

# The Teaching Office of the Church in the New Code

## 1. *General Introduction*

### 1.1. *Importance*

1.1.1. Where the Vatican II Ecclesiology is most evident Book III, dedicated to the ordination of the teaching office of the Church, is particularly important because it is where the objective of the revision appears to be most realized.

The decree of promulgation "*Sacrae Disciplinae Leges*" says: "The instrument, which the Code is, fully corresponds to the nature of the Church, especially as it is proposed by the teaching of the Second Vatican Council in general, and in particular way by its ecclesiological teaching. Indeed, in a certain sense, this new Code could be understood as a great effort to translate this same doctrine, that is, the conciliar ecclesiology, into canonical language." (n. 18)

The principal guiding spirit then of the task of revising the 1917 Code is to translate as perfectly as possible into canonical language the conciliar image of the Church. While this has been realized to a certain degree in the entire Code, it is here however in Book III where the conciliar ecclesiology is most alive and evident. Permit me to give some examples.

a) The very title of the Book "De Ecclesiae Munere Docendi" is the language of Vatican II, particularly of *Lumen Gentium* 25. Here one should advert to the rather important change in the title: It is not the *Magisterio Ecclesiae* but *De Ecclesiae Munere Docendi*". There is a difference.

We find the doctrinal indication in LG 12: "The People of God shares also in the prophetic office of Christ guided by the Sacred Magisterium." (L. G. 12) Let us explain this. The competence to teach pertains to all those who participate, each in their own way, in the prophetic office of Christ. Not only the hierarchy then like the bishops, the priests and the deacons, but also the laity who, in their own way, participate in the prophetic function of Christ (cfr. LEC 56.2; 57, 3,2)

There are two things then to be distinguished: the teaching function and the authentic power of teaching which is normative and is technically called *Magisterium Sacrum*. The first belongs to all the baptized, the second only to the ecclesiastical magisterium which is called upon to teach the whole People of God with both the witness of life and doctrine.

It is not permissible then to distinguish between the People of God which teaches and the other which merely listens. All the people of God that believe, expressing this belief with the *sensus fidei* of the People of God as guided and directed by the authentic magisterium.

Conclusion then: *first*, the members of the People of God participate in the prophetic task of Christ, and second, the official and authentic magisterium of the Bishops who share in the apostolic mission conferred through the episcopal ordination.

b) *Canon 747* describes the theological basis of the teaching office of the Church; this is not entirely new. But what it says in paragraph two is new, at least in the Code: "even in social order, and also to judge whatever human affairs whenever the fundamental rights of the

human person and the salvation of souls require.” This is practically taken from *Gaudium et Spes*, 42 or *Apostolicam Actuositatem* 24, among others.

c) *Canon 748* sets down the primacy of conscience in making the act of faith. All have the right to learn of God’s revelation and no one can be forced to accept the Catholic faith against one’s conscience. This norm is grounded on the conciliar doctrine as stated in the Declaration “*Dignitatis humanae*”, nn. 1-2 and 4.

#### 1.1.2. More Doctrinal than the 1917 Code

a) Interestingly the new Book III has the same number of canons (86) as the 1917 Code on the same theme, although under different title: the teaching office of the Church of the new Code is found under the “*De Rebus*” in the 1917 Code. But the change is deeper.

In the first place, the 1917 canons referring to the seminaries (cann. 1352-1371) are now to be found in another place: Book II, as a section under the People of God. A number of norms have completely disappeared: for example: “The Sacred Missions” (cann. 1349-1351) “The Prohibition of Books.” (cann. 1395-1405).

In the second place the new Code as a whole is more doctrinal than the 1917 Code. But this doctrinal character of the new Code is more evident in this Book III. Just consider the first nine canons (cann. 747-755); there is hardly any concrete juridical disposition in any of them. In fact they appear as a simple synthesis of what Vatican II has to say about the teaching office of the Church.

b) This peculiar quality of the Code — the doctrinal flavouring — is grounded on the nature of the Church, and distinguishes the Church from any other human societies. The state, except those with totalitarian pretensions, may give purely juridical legislation, may regulate through laws the external conduct of the citizens. Nothing more. It can not demand internal assent. In the Church, the law extends not only to the internal forum, like for example canon 987 on the disposition of the peni-

tent in order to be able to receive the sacramental absolution; ecclesiastical law requires not only compliance but assent to the doctrine that grounds the law. This is because what the Church teaches carries its own binding authority, and what it commands is grounded on a doctrine. Hence the saying "The Church in teaching, commands; and in commanding teaches."

c) The Christian has an internal obligation to believe the truths of the faith as re-stated in *canon 750*.

"One must believe by divine and catholic faith all matters which are constantly put forth as divinely revealed in the written or handed-down word of God, i.e. in the one deposit of faith committed to the church, whether they are proposed by the church's solemn magisterium or by its ordinary and universal magisterium i.e. that which is made manifest by the common adherence of the Christian faithful under the leadership of the sacred magisterium."

d) To dissent internally and even more externally would be heresy (*canon 751*) or would mean incurring automatically the excommunication if this were done contumaciously (*cn. 1364*).

e) Then again *canon 752* is typical in illustrating this close interplay between law and doctrine in the Church. It says that "even when an assent of faith is not involved, a religious compliance of intellect and will should be offered to a doctrine of the Supreme Pontiff or the Episcopal College touching on matters of faith and morals and in the exercise of their authentic magisterium, even when not intending to make the proclamation with a definitive act."

## 1.2. Method

The approach to be taken will be expository adding, where and when necessary, appropriate observations. A brief overview then of the various parts of Book III will constitute this paper.

## 2. *Preliminary Canons* (cann. 747-755)

### 2.1. Nature, Functions, Object and Properties of the Teaching Office

*Canon 747* reiterates the general principle contained in the 1917 Code 1322 according to which the teaching office of the Church belong to her as a duty and as a native right (*ius nativum*). One therefore she exercises with full liberty and independent from any human power. Paragraph two, as we have already noted, is new in the Code and reflects in a very distinct way the teaching of *Gaudium et spes* 42 on the extent of the mission of the Church.

### 2.2. *Ius Nativum*

Of particular interest is the use of “*ius nativum*” to describe the nature of the Church’s teaching authority; it is an addition in the new Code. It has, however, an old history. It appeared for the first time in an official document in a letter by Pius IX “*Tuas Libenter*” to the archbishop of Munich in 1863. The Pope denounced a congress of scholars in Munich which was summoned by scholars, “without any intervention of the initiative, authority or mission of the ecclesiastical authority to which alone it pertains by a native right (*proprio ac nativo iure*) to watch over and direct especially the teaching of theological matters.” (Pii IX Pontificis Maximi Acta, pars prima, vol. 3 (Graz. 1971) p. 638).

A “right” implies a moral power to act or to be immune from injury. Further, it implies an obligation on the part of others to respect the right and the existence of some mechanism for the vindication of rights. Some rights are called “natural” because they are given by God in creating a person. In the text cited, the phrase “native right” suggests that the right to oversee and direct theological teaching belongs to holders of ecclesiastical power; in context: to the Pope and bishops by reason of their office. Still other rights might be *acquired or conceded* by law. In those latter cases, a right can be lost or simply taken away by the same authority which granted it.

Natural or native rights, on the other hand, endure for a lifetime as long as one holds the office or function which gives rise to the right.

We have seen already the contemporary relevance of *canon 748*. The subjects of an infallible magisterium are stated in *canon 749*, where we also have repeated the thumb rule on how to recognize infallible teaching: "No doctrine is understood to be infallible unless it is manifestly so." (#3). Also new in the Code is about a particular assent called *religious* compliance. It is given to the doctrine proposed in non-definitive manner by the Supreme Pontiff or the College of bishops and by bishops in communion with the head and members of the college who teach individually or together with other bishops in synod or in particular councils (*canons 752-753*).

*Canon 754* provides that "all the christian faithful are bound by the obligation to observe the constitutions and decrees the legitimate church authority issues in order to propose doctrine and to proscribe erroneous opinions, especially those issued by the Roman Pontiff or the College of Bishops." The phrase "legitimate church authority issues" is important for the resolution of the problem of relationship between the theologians and the bishops. From a juridical point of view, theologians have no special place in the church in this regard. They do not propose doctrine nor do they condemn errors in a juridically binding manner. They are on the receiving end of such decrees, as are the bishops, priests, deacons, religious and lay persons; all have the obligation to obey authoritative teaching.

*Canons 755* is about ecumenical movement among catholics: the responsibility of guiding this movement at the universal level belongs properly to the College of Bishops and the Apostolic See. At the more particular level of a diocese or nation the responsibility rests on the bishops and the episcopal conferences.

*The Ministry of the Word (Cann. 756-761)**Introduction*

The Church carries out its responsibility of teaching in various ways. Pre-eminent among them is the ministry of the Word. By way of introduction, canons 756-761 explicate three things: who are those officially commissioned to carry out the ministry of the word, which are the sources of the ministry of the Word and the various means through which the ministry can be realized.

*1. Active Subjects of the Ministry (c. 756)*

Those officially commissioned to be responsible for the ministry of the Word are the Roman Pontiff and the College of Bishops at the *universal level*; the bishops at the level of *particular churches* either individually or as a *group* (c. 756). Those who may be called upon to cooperate are the priests, particularly the parish priests, the deacons (c. 757) and members of the institutes of consecrated life in virtue of their consecration to God, are called upon in a particular way to cooperate with the Bishop in the task of proclaiming the Word (c. 758).

The right and responsibility of lay persons to participate in this ministry is stated in *canon 759*. The basis for their participation is grounded on their baptism and confirmation and that they fulfill this responsibility principally by giving witness through *word* and *example*. More formal participation in the ministry of the Word requires a call to cooperate in the ministry of bishops and priests. The Code says:

“Lay members of the christian faithful, in virtue of their baptism and confirmation, are witnesses to the Gospel message by Word and by example of christian life. They can also be called upon to cooperate with the bishop and priests in the exercise of the ministry of the Word.”

Effectively lay persons can be allowed to preach in a church and oratory always within the bounds set by the

episcopal conference and when there is a real need or utility. (c. 766). This permission to preach however does not include the homily which is a part of the liturgy and is a reserved liturgical act (c. 767).

Whatever means is used, however, "the mystery of Christ should completely and faithfully be expounded". (c. 760)

*Canon 761* lists many different means of carrying out this generic responsibility for ministry of the Word. The role of theology is not specifically mentioned, but it is certainly implied in the description of ways of proclaiming Christian doctrine: preaching, catechetical training, teaching in schools, seminars, conferences and development of public statements in writing and through television and radio.

## *The Preaching of the Word* (Chapter 1)

### *Introduction*

After an introductory code on the importance of the task of preaching for the People of God (canon 762), the Code enumerates those who are by right empowered to exercise the task of preaching and those who may be granted the faculty to preach in the Church.

#### 1. *Active Subjects*

The bishops have the right to exercise the task of preaching anywhere provided there is no prohibition from the bishop of the place (c. 763). The priests and deacons, at least with the presumed consent of the rector of the church, may preach anywhere unless otherwise restricted or prohibited by the competent ordinary or by a particular legislation (c. 764).

The superiors of religious institutes have the right to preach to their subjects *ipso iure* according to the norms of their institutes (c. 765).

*Lay persons and preaching.* In the beginning, we commented on *canon 766* which admits the lay persons to preach



in churches and oratories under definite conditions. It is convenient to recall here the contemporary theological reflections and to find out whether this theological trend has been incorporated or not in the Code.

At the Second Vatican Council there was a more extensive understanding of jurisdiction or governance as used in the Code. The development consists in this that while the *power of governance* can be possessed only by those who have received a sacred order (c. 129, 1), the non-ordained can however *share* in the exercise of this power (id. 2).

Following the Council there were examples of laymen functioning as *judges* in ecclesiastical tribunals. This development was also reflected in post conciliar practices though in terms of a broadened co-responsibility or *missio* and a more decentralized authority or *communio*. With regard to the bishop's teaching office there is an extraordinary example of this in the decree of the West German Bishops entitled "The Participation of the Laity in Preaching". In 1973, at a Synod in Wurzburg, the West German Bishops voted to petition the Holy See for participation by the laity in the office of preaching in the Church. This petition was justified by the Bishops because of the role of the laity in the Church as addressed to the Second Vatican Council and because of the shortage of priests and deacons. "In order that lay persons may perform at liturgical functions, they need canonical mission or delegation conferred by the bishop." (*S. C. for the Clergy, Letter to Episcopal Conference of Germany, November 20, 1973, n. 4*).

Rome informed the West German bishops that no national Conference of bishops has the authority to change the general law of the Church concerning preaching and that their statement therefore represented an "extraordinary situation." This terminology was used to maintain the classical theological distinction between ordinary and extraordinary ministers of the sacraments. In other words, the general law was not being changed, but the bishops were determining extraordinary circumstances in which the general law was not applicable. In 1973 this permission was granted for a period of four years,

and later renewed for an additional four years through June 1, 1981. In June of 1982, the German bishops were to submit an evaluation of the experience.

The lesson of this historical fact is then: bishops at the conference level are exercising their responsibility to see that the word of God is proclaimed by qualified people for adequate instruction of the people.

Under the present Code (c. 766) a compromise is given. While maintaining the unique role of the priest and deacon in the *homily* (c. 767, 1) it points out that, under certain circumstances namely necessity requires it, or particular cases of utility urges it, the episcopal conference may extend the faculty of preaching to others (c. 766).

### 3. *Forms of Preaching*

*Canon 767* singles out the *homily* as a pre-eminently important form of preaching by which the mysteries of faith and the christian norms are expounded, pertinent and relevant themes are explained, such as the dignity of the human person, the unity and stability of the family, etc. (c. 768,2) and the means by which truths we have to believe and do are proposed (*ibid.*, 1). Therefore homily shall not be omitted on sundays and holidays of obligations except for a serious cause (c. 767, 2). On weekdays it is highly recommended that, whenever there is a sufficiently big group, a short homily be given (*ibid.*, 3). The parish priests and the rectors of the church were urged to the strict observance of these norms (c. *ibid.*, 4).

*Canon 769* points out that doctrine can not be proposed effectively to people in a vacuum; it must be accommodated to those hearing it and in accord with the needs of the modern world. While the proclamation of the Word is to be given to all the Code however, recommends two groups of people who must be the special concern of the pastors of souls, especially the bishops: the poor (c. 771, 1) and the non-believers (*ibid.*, 2).

The special norms to be followed in the exercise of the task of preaching are those of the bishop of the diocese and of the

particular norms drawn by the episcopal conference when the preaching involves the use of television and radio (c. 772).

*The Catechetical Formation* (Chapter II)

1. *Crucial Importance*

In Chapter II's "The Catechetical Formation" we find the essentials of the most recent teachings of the Church on catechesis expressed in the austere language of a code.

*Christus Dominus*, in describing the function of catechesis has already said: "Its function is to develop in men a living, explicit and active faith, enlightened by doctrine. It should be carefully imparted, not only to children and adolescents but also to young people and even to adults. In imparting this instruction the teachers must observe an order and method suited not only to the matter in hand but also to the character, ability, the age and the life-style of their audience." (n. 14). To insure the implementation of this instruction, *CD* mandated the compilation of "a directory for the catechetical instruction of the Christian people in which the fundamental principles of this instruction and its organization will be dealt with and the preparation of books relating to it." (n. 44). This document under the title of *General Catechetical Directory* was issued on 18th March 1971.

Paul VI already underlined in his *Evangelii Nuntiandi* n. 44 the need for catechetical instruction. "A means of evangelization that must not be neglected is that of catechetical instruction. The intelligence, especially that of children and young people, needs to learn through systematic religious instruction the fundamental teachings, the living content of the truth which God has wished to convey to us and which the Church has sought to express in an ever richer fashion during the course of her long history. No one will deny that this instruction must be given to form patterns of Christian living and not to remain only national." The methods must be adapted to the age, culture and aptitude of the persons concerned."

The 1977 Synod of Bishops, after a thorough examination of catechetical related problems issued the Message to the

People of God (30 October 1977). This was followed by the Apostolic Exhortation *Catechesi Tradendae* of John Paul II on 16 October 1979. Catechesis, as distinct from the initial conversion bringing proclamation of the Gospel, has the twofold objective of maturing the initial faith and of educating the true disciple of Christ by means of a deeper and more systematic knowledge of the person and the message of our Lord Jesus Christ (n. 19). It must be systematic, it must deal with the essentials, sufficiently complete and be an integral Christian initiation. (n. 21)

Chapter II's canons are faithful to these magisterial teachings on catechesis.

The crucial *importance* and the seriousness of the task of catechesis is better and more completely re-stated in the new code than in the 1917 Code.

"There is a proper and serious duty, especially on the part of pastors of souls, to provide for the catechesis of the Christian people so that the faith of the faithful becomes a living, developing and productive faith through formation in doctrine and through the experience of Christian living." (c. 773)

## 2. *Agents of Catechesis* (c. 774)

While the concern for catechesis belongs to all the members of the Church (c. 774), the Code nevertheless specifies the functions of those who are called upon to *officially* assume the leadership in this ministry. The teachings of *CT* (n. 68) and *Familiaris Consortio* are echoed in can. 774, #2: "Before anyone else, the parents are to form their children in faith christian life through word and example..."

This is a marked departure from the 1917 code 1330 which gives the first place to the parish priest. The call to the parish priest to be catechetically concerned is still there; but the parents and therefore the family take precedence over the parish priest and the parish in the education in faith. The godparents are, of course, understood and equally referred to under the term "parents".

### 3. *Organizational Authority* (c. 775)

The leadership in catechesis is however that of the *Bishop* of the diocese, first and foremost. *Catechesi Tradendae* urges the bishops to develop a passion for catechesis. The Code does not go that far; it defines the competence and duty of the diocesan bishop on matters of catechesis as consisting in: (1) drawing up catechetical norms, (2) provision of adequate instruments for the catechetical ministry, (3) preparation of catechism if it is opportune, and finally (4) encourage and coordinate the catechetical work (c. 775 #1). All these should be carried out always observing the norms laid down by the Apostolic See on the matter.

At the *national* level the task of the *Episcopal Conference* consists principally in (1) maintaining a catechetical Office that will principally assist the dioceses in this area (ibid. #3), and (2) if it is warranted by the situation, to have a national catechism prepared and presented to the Holy See for approval. (ibid. #2).

### 4. *Agent of Catechetical Ministry*

"In virtue of his office" the *parish priest* is obliged to insure (*curare*) the catechetical formation of the adult, the youth and the children. He is not expected or required to do all these himself; he is to seek the assistance of various people, maintain effective programs particularly family catechesis (c. 776). There is here again a departure from the 1917 canon on the same matter: while in the old code the parish is expected to take care, "*curare*". This is in full accord with the *Catechesi Tradendae*, where the priest is tasked to be the coordinator of the catechetical ministry (c.t. 64).

### 5. *Catechetical Formation*

*Canon 777* further describes the concrete programs which should be attended to by the parish priest according to the diocesan catechetical norms. They are:

- 1) sacramental catechesis;
- 2) catechesis for children leading to their receiving the sacraments of penance, Holy Eucharist and confirmation;

- 3) follow catechesis for children who have already received the above mentioned sacraments;
- 4) catechesis be systematic and integrated;
- 5) youth and adult catechesis.

All these programs, in practice, will depend to a large extent on the quality of the formation received by the catechists themselves. For this reason can. 780 urges the Ordinary of the place to see to the proper and sufficient formation of the catechists.

Members of the institutes of consecrated life and of societies of apostolic life are called upon to assume the catechetical ministry in the parish by (1) cooperating with the parish priest (c. 776); and (2) diligently imparting catechetical formation in their churches and schools and in other works entrusted to them in any manner (c. 778).

There are two other new elements in this section of the Code:

- 1) the importance given to methods and the use of adequate instruments (c. 779) echoing CD 14, GCD 122; mass media 123).
- 2) the obligation of the Bishops to provide adequate and quality formation to the catechists, again reflecting the Chapter III, Part IV of the GCD.

Finally can. 785, #2 repeats this duty of the bishops as regard the missionary catechists, stating explicitly that the catechists should be educated in schools destined for this purpose or where such schools are lacking, under the moderation of missionaries.

### *The Missionary Action of the Church (Title II)*

#### *Introduction*

This is not only a new title but the content is almost totally new. The provisions of the codes are, as has been said so often, the fruits of the ecclesiological teachings of Vatican II according to which the Church, by nature, is missionary. Every member then is a missionary. (c. 781)

What is understood by *missionary action*? "Missionary activity, properly so-called, is that by which the Church is implanted among peoples and groups in which it has not yet taken root." (c. 786) This activity is generally exercised in a definite territory and under the jurisdiction of the Dicastery on the mission. However a missionary activity of this type may also be necessary in the so called "catholic countries" where there are non-christian foreigners, or secularized social classes, etc. These activities are generally referred to as *mis-missionary activities*. The old Code used this distinction to differentiate them from *internal mission*.

In the sense understood in canon 786, the missionary action belongs to the Teaching Function of the Church because it is a form of the ministry of the Word.

### 1. A Missionary Church

The People of God is a missionary People. The members then have the rights and duties in relation to this missionary dimension of their Christian existence.

We were already told that "All Christian faithful must expend their energies for living a holy life in keeping with their own condition, and for promoting the growth of the Church and its continuous sanctification." (c. 210) and canon 211 underlines the right and the obligation of all Christian faithful "to work for the spreading the divine plan of salvation ever increasingly to all people in every era and in every land."

This basic principle is developed in the subsequent canons taking into consideration the diversity of conditions among the faithful. By way of examples:

#*In relation to the laity*: "they are duty bound by the general obligation and enjoy the general right to work so that the divine message of salvation is known and accepted by all persons throughout the world... this obligation has a greater impelling force in those circumstances in which persons cannot know Christ and hear the Gospel unless through them" (c. 225, #1).

#*In relation to the Clerics*: "Since they all work toward the building up of the Body of Christ... (c. 275, #1) there-

fore, in the seminary they should be "formed to have a missionary spirit." (c. 245, #1) They should show that they are ready to devote themselves to particular churches which are in serious need." (c. 257, #1) like those which are in missionary territory.

*#In relation to the hierarchy:* The direction and coordination of the missionary activity of the Church at the universal level belongs to the Roman Pontiff and the Episcopal College (c. 782). In practice the responsibilities of the Roman Pontiff and of the Episcopal College are realized:

1) *At the universal level* by the Congregation for the Evangelization of People. This is composed of Cardinals, Bishops whether missionaries or not, representatives from the missionary Institutes and by the Opere Pontificio.

2) *At the local level:*

\* *The Apostolic vicar and apostolic prefect*, who, govern in the name of the Supreme Pontiff a certain portion of the people of God which due to special circumstances had not yet been established as a diocese (c. 371). These types of territories are generally committed to Religious Institutes which are meant to implant the Church in those places where it has not yet taken root. (c. 786)

\* *Local Churches (Diocese)* The principal duties of a diocesan bishop in missionary territories are described in canon 790. Observe the emphasis on his authority to "promote, moderate and coordinate endeavors and works which concern missionary activity" (c. 790, #1, 10). This has been the consistent element in the development of the missionary norms. All missionaries including religious and their assistants, are subject to the authority of the bishop.

The other important duty of the diocesan bishop is "to provide that the necessary contracts are entered into with the moderators of the Institutes which dedicate themselves to the missionary work and that relations with them redound to the good of the mission." (c. 790, #2)



Note that the function is "coordinate" not suffocate, not monopolize. It is the proper application of the principle of subsidiarity.

*Canon 786* is also important in that it provides a criterion on what constitutes the ecclesial maturity: "... are fully established to the point that they are able in their own to perform the work of evangelization with their own resources and sufficient means." (This is in harmony with AG cap. III).

#*The Missionaries*. — Who are the missionaries? *Canon 784* gives the answer: "Missionaries are those persons who are sent to fulfill missionary work by competent ecclesiastical authority. They can be chosen from among those who are native or non-native to the country, whether they be secular clerics, members of the institutes of consecrated life or of societies of apostolic life, or others who are members of the *lay* Christian faithful."

The lay missionary, in this case, receives officially a mission and an office. This is to be considered a normal canonical provision, not an exceptional one; it is *secundum ius* and not *praeter ius missionale*.

### *Cooperation*

While the obligation to co-operate in the missionary activity of the Church belongs to all, there is however a degree of obligation. *Canon 782*, #2 says of the individual bishops: "Since they are the sponsors for the universal Church and for all the churches, individual bishops should have a special concern for missionary work, especially by kindling, fostering, and sustaining missionary endeavors in their particular church." Among his obligations the bishop "should consider the non-baptized as being committed to him in the Lord so the charity of Christ also shines upon them since." (c. 383, #4) *Canon 791* on the other hand describes which are the principal examples in fostering missionary cooperation.

Another means for the missionary cooperation is that one mentioned in AG 36: "... let everyone be aware that the primary and most important contribution he can make to the

spread of the faith is to lead a profound Christian life." Missionary vocation is the fruit of the fervor and deep christian family and social life.

*Canon 791, #2* urges the appointment of a priest to take charge of the promotion of the missions, like the Pontifical Missionary Work.

The Missionary Journal is another concrete means for the promotion of the missions.

Vatican II in *CD 6* proposes the giving of help according to their resources, and which is reflected in the new Code, *Canon 791, #4*.

#### *Catholic Education (Title III)*

The Declaration "Gravissimum Educationis" of Vatican II  
*Introductory Norms*

The Declaration "Gravissimum Educationis" of Vatican II contains many juridical elements. A number of these elements are repeated in this section.

The preliminary norms describe the rights and duties of three agents of education:

- \* *the family*, by natural right; one may even say by positive divine right in relation to a christian family;

- \* *the State* which is obliged to assist the family and society realize their right to education;

- \* the Church in virtue of her mission received from God c. 794, #1)

#### *Parents*

*Canon 793* grounds itself on numbers 3 and 7 of Gravissimum Educationis and describes the three rights of the parents related to education:

- \* right to the education of the children;

- \* catholic parents have a right to elect which institute of learning should educate their children, taking into consideration the conditions of the country; and

\* right to the assistance of the State in order to insure a catholic education for their children.

### *Church*

The duty and right of educating is due to the Church by reason of her divine mission to help men arrive at the fullness of christian life (c. 794, #1). For this reason "it is the duty of all pastors of souls to arrange all things so that all the faithful may enjoy a catholic education" (id. #2).

### *Authentic Education*

A true education is one that forms the whole man. It is an education that leaves no dimension of man unattended. The description of education by canon 795 is equally valid for christian education.

## 2. *Catholic Schools* (cfr. S. C. Ed. Cath. March 19, 1977)

The school is one of the most effective means for achieving the goals of Education. But the school alone cannot effectively realize the integral formation of the children. For this to happen there should be a close linkage between the school and the family, between the teachers and the parents (c. 796)

2.1. *Canon 797* states a basic principle, that ground the theology of catholic education: since it is the inalienable duty and right of the parents to educate their children, it is also their right to choose the school for this education. Therefore the Code urges the parents to exert every effort to insure the acceptance and free exercise of this right (c. 799)

### 2.2. *Duty to Support*

Where there are catholic schools then the parents should send their children to these schools (c. 798). In the same way they are obligated to patronize the catholic schools, assist and support them (c. 800, 2). Since it is the right of the Church to establish and administer schools at any level and of any kind (c. 800, 1), where there is no school in their territory providing catholic education, the bishop of the diocese should see

to the establishment of one (c. 802, 1) And when it is necessary, also professional and technical schools (c. 802, 2).

### 2.3. *What is a Catholic School?* (c. 803)

The *formal* element is "either (1) run by a competent ecclesiastical authority or (2) by a public ecclesiastical juridic person or (3) accepted as such through a document by an ecclesiastical authority (c. 803, 1). For this reason no school may use the name catholic without the consent of competent ecclesiastical authority (c. 803, 3)

The *material* element is that "the formation and education rest upon the principles of catholic doctrine. And that teachers there are outstanding for their correct doctrine and integrity of life. (c. 803, 2)

### 2.4. *Religious Institutes* (c. 801)

In the case of religious institutes whose proper mission is that of education, two things should be borne in mind:

1) they should retain faithfully their educational mission, and

2) devote themselves to catholic education.

## 3. *Catholic Education and the Hierarchy* (cann. 804-805)

3.1. *Principle*: "subject to the authority of the Church is catholic religious instruction and education which is acquired in any schools whatsoever as well as that acquired through the various media of social communications." (c. 804, 1)

For this matter, norms shall be drawn up by the Episcopal Conference. The diocesan bishop shall regulate and watch its implementation (c. 804, 1)

3.2. The *ordinary of the place* should be concerned with religious instruction in all schools, even in non-catholic schools particularly as to the teachers, the correct doctrine, and the witness of christian life and method of teaching (c. 804, 2). Furthermore it is the competence of the ordinary of place in his own diocese to present and approve religion teachers, or

even to remove or demand the removal of the same when it is warranted (c. 805)

3.3. The *Diocesan Bishops* have the right:

\* of vigilance over and visitation of the Catholic schools located in his territory, even those schools which have been founded or are being directed by members of institutes of consecrated life.

\* to issue prescription dealing with the general regulation of these Catholic schools, provided that the norms do not interfere with the internal governance of the schools or the institutes (c. 806, 1)

4. *Standard of Catholic Schools* (c. 806)

The efficacy of the catholic schools depends not only on its *catholic* quality, but also on its quality as a school. For this reason the Code in *can. 806, 2* urges the school administration to see to it that the quality of education in our own schools are, at least, comparable with those schools in the same area.

*The Catholic Universities and Other Institutions of Higher Studies* (Chapter II)

*Introduction*

This Chapter II under Title *Three on Catholic Education* may be conveniently divided into three parts: general principle, particular norms related to the establishment of catholic universities and institutions of higher studies, and finally prescriptions on the care of the students.

1. *General Principle*

*Canon 807* declares the *right* of the Church to establish universities for three definite *purposes*:

- 1) to pursue a higher level of culture for men;
  - 2) to promote a fuller advancement of the human person;
- and
- 3) to fulfill the teaching mission of the Church.

2. The use of title "catholic university". — *Sapientia Christiana* notes that there is a distinction between secular universities and "catholic" universities; the former established by civil authorities and the latter by church authorities. (SC, Foreword II). The new Code went through a series of wordings regarding this point. The original scheme permitted the use of the title "Catholic" by a university if authorized to do so by the Holy See or an episcopal conference ("Mulla studiorum Universitas nomen 'Universitatis Catholicae' gerat, nisi quae ab Apostolica Sede vel ab Episcoporum Conferentia concessum sit" (canon 59 of the 1977 Scheme of Book III). This was the expansion of the right of authorization from that found in the 1917 Code, which limits canonical constitution of a Catholic university or faculty to the Apostolic See, CIC 1376 #1.

The 1980 draft, however, limited such authorization to Rome while at the same time instruction episcopal conferences to establish in their own territory, if possible, universities and faculties imbued with Catholic tradition ("Nulla studiorum Universitas nomen Universitatis catholicae gerat, nisi ex concessione Apostolicae Sedis" (canon 763, *Scheme* 1980). This seemed to suggest a distinction between Catholic universities which used the title "catholic" and "catholic universities" which did not use the title.

The limitation to Rome of the right to authorize use of the title "Catholic" was a modern-day continuation of Pope Pius XII's establishment of the International Federation of Catholic Universities which was to include "all atheneae which the Holy See either has canonically erected or will in the future erect in the world, or will have explicitly recognized as following the norms of Catholic teaching and as completely in conformity with that teaching." (*Litterae Apostolicae* of 27 July 1949, erecting and constituting the Federation of Catholic Universities (AAS 42 (1950) 387).

The 1980 draft, however, did not meet with the approval of the Fathers of the Code Commission. It was therefore, altered to read as follows:

"Even if a university is truly Catholic, it may not use the title or name *Catholic University*, without the consent of competent ecclesiastical authority."

And it was approved as such and appears in *canon 808*. Note, in passing, that the use of the title "catholic" requiring the approval of competent authority is also found in the section on the Associations of Christians. Although all Christians are free to form associations among themselves, no association may use the name "Catholic" without the consent of the competent ecclesiastical authority. (*canon 300*).

The wording of *canon 808* strengthens the distinction between Catholic universities which use the title "Catholic" and those which do not (*etsi reapse catholica*). In either case, however, at least the statutes of a Catholic university must be approved by competent ecclesiastical authority if it is to be recognized even as a private juridical person in the Church. (*canon 299 #3*).

### 3. *Theological Faculty, Institute or Chair* (c. 809; 811, 821)

All Catholic universities should possess a faculty of theology, a theological institute, or at least a chair of theology. *Canon 811* encourages the competent ecclesiastical authorities, whenever possible, to constitute such theological faculties, institutes or chairs (#1). Episcopal conferences and diocesan bishops are also urged to found institutes of religious studies for the teaching of theological disciplines and other subjects important to Christian life (*canon 821*).

An analysis of the second chapter of Title III reveals an underlying canonical theory that theological institutions, in Catholic universities, institutes of higher studies, ecclesiastical universities or even non-Catholic universities, involve the intervention of ecclesiastical authorities to one degree or another. It is a theme which appears throughout Book III of the Code: *the science of theology, despite its internal academic autonomy, remains ultimately a kerygmatic venture of the church and, as such, can not be separated from the Church's hierarchy.*

Dependence upon church authority is even more explicit in regard to ecclesiastical universities and faculties which are treated in the third chapter of Title III and in *Sapientia Christiana*. These institutions are "concerned particularly with Christian revelation and questions connected therewith and are

therefore more closely connected with (the church's) mission of evangelization (canon 815) Such universities and faculties have the right to confer academic degrees by authority of the Holy See (canon 817). In order to qualify as a Catholic university or faculty and grant degrees with canonical value, an institution of higher learning must be erected or at least approved by the Holy See (canon 816). Its statutes must also be approved by the Sacred Congregation for Catholic Education (SC General Norms art. 7 and 9).

#### 4. *Canonical Mandate*

In ecclesiastical universities and faculties and also in Catholic universities and institutions of higher studies, those who teach discipline concerning faith or morals require a canonical mission from the competent ecclesiastical authority (canon 812). This "competent ecclesiastical authority" according to *Sapientia Christiana*, art. 13 is the Prelate Ordinary on whom the university or faculty legally depends. The reasoning behind this requirement is that such teachers "do not teach on their own authority but by virtue of the mission they have received from the Church. (SC art. 26 #1). The implication of this norm is that teachers of theology are, by the fulfillment of their responsibilities, carrying out the Church's *munus docendi* in some official manner, that is, proclaiming the word in the name of the Church.

This concept was translated into the drafts of the new Code in regard to *all* teachers of theology. The original scheme included the norm in the chapter on "Institutions of Higher Learning."

"Those who teach theology or subjects connected with theology in any institutes of higher learning whatsoever require a canonical mission." ("Qui studiorum superiorum Institutis quibuslibet lectiones tradunt theologicas aut cum theologia connexas missione egent canonica." (canon 64 of the 1977; Scheme of Book III).

The same wording was retained in the 1980 scheme of the Code, although the title of the chapter was changed to "Catholic Universities and Other Institutes of Higher Learning."



(Canon 767, the 1977 scheme's title of Chapter II was: *De Studiorum Superiorum Institutis*." The 1980 draft's title reads: "*De Universitatibus Catholicis aliisque Studiorum Superiorum Institutis*.) The canon engendered a great deal of discussion, many objecting to it as a needless "condition of employment" which will be difficult to implement in all cultures throughout the world. The Fathers of the Code Commission amended the canon slightly so that it now reads as approved:

"Those who teach the theological disciplines in any institutes of higher learning whatsoever should have (*habeant oportet*) the mandate (*mandatum*) of the competent ecclesiastical authority." (canon 812)

The latest wording avoids the use of the technical term "canonical mission," which tended to equate the authorization to teach theology with the assignment of a person to an ecclesiastical office. Nevertheless, the implication of even the amended wording is clear. The right to teach theology in a formal academic setting rests not only on one's faith commitment and scholarly expertise but on hierarchical deputation as well. In this way, the theologian-teacher officially exercises the *munus docendi* on behalf of the church. This hierarchical concept suggests that one teaches theology as an agent commissioned by the church's juridically recognized leaders.

A little bit of historical note. The Secretary of the Commission notes that the word *mandatum* has replaced *missio canonica* since "*in hoc casu non plene aequiparetur cum vera canonica missione. Ceterum principius heic statuendum est quod qui theologiam docet mandato eget competentis auctoritatis ecclesiasticae*" (RELATIO p. 184). The term "canonical mission" is used, for example, in regard to the assignment of a bishop to a particular church, by which the threefold *munera* of his episcopal ordination are actuated. *Lumen Gentium* describes canonical mission as a canonical or juridical determination of sacramental power through an act of hierarchical authority, usually accomplished by the conferral of an office and the assignment of subjects. This notion is related to the concept of "hierarchical" communion. Sec. LG 24 and the *Nota Explicativa praevia*, n. 2. For this reason in canon 229 #3, the word *mission* was later on changed to *mandatum* in

regard to the authorization of lay persons to teach the sacred sciences.

##### 5. *Campus Ministry*

*Canon 813* urges the diocesan bishop on this matter to

- (1) be concerned for the pastoral care of the students;
- (2) the *means* suggested are:
  - a) may establish a parish for this section;
  - b) assign some priests for this purpose;
  - c) establish centers to assist the students spiritually.

##### *Universities and Ecclesiastical Faculties* (Chapter III)

Since we have touched already some of the canons of this chapter, let us focus on the cooperation among schools: Canon 820 encourages the directors and professors of catholic institutions to foster cooperation between their own universities and other institutions of higher learning, including non-catholic institutions, in order to advance learning in all fields of endeavour.

Pope John Paul II, in the foreword of *Sapientia Christiana* addresses this specific responsibility in regard to the theological sciences:

"In fact, new sciences and new discoveries pose new problems that involve the sacred discipline and demand an answer. While carrying out their primary duty of attaining through theological research a deeper grasp of revealed truth, those engaged in the sacred sciences should therefore maintain contact with scholars of other disciplines, whether these are believers or not, and should try to evaluate and interpret the latters' affirmations and judge them in the light of revealed truth." (Foreword III)

##### MEANS OF SOCIAL COMMUNICATION AND BOOKS (Tit. IV)

##### 1. *Pastor of Soul* (par. 1)

##### 1.1. Responsibility of the Church (c. 822)

1) The introductory canon 822 urges the *pastors* of the Church and the christian faithful to make the proper and best use of the means of social communication.

### 1.1. Christian Faithful Working in the field (par. 3)

In *paragraph 3* those who, in one way or another, has something to do with these means should be solicitous in assisting the pastoral actions of the Church. This norm is grounded on the teachings of the Decree of Vatican II *Inter Mirifica*, nn. 1,2,3,13.

## 2. *Rights and Duties of the Hierarchy*

Although anyone may disseminate his opinions in writing without a canonical mission or mandate, the norms on ecclesiastical approval of theological works restrict this right when such works are meant for catechetical purposes:

“In order to maintain the integrity of the truths of faith and morals, the pastors of the church have the duty and the right to guard lest the faith or morals of the Christian faithful be harmed by writings or by the use of the instrument of social communication. They likewise have the duty and right to demand that writings on faith or morals to be published by the Christian faithful be submitted to their judgment. They also have the duty and right to disapprove writings which are harmful to correct faith or good morals.” (canon 823).

## 3. *Ecclesiastical Approval* (c. 823)

Such ecclesiastical approbation is required for: (1) Editions of sacred scripture as well as their translations (c. 825). The theological basis for this disciplinary law is the unique position the Church has as the guardian and authentic interpreter of the Word of God, “whether in its written or in the form of tradition.” (DV 10).

(2) Official liturgical rituals as well as their translations require also ecclesiastical approval, as do books of prayers for public or private use by the faithful (c. 826). Sacred liturgy, because it is an action of Christ, the Priest and of his Body, which is the Church, regulations of the sacred liturgy depends solely on her authority — “that is, on the Apostolic See, and, as laws may determine, on the bishops.” (S. C. 22)

Authors must obtain ecclesiastical approval for any work which can be classified as catechism or as pertaining to catechetical instruction. In this regard no book may be used in a Catholic school as a text for the teaching of sacred scripture, theology, canon law, church history or other religious or moral subjects unless the work has been published with ecclesiastical approbation (canon 827). These same works, even if not used as a text in a Catholic school, should, if possible, be submitted to the Ordinary of the place prior to publication. If books on religious and moral questions have not received ecclesiastical approval, they may not be sold or distributed in any church or oratory (canon 827 #4).

Authors who are clerics or members of an Institute of consecrated life need the permission of their Ordinary in order to publish theological articles in journals or other periodicals. When treating issues of Catholic doctrine or morality on radio or television, they will also be subject to norms to be set by the episcopal conference (canon 831). This is another example of the manner in which one's state of life in the Church may affect one's rights as a practicing theologian. It is interesting to note that all *teachers* of theology are bound by the same ecclesiastical requirements whether cleric, religious or lay person. While clerics and religious are more severely restricted than lay persons in the area of *publication* of theological works in the mass media (canon 831).

When an author of a theological work, as described above, submits a manuscript for study by the Ordinary of the Place, it is transmitted to an official *censor librorum* whose opinion must be put in writing. If the censor is favorable to the work, the Ordinary may then grant permission for its publication. If the Ordinary refuses permission, he must convey his reason for refusal to the author of the work (canon 830).

Canon 830 recommends that the episcopal conference form a list or even a commission of censors available for consultation by local dioceses. The requisites for such censors are *scientia, recta doctrina et prudentia*. Clearly such a task should be committed to qualified theologians, learned in the material submitted for pre-publication examination and approval.

While the right of the Ordinary to use his own censors (*personis sibi probatis*) is maintained, the possibility of organizing censors on a regional level reinforces the need for truly professional expertise in making such judgments. In addition, the censorship process requires that the reason for a denial of ecclesiastical approval be submitted in writing to the author. This norm encourages the use of competent scholars as censors in regard to theological works.

*Profession of Faith (Tit. V)*

Under this Title V we have the norms determining who should make a profession of faith according to the approved form by the Apostolic See and before whom this profession is to be made.

*Canon 833* requires, among others, the following to make a profession of faith, in accord with the formula approved by the Holy See:

*Before the Ordinary of the place or his delegate:*

At the beginning of their term of office: the parish priest, rector and professors of theology and philosophy, those promoted to the order of diaconate.

*Before the Diocesan Bishop or his delegate:*

Vicar Generals, Episcopal Vicar, Judicial Vicars *Before the chancellor, or the Ordinary of the place or his delegate:*

the rector of a catholic or ecclesiastical university — at the beginning of his term of office

*Before the rector, if he is a priest, or before the Ordinary of the place or their delegates and at the beginning of their term of office:*

teachers of any disciplines touching on faith and morals in any universities.

*Before the College of Consultors*

## Administrator diocesanus

This canonical requirement highlights faith commitment as a requisite of the catholic theologian. Certification of such faith by profession before an ecclesiastical authority points to the organic relationship of the theologian-teacher and the juridical leaders of the Church.

*Conclusion*

Book III then and the related norms present one of the most interesting and lucid expositions of the codal ecclesiology. The faithful translation of the doctrinal orientations of Vatican II more than justifies this statement. The doctrinal aspect of the treatment on the Teaching Function of the Church is excellent. The treatment on some disciplinary provisions may not be equally well done and more attuned to the times and formulated even better. But on the whole Book III is truly a worthy piece of legislation for the Church in our times.

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