure* approved by the Congregation of Religious in 1971, and finally the *Declarations* approved in 1977. Further works on the *accomodata renovatio*, however, led to a split: in the years 1990 and 1991, respectively, two different texts of the Constitutions were approved by the Holy See.

When speaking about the Constitutions it is extremely important to keep in mind the two fundamental elements determined by the Second Vatican Council, which constitute the value of the fundamental code: fidelity to the original inspiration that leads to the foundation of a given institute (spiritual *patrimonium*) and – at the same time – being able to read the signs of the times and translate the genuine charism into the present. It is not, therefore, a question of preserving intact the original Constitutions’ text, but of the *accomodata renovatio* that allows us to live the charism in the changing reality. As T. Rincón-Pérez points out in his commentary on can. 578: “The constant return to the original sources, to the primitive inspiration of the institutes, along with their convenient adaptation to the circumstances of today’s world – wisely judged in the light of faith – are the two great principles of the Council on which must be based an adequate renewal of the consecrated life. On the one hand, it is a matter of avoiding immobility: like the Church herself, institutes of consecrated life must renew themselves in step with history. But it is also a matter of escaping from every radical transformation that distances the institute from its original source, from its founding charism”¹⁴.

Accomodata renovatio means translating the charism into today’s reality, expressing it without changes in an understandable and livable form in the present. *Accomodata renovatio* does not mean mitigating the intrinsic rules

¹³ SACRA CONGREGATIO DE RELIGIOSIS, *Decreto* (19.09.1936), in: *Regola e Costituzioni delle monache scalze dell’Ordine della B. Vergine Maria del Monte Carmelo*, Vicenza 1952, 133-134.

¹⁴ T. RINCÓN-PÉREZ, *Comentario al can. 578*, in: A. MARZOA - J. MIRAS - R. RODRÍGUEZ-OCAÑA (ed.), *Comentario exegético al Código de Derecho Canónico*, vol. 2/2, Pamplona 2002³, 1415.

of the lifestyle according to a concrete charism, it does not mean changing the identity; it is a requirement of life – life that is in a continuous process of progressing and developing. It can be said that post-conciliar *accomodata renovatio* is a process initiated by the Magisterium of the Church, but also, to a certain extent, a process imposed by life itself. It must be recognized that religious life tends towards patterns of behaviour – not surprisingly it was called in the past “regular life” – sometimes so regular to become a routine... external observance of detailed rules... On the other hand, we must recognize that the charism can lose itself in totally new realities, not foreseen at the founding moment, due to totally different historical – social, ecclesial – conditions. Therefore, the change of life’s circumstances over time can mean that the way of living the charism must be verified, and sometimes even redefined. Consequently, the Constitutions too must be verified and, if necessary, amended, avoiding anachronisms and at the same time filling the emerging *lacunae legis*, that is the aspects not regulated by law.

As the Second Vatican Council noted in Decree *Perfectae caritatis* 3: “Therefore let constitutions, directories, custom books, books of prayers and ceremonies and such like be suitably re-edited and, obsolete laws being suppressed, be adapted to the decrees of this sacred synod”. And Paul VI in his *motu proprio Ecclesiae Sanctae* II, 14 developed these guidelines, stating: “Those matters which are now obsolete, or subject to change according to a particular era, or which correspond with merely local usages should be excluded from the fundamental code of the institutes. Those norms however which correspond with the needs of the present time, the physical and psychological conditions of the members and particular circumstances should be set down in supplementary codes called “directories,” books of customs, or in books bearing other titles”. And a little further on: “Those elements are to be considered obsolete which do not constitute the nature and purpose of the institute and which, having lost their meaning and power, are no longer a real help to religious life. Nevertheless, consideration must be given to the witness which the religious state has as its role the obligation of giving.” (*Ecclesiae Sanctae* II, 17).

The Church’s documents draw attention to the necessary distinction between the essential elements of the charism and its expressions inscribed in a specific historical and cultural context. First of all, it is the will of the Church’s Magisterium that the fundamental code of a given institute cannot

be “overloaded” with expressions too dependent on time and place’s conditions. Moreover, it is the will of the Magisterium that the necessary discernment and, if necessary, the change of some “obsolete elements” take place within the institute.

Of course, such changes would not make sense if they were not based on a revision and renewal of life: “The purpose of the religious life is to help the members follow Christ and be united to God through the profession of the evangelical counsels. It should be constantly kept in mind, therefore, that even the best adjustments made in accordance with the needs of our age will be ineffectual unless they are animated by a renewal of spirit. This must take precedence over even the active ministry” (*Perfectae caritatis* 2e). The complex process of *accomodata renovatio* arises from the relationship between the Constitutions and life. Moreover, the life’s renewal is the guarantee of the correctness of the legislation’s renewal.

The words of *Ecclesiae Sanctae* II, 19 are significant: “Nevertheless, suitable renewal cannot be made once and for all but should be encouraged in a continuing way”. Undoubtedly, the Constitutions cannot be amended too frequently, but from time to time it is right to reflect on the fundamental code’s convergence with reality and at the same time to reflect on the fidelity to the *propositum* assumed through the profession. And if it were necessary, it would be right to introduce appropriate changes to the Constitutions and, at the same time, renew the zeal to live according to the charism. In all this we must remember *Perfectae caritatis* 4: “Nevertheless everyone should keep in mind that the hope of renewal lies more in the faithful observance of the rules and Constitutions than in multiplying laws”.

Apparently with the approval of the two constitutional texts in the years 1990 and 1991 the process of the *accomodata renovatio* requested by the Council was concluded. It must be admitted, however, that the process of the *accomodata renovatio* carried out in accordance with the thought of the Second Vatican Council and of the subsequent teaching of the Magisterium (including several consultations of all the communities of Discalced Carmelites Nuns in the world and aiming at the final drafting of the fundamental code under the direction of the then Congregation for Institutes of Consecrated Life and Societies of Apostolic Life), was somehow disturbed. And so, in the final phase of the work, especially in response to the letter of Cardinal A. Casaroli of 15 October 1984, instead of the simpler

text modelled on the Declarations, were “inserted” some elements that, according to the criteria of the *accomodata renovatio*, should not be found in the Constitutions, but in other legal sources or even more in customs’ books. Consequently, today it is entirely justified to revise the 1991 Constitutions, recalling the criteria of the *accomodata renovatio*.

There is no doubt that at present the Church does not explicitly require an overall modification of institutes’ own law, but only the integration of the norms introduced by the Constitution *Vultum Dei quaerere* and the *Cor orans* instruction. However, a few questions arise: Are only a few minor changes to the Constitutions sufficient or perhaps a broader look and more significant changes are needed? Can it really be said that the process of post-conciliar renewal in the legislation of the Discalced Carmelites Nuns took place according to the intention of the Magisterium?

To grasp the progress of the post-conciliar process of the *accomodata renovatio* in the legislation of the Discalced Carmelites Nuns, including the difficulties encountered, it is worth comparing the 1977 Declarations and the 1991 Constitutions. The differences are significant and generally do not require comments...

Declarations 1977		Constitutions 1991	
	[total of articles: 205]		[total of articles: 256 – approximately 25% more than Declarations]
art. 38	“We intend to keep our life true to that penitential atmosphere of generous and joyous austerity, characteristic of our Order.”	art. 50	<p>“The Discalced Carmelites Nuns will hold to what the Church prescribes for penitential days and the observance of fast and abstinence.</p> <p>In conformity with Carmel’s spirit of penance and austerity, from the feast of the Exaltation of the Holy Cross until the Sunday of the</p>

			<p>Resurrection of the Lord, the fast prescribed by the Rule will be observed, except on Sundays, solemnities, the three days after the Nativity of the Lord and on other major feasts. [...]</p> <p>Equally, they will faithfully observe the norm of the Rule, restored by Holy Mother, by abstaining from meat, except in case of need”.</p>
art. 72	<p>“We wish that the layout and internal arrangement of the monastery be such that they favour and nourish the spirit of prayer. We intend to maintain faithfully the Papal enclosure of our monasteries, according to the legitimate norms, so that it may express and protect the recollection conducive to our prayer, and the love that binds us together as a family”.</p> <p>[it must be noted that this is the only article of the Declarations that speaks of enclosure]¹⁵</p>	art. 105-123	[There is the whole section dedicated to the enclosure of monasteries: chap. 6]

¹⁵ We obviously must remember that along with the Declarations, there also were in force the *Statutes on enclosure* approved in 1971. Therefore it was not necessary to include in the fundamental Code specific norms concerning the separation from the world, already collected in a source extra Code, that is in the *Statutes*.

art. 158	“The prescription of law are to be observed with regard to and indult of absence from the monastery, of exclaustation or of secularization”.	art. 192; 194-196	[Rules in force in 1991, in conformity with the 1986 Code and the instruction <i>Venite seorsum</i> of 1969].
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Of course, the Declarations were not reduced by simplicity to a few articles describing the charism of the Teresian Carmel in general. The 205 articles mentioned above are not few. However, the Declarations were an example of a fundamental code drawn up on the basis of the guidelines of the Church’s Magisterium regarding the *accommodata renovatio*: where possible, detailed questions are left to the decisions of the individual Chapters. The same cannot be said of the 1991 Constitutions. It cannot be denied that these Constitutions are faithful to the doctrine of the Church and faithful to the Teresian charism¹⁶. But we cannot help but notice some inconsistencies in their drafting.

1.3. Revision of the Constitutions A.D. 2024

The reasons given above seem sufficient to make an effort to revise the Constitutions now, *Anno Domini 2024*. This revision, that is a careful study of both the fundamental code itself and the Order’s current situation, can lead to several solutions – as stated in the replies to the questionnaire sent by the Superior General in spring 2023. A completely new edition of the Constitutions, their partial correction with major or minor modifications or a keeping intact the text except for changes imposed by the common law (*Vultum Dei quaerere, Cor orans*), are therefore possible.

Among these solutions, the *intermediate option* deserves particular attention (although very diversified in its variants) which tends to simplify the Constitutions – following the example of the 1977 Declarations – and to use at the same time the possibilities, incidentally provided by the current Constitutions, to draw up the particular statutes.

Listening to the voice of the Discalced Carmelites around the world – about 8,200 nuns living according to the 1991 Constitutions – it appears that some changes in the fundamental code of the Order are justified. In

¹⁶ Cfr. R. ZUBIETA, *Las Carmelitas Descalzas. Vocación y misión*, Burgos 2006², 33-35.

fact, the current life's conditions are different from those at the turn of the 80s and 90s of the last century, when the definitive edition of the current Constitutions took place. They differ... to the point that in 1991 Constitutions several articles appear obsolete, others unsatisfactory, while there are quite a few gaps. And some amendments to the Constitutions would not be a shame at all, on the contrary. Some corrections are a sign of openness to the action of the Spirit of God, so that, with God's help, we can adequately understand and faithfully follow the demands of the charism in a changing reality. The obligation to faithfully preserve the institute's patrimony – according to the norm of can. 578 – is not easy, especially bearing in mind the authentic meaning of fidelity. Fidelity does not mean restoring the past. Fidelity means being able to interpret and live the charism in the present. Strange as it may seem, it is not a question of imitating Teresa of Jesus (copying some specific behaviour), but of following Jesus in Teresa's style.

The possible choice of simplifying the Constitutions, necessarily resorting to at least partial reformulation, must however maintain some procedural and substantial rules.

As for the procedure, no rules other than those relating to the *accomodata renovatio* may be adopted. In this spirit the intervention of Fr. Benjamin of the Trinity (Lachaert) OCD during the General Congress of states of perfection celebrated in Rome in 1950 deserves attention: "It seems to me of utmost importance to point out that the problem of the updated renewal of the states of perfection in the world must be studied and solved first of all in accordance with the characteristic spirit and the proper mission of every religious institute in the Church. Inspired by God himself, the Founders gave their Institute a specific feature and a legislative system corresponding to the ideal of life that they had the mission to create in the Church. Every renewal must therefore proceed from a greater awareness of the characteristic spirit of the institute and from the desire to live it with greater fidelity. Now this spirit proper to each Institute is such a delicate, personal thing corresponding to a special divine vocation of the Founder and his children that only those who possess this vocation and live it practically, experiencing its difficulties and joys, can fully understand"¹⁷.

Worthy of note are also the *Reflexiones para la renovación de las*

¹⁷ SACRA CONGREGATIO DE RELIGIOSIS, *Acta et documenta. Congressus generalis de statibus perfectionis* (Roma 1950), vol. 2, Roma 1952, 186-187.

Carmelitas descalzas, in which it is noted, among other things: “The Holy Mother Teresa herself [...] in conceiving and giving shape to the appropriate renewal of the Order for what that concerned the nuns, proposes at the same time two goals: to remain faithful to the Order and to freely interpret the Order’s life according to the requests of her attempt. The specific Teresian charism of the Discalced Carmelites flows from this fidelity to Carmel’s ideal and from the freedom to interpret it”¹⁸.

As for the substance, we must first remember what canon 587 § 1 prescribes. Constitutions can and must be as simple as possible. At the same time, the following elements must not be missing:

1) General principles

2) Specific aspects:

- evangelical counsels,
- life in community,
- the life of prayer
- formation
- separation from the institute,
- readmission,
- government of the institute,
- administration of patrimony,
- obligation to observe the Constitutions.

The presence of all these elements is an absolute condition for the approval of the Constitutions by the Holy See¹⁹.

Article 18 of the current Constitutions allows the creation of a particular right as a complement to the fundamental code: “In the framework of the supplementary codes, the monasteries, each according to the legitimate diverse traditions of Carmel, may regulate their religious life by drawing up local norms”. As R. Zubieta explains: “The purpose of these norms or statutes is to organize in a convenient and stable way, according to legitimate traditions, the life of the monastery in the points not universally

¹⁸ LA COMISIÓN DE MONJAS (red.), *Reflexiones para la renovación de las carmelitas descalzas*, Valencia 1968, n. 9.

¹⁹ Cfr. CONGREGATIO PRO INSTITUTIS VITAE CONSECRATAE ET SOCIETATIBUS VITAE APOSTOLICAE, *Criteria for a common procedure in revision and approval of Constitutions* (29.09.1986), pro manuscripto.

determined by the Constitutions”²⁰.

It is significant that this possibility of creating particular statutes, although already provided for in the current Constitutions, has not been used for 33 years, with the exception of the statutes for the external sisters. To my modest knowledge of the reality of the Order, perhaps two or three communities have drawn up particular statutes, trying to specify even more precisely the norms concerning enclosure or asceticism.

It should be noted that the Constitutions, while providing for the possibility of drawing up particular statutes, pose a very precise condition: Monasteries [...] may regulate their religious life by drawing up local norms, on the condition that the directives of the Constitutions be kept in their entirety” (Cost 18).

It is necessary to find the right relationship between the Order’s common law the established by the Constitutions and the local law established by the statutes. The statutes, of course, cannot be contrary to the Constitutions, nor can they in any way replace the Constitutions, but they have the purpose of clarifying the Constitutions’ directives in a specific context. Article 18 of the current Constitutions also provides for the statutes of individual monasteries, but draws attention to the fact that such adaptation of the norms to local situations must not create conflict in the observance of the Constitutions in force throughout the Order.

We could recall here the annotation of F. Monahan, who, commenting on art. 201 of the Constitutions approved in 1991, pointed out too broad interpretations of the autonomy of monasteries that were almost as distinct institutes: “It follows that every monastery is an institute of pontifical right and not simply a monastery belonging to an institute of pontifical right. Are the Discalced Carmelite nuns therefore divided into 870 institutes of pontifical right? Certainly, autonomy is pushed a little too far. I doubt that Teresa ever thought of her monasteries as so many separate entities of pontifical right; she rather considered them belonging to the same religious family”²¹. This makes clear that the use of the possibility of elaborating the particular statutes of individual monasteries, must not lead to a sort of juridical and vital confusion, where, despite the use of a single

²⁰ R. ZUBIETA, *Las Carmelitas Descalzas. Vocación y misión*, Burgos 2006², 69-70.

²¹ F. MONAHAN, *Le carmelitane teresiane. Monache e frati in una sola famiglia*, trad.it., Darlington 1994, 33.

name of Discalced Carmel, in reality about 680 institutes would be created, each with its own legislation.

In the perspective of the revision of the Constitutions, it seems right to draw attention to the elements that are clearly lacking or insufficiently developed in the current fundamental code:

- issues of monastery government in the context of a large number of small and fragile communities (the re-election of the prioress, the election of the outgoing prioress to first counsellor with the requirement of 2/3 of the votes, the number of counsellors in small communities, the competencies of the vicar in an affiliated monastery, etc.);

- the problems of patrimony management;

- penal matter;

- questions relating to the vocation and service of extern sisters.

1.4. Conclusion: The right perspective

Bearing in mind all the technical rules of the interpretation of the law it must not be forgotten that there is a substantial criterion. It is the reference of the norm to life's *aim* that is – as can. 1752 reminds us – to salvation. Otherwise we risk remaining the slaves of the letter. This does not mean abolishing the law or ignoring it or not observing it, but considering it and living it in the right perspective. purpose

Looking at the law in the context of salvation requires not only fidelity to the norms but also their revision if there were some obsolete rules, some expressions of the covenant with God that in the new context lose their original value. As Teresa says: “Ahora comenzamos y procuren ir comenzando siempre de bien en mejor” [“Now we are beginning and let them strive to advance always from good to better”] (*Foundations* 29, 32).

As S. Cannistrà observes: “The widespread mentality in the time in which our Constitutions were prepared was generally founded on a morality of the law. Alisdair Macintyre considers the morality of the law a consequence of modernity, in which virtues have been reduced to only one: that of the

observance of the rules. All modern morality is based on the respect of the norm as such, regardless of the consequences or the goals that you want to achieve. Macintyre's proposal is, instead, to return to a classic view of morality, as the moral of virtues. Morality is nothing but the search - said Aristotle - for a good life, a happy life, which implies the achievement of my goal. Virtuous is not someone who "obeys rules", but someone who "pursues his goal with determination, veracity and fidelity". The attainment of the goal necessarily implies "practices" which in turn are achieved through the exercise of "intrinsic virtues" to them"²².

²² S. CANNISTRÀ, *Relazione al Definitorio Straordinario* (Corea 2014), pro manuscripto, 13.