

THE PRESENCE OF THE CHURCH AND THE FAITHFUL IN EDUCATION: THE JURIDICAL CONFIGURATION OF THEIR EDUCATIONAL INITIATIVES *

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The theme of the presence of the Church and of the faithful in education can be considered from many points of view. On this occasion, I will focus on one particular aspect: the juridical configuration of educational initiatives - schools, universities, etc. - in which this presence is institutionalized. In other words, the juridical channels - both civil and Canonical - through which the apostolic action of the Church in the field of education becomes operative. At first sight it seems to be a purely technical-juridical matter, but if one looks a little further one sees that many deeper issues are involved. I will comment on some of these insofar as they serve to illustrate my analysis. Indeed, those issues are part of a bigger question: the Christian vivification of the temporal order.

My presentation will be based on two fundamental distinctions, which constitute its conceptual framework. In the first place, it seems to me that we can distinguish two main actors on which educational initiatives can depend: the Church as such (the Church as an institution) and the faithful as such - that is, subjects endowed within the Church with spheres of legitimate autonomy who do not represent the institutional Church, whatever the mode (Canonical or civil) in which their initiatives are juridically configured. On the other hand, I think that in educational activities inspired by faith, whether of the institutional Church or the faithful, three aspects can be distinguished: academic education, imbued with Christian spirit; doctrinal-religious education, that is, the teaching of religion and theology; and pastoral care.

1. Academic and Christian Education

The education of the human person is part of the natural order, that is, of Creation. It is first of all a question of educating man as a person. However, in accordance with God's salvific plans for humanity, academic education is called to be integrated into the higher order of Christian education, which in the fullness sense means Catholic. It should be noted that the Christian dimension of education does not eliminate or attenuate the human dimension, but on the contrary confers on it its full value and meaning. As the words of the Constitution *Gaudium et Spes*, no. 22, so dear to John Paul II, state: *"In reality it is only in the mystery of the Word made flesh that the mystery of man truly becomes clear"*; *"Christ, the final Adam, by the revelation of the mystery of the Father and His love, fully reveals man to man himself and makes his supreme calling clear"*. Consequently, integral Christian education not only includes religious and moral education in the strict sense of the word, but gives life to the whole of human formation¹, although this does not mean that the latter ceases to be part of the temporal sphere. Christian revelation contains within itself a clear affirmation of the

* Translation by Peter Herbert of C.J. ERRÁZURIZ M., *La presencia de la Iglesia y de los fieles en la educación: La configuración jurídica de sus iniciativas educativas*, in *"Anuario Argentino de Derecho Canónico"*, 2 (1995), pp. 139-155.

¹ On the relationship of all subjects and aspects of education to faith and morals, cf. Pius XI, Enc. *Divini illius Magistri*, 31 December 1929, in AAS, 22 (1930), pp. 55 f.; and Congregation for Catholic Education, *Dimensione religiosa dell'educazione nella scuola cattolica* in *Seminarium*, 39 (1988), pp. 163-211.

right autonomy of the temporal order, clearly stated again in *Gaudium et Spes*, n. 36, which in no way implies a false independence with respect to the Creator.

The conciliar declaration on Christian education *Gravissimum educationis* expresses the distinction and continuity between academic and Christian education very well². In its introduction, the declaration deals with education in general (no. 1) and then Christian education; next, it speaks of schools and universities in general, and then of Catholic schools and universities.

In no. 4 on the topic of schools and universities, the same document makes a distinction that I consider particularly useful for understanding our topic. *"In fulfilling its educational role, the Church, eager to employ all suitable aids, is concerned especially about those which are her very own. Foremost among these is catechetical instruction (...). The Church esteems highly and seeks to penetrate and ennoble with her own spirit also other aids which belong to the general heritage of man and which are of great influence in forming souls and moulding persons, such as the communications media, groups for mental and physical development, youth associations, and, in particular, schools."* In this way, Vatican II distinguishes between those educational means of the Church *"which are her very own"* (in this case, catechesis and in my opinion, one could add the teaching of the sacred sciences) and means from *"the general heritage of man"* such as schools. The Council makes it clear that academic education belongs to the sphere of temporal realities.

2. The subjects of the right/duty to educate in a Christian manner

This harmony and continuity between the natural and the supernatural order in matters of education has a first consequence that is as simple as it is important: the primary subjects of the right and duty to educate children in a Christian way are the parents themselves - and those who act in their stead³. As part of an interpersonal relationship deriving from the transmission of natural life, the education of their children is the primary mission of parents and part of the core of the institution of marriage and the family. The integration of human education into the salvific order does not alter this order of human nature, but rather reaffirms it with new vigour. Hence Christian education is a task principally entrusted by God himself to parents, as a very relevant part of the salvific economy. Here is also the connection between the Church and that initial Christian formation of those who have the good fortune to be born of Christian parents: this formation takes place within the so-called domestic Church⁴.

The new Code of Canon Law mentions the key role of parents in the Christian education of their children on several occasions (obviously it should not be forgotten that children themselves are protagonists on a different level, as there is no true education that

² On the other hand, the declaration avoided entering into juridical-canonical questions about Catholic schools and universities. On the drafting of this document, cf. G. BALDANZA, *Appunti sulla storia della Dichiarazione "Gravissimum Educationis": il concetto di Educazione e di Scuola Cattolica*, in *Seminarium*, 37 (1985), pp. 13-54.

³ Cf. F. RETAMAL, *La misión educadora de la Iglesia*, in *Seminarium*, 33 (1983), pp. 563-564; and F. MORRISEY, *The Rights of Parents in the Education of their Children (Canons 796-806)*, in *Studia Canonica*, 23 (1989), pp. 429-444.

⁴ Cf. *Lumen gentium*, no. 11.

is not self-education: education in freedom and responsibility). Canon 226 § 2 declares: *"Since they have given life to their children, parents have a most grave obligation and possess the right to educate them. Therefore, it is up to Christian parents particularly to take care of the Christian education of their children according to the doctrine handed on by the Church."* From this derives another right, also formulated by the Code, which appears in the opening Canon in the title on Catholic education: *"Parents and those who take their place are bound by the obligation and possess the right of educating their offspring. Catholic parents also have the duty and right of choosing those means and institutions through which they can provide more suitably for the Catholic education of their children, according to local circumstances."* (Canon 793 § 1) The Code sees schools as a help to parents in their educational task: *"Among the means to foster education, the Christian faithful are to hold schools in esteem; schools are the principal assistance to parents in fulfilling the function of education."* (Canon 796 § 1) From this basic truth many practical consequences derive and the Code echoes these. From the point of view of the internal organization of schools: *"Parents must cooperate closely with the teachers of the schools to which they entrust their children to be educated; moreover, teachers in fulfilling their duty are to collaborate very closely with parents, who are to be heard willingly and for whom associations or meetings are to be established and highly esteemed"* (Canon 796 § 2). Again, on the question of choice of parental schools: *"Parents also have the right to that assistance, to be furnished by civil society, which they need to secure the Catholic education of their children"* (Canon 793.2); *"Parents must possess a true freedom in choosing schools; therefore, the Christian faithful must be concerned that civil society recognizes this freedom for parents and even supports it with subsidies; distributive justice is to be observed."* (Canon 797)

Moreover, there are areas of education - that could be described as very personal - in which the role of parents - and, more generally, of the family - appears to be irreplaceable. Educating in basic human and Christian moral values, in the life of relationships with others and God, in the fundamental aspects of human life and in the formation to respond to one's own vocation, are tasks in which schools and other institutions can help, but they cannot replace the family. In this context one understands, for example, the absolute priority of the family in the very delicate and important field of sex education: it is only there that one learns what true human love is as a lived reality and therefore it is there that one must be initiated in the mysteries of human life, in the context of that healthy and profoundly positive climate which is the Christian vision of sexuality.

However, parents are not the only bearers of the mission of Christian education. The faithful in general, possessing professional competence as teachers, administrators or administrative personnel in educational institutions and by virtue of their duty to spread the word of God, also have the right to participate in the Church's apostolate in this field. In addition, education extends to a higher level: that is, to universities and comparable institutions, where the role of parents is less. In this way, the juridico-canonical position of the faithful with regard to Christian education can be viewed in a more general way, as participation in the educational mission of the whole Church, of which Canon 794 § 1 speaks: *"The duty and right of educating belongs in a special way to the Church, to which has been divinely entrusted the mission of assisting persons so that they are able to reach the fullness of the Christian life."* In my opinion, this text should not be understood in a reductive way, as if it referred exclusively to the Church as an institution. In fact, the faithful are called to participate in this educational task by virtue of a twofold concurrent title: the natural right

which is theirs as parents or by virtue of their professional abilities; and the fundamental canonical right to participate in the apostolic mission of the whole Church precisely as members of the faithful, without representing the Church as such⁵.

The juridical-ecclesial basis for this participation of the faithful in education is found in the canonical norms on the rights and duties of the faithful, especially the laity, which constitutes one of the most relevant novelties of the 1983 Code. Particularly relevant is Canon 216, which says: *"Since they participate in the mission of the Church, all the Christian faithful have the right to promote or sustain apostolic action even by their own undertakings, according to their own state and condition. Nevertheless, no undertaking is to claim the name Catholic without the consent of competent ecclesiastical authority."* Since Christian education undoubtedly constitutes an apostolic activity, the initiatives of the faithful in this field are an exercise of the right expressed in Canon 216, which is in turn based on the fundamental duty to work for the spread of the message of salvation proclaimed by Canon 211.

Insofar as the human aspect of Christian education belongs to the secular sphere, also from the juridical point of view, the right of freedom in temporal matters also applies in this area. Canon 227 states with regard to the lay faithful: *"The lay Christian faithful have the right to have recognized that freedom which all citizens have in the affairs of the earthly city. When using that same freedom, however, they are to take care that their actions are imbued with the spirit of the gospel and are to heed the doctrine set forth by the magisterium of the Church. In matters of opinion, moreover, they are to avoid setting forth their own opinion as the doctrine of the Church."*

All this does not mean that the right and duty of the Church as an institution in the field of education should be disregarded or diminished. In virtue of their responsibility for the common good of the Church, the sacred Pastors have the duty, as Canon 794 § 2 states, *"of arranging everything so that all the faithful have a Catholic education."* Apart from the specific responsibilities of ecclesiastical authority with regard to the teaching of religion and theology and with regard to pastoral care, which we will discuss later, the Church as an institution can be involved in the human aspects of the educational process in various ways. I will return to this point when I speak of the juridical configuration of Catholic educational institutions.

For the time being, it is useful to recall, as a matter of principle, that the intervention of the institutional Church in the human aspects of education, which are matters pertaining to the temporal order, appears to be subsidiary, in the double sense of promotion and substitution, to that which belongs to the faithful themselves, as we have seen⁶. This is analogous to the intervention of the State and of other civil public bodies with regard to the activity of any private individual. This does not mean that educational initiatives dependent on the Church herself, so important in history, are not also very necessary today. There is still a great need to promote and provide for them. For this reason, the Church must continue the magnificent work which she carries out throughout the world through her own educational centres, without forgetting, however, that her primary

⁵ On the juridical position of the faithful in relation to the teaching function of the Church, cf. what I have written in *Il "munus docendi Ecclesiae": diritti e doveri dei fedeli*, Giuffrè, Milan 1991.

⁶ On this subsidiarity, cf. J.L. GUTIÉRREZ, *I diritti dei "christifideles" e il principio di sussidiarietà*, in *Estudios sobre la organización jerárquica de la Iglesia*, EUNSA, Pamplona 1987, pp. 67-82.

mission is to form the faithful so that they can participate ever more actively in Christian education, including through setting up truly Catholic educational centres for which they take responsibility. Parents, teachers and all Catholics interested in education must be made particularly aware of the need to assume their direct responsibility without giving in to a passive mentality which, in both the Church and civil society, often betrays a lack of maturity and commitment.

Finally, we must not lose sight of the responsibilities of the State and more generally of the various competent public bodies, mentioned in the texts of the Code which I have cited, not so much to provide Christian education (such an activity does not fall within their competence) but to facilitate it. They should guarantee the freedom to educate so that responsible Christian parents can exercise their rights in a Christian way. The legitimate secularity of the State in no way implies that its intervention in the world of education should favour “*ideological neutrality*” – because in reality this is also an ideology. The secularity of the State demands a true respect for and promotion of the values present in the very fabric of society, including religious ones. Pluralism in society has always worked within limits, without limits there would only be chaos. Furthermore the degree of vitality of any society depends on its adaptation to the fundamental values that govern human coexistence. In truth, the fundamental moral values of civil co-existence are essential for the existence of a social order. They shape the temporal common good which is the proper end of the State. These values are based on human nature itself: behind apparent axiological mutability, one can always discover the presence of basic requirements that spring from man's very nature. These demands may be obscured but when they are, serious consequences result for the survival of the social order.

3. The juridical configuration of Christian educational institutions

In the matter of educational institutions, the Code of Canon Law recognizes the existence of initiatives which, although truly Catholic in spirit (*reapse catholica* is the Latin expression used for schools in Canon 803 § 3, and for universities in Canon 808) cannot use the name “Catholic” without the consent of the competent ecclesiastical authority. These truly Catholic schools or universities naturally include those which spring from the autonomous activity of the faithful. In the case of establishments that depend on the institutional Church, the general rule is that they are automatically entitled to be called Catholic.

Other provisions of the Code presuppose that these two models cannot be confused: a formal or officially Catholic school or university and a school or university whose inspiration is truly Catholic. With regard to schools, Canon 803 § 1 establishes that “*a Catholic school is understood as one which a competent ecclesiastical authority or a public ecclesiastical juridical person directs or which ecclesiastical authority recognizes as such through a written document.*”⁷ In all these modalities it is easy to see a link with the institutional Church⁸. With regard to universities, the gap that previously existed in the Code which

⁷ This Canon was the subject of lengthy debate in the process of its drafting: cf. *Communicationes*, 20 (1988), pp. 127 ff, 138, 141 ff, 171 ff, 173-175.

⁸ On the Catholic school, cf. Congregation for Catholic Education, *La scuola cattolica*, 19 March 1977, in *Seminarium*, 33 (1981), pp. 15-41.

lacked a juridical-formal definition of a Catholic university, has been filled by the Apostolic Constitution *Ex corde Ecclesiae* of John Paul II⁹, which, besides offering a substantial description of what constitutes the Catholic identity of a university community (cf. art. 2), also determines the conditions for a university to be formally considered Catholic for the purposes of Canonical legislation (cf. art. 3). The Pope distinguishes three categories of formally Catholic universities: (a) universities erected or approved by the ecclesiastical Hierarchy (Holy See, Episcopal Conference or other Assembly of the Catholic Hierarchy (Eastern Churches or diocesan Bishop); (b) universities erected by a religious institute or other public juridical person, with the consent of the diocesan Bishop; (c) universities erected by other ecclesiastical or lay persons, with the consent of the competent ecclesiastical authority and in accordance with conditions to be agreed upon by the parties. From this new legislation it is clear that at last a formal canonical concept of Catholic university has been defined analogous to that already existing in the Code with regard to schools.¹⁰ As a result Catholic universities in which there is no official intervention or consent of the Hierarchy in the university are not mentioned¹¹.

The human dimension of education, essential in truly Catholic schools or universities regardless of their juridical configuration, is the factor that unites them to all other human educational institutions, whether public or private. Therefore, a school or university that is substantially Catholic is first and essentially a school or university like any other. Its Catholic identity does not alter the fact that it belongs to the sphere of educational institutions described in *Gravissimum educationis*, no. 4, as part of the common patrimony of humanity. They are temporal realities which as such, fall within the sphere of secular law. The safeguarding of the common good of civil society is expressed specifically in the protection of the fundamental rights and duties of man in the field of education by civil institutions. This applies equally to Catholic institutions as for similar initiatives with no Catholic apostolic purpose¹². Hence, public aid to establishments inspired by the Christian

⁹ 15 August 1990, in AAS, 82 (1990), pp. 1475-1509. On the universities in the 1983 Code, cf. H. SCHWENDENWEIN, *Katholische Universitäten und kirchliche Fakultäten. Begriffliche und kompetenzmäßige Klärungen in der neueren kirchlichen Rechtsentwicklung*, in AA.VV., *Ecclesia Peregrinans. Josef Lenzenwerg zum 70. Geburtstag*, K. AMON ed., Wien 1986, pp. 379-389; W. SCOTT ELDER III, *Catholic Universities in current Church Law. Their Nature, Purpose and Control*, Rome 1987; P. VALDRINI, *Les universités catholiques: exercice d'un droit et contrôle de son exercice (Canons 807-814)*, in *Studia Canonica*, 23 (1989), pp. 445-458. On the Constitution *Ex corde Ecclesiae*, cf. J. AMMER, *Zum Recht der "Katholischen Universität". Genese und Exegese der apostolischen Konstitution "Ex corde Ecclesiae" vom 15. August 1990*, Würzburg 1994.

¹⁰ Canon 642 of the Codex Canonum Ecclesiarum Orientalium also contains a formal concept of a Catholic university, although it is presented as more restricted than that of Latin law, since it is limited to those universities erected or approved either by the higher administrative authority of a Church *sui iuris*, having previously consulted the Apostolic See, or by the Apostolic See itself. On the distinction between Catholic universities in the material sense and in the formal sense, cf. J. HERVADA, *Sobre el estatuto de las Universidades católicas y eclesiásticas*, in AA.VV., *Raccolta di scritti in onore di Pio Fedele*, vol. I, ed. G. BARBERINI, Perugia 1984, pp. 507-511.

¹¹ On the latter, cf. A. DEL PORTILLO, *Fieles y laicos en la Iglesia*, 3rd ed., EUNSA, Pamplona 1991, pp. 244-248.

¹² S. BERLINGO, *La libertà della scuola confessionale*, in AA.VV., *Studi di diritto ecclesiastico in tema di insegnamento*, ed. S. GHERRO, Padova 1987, p. 45.

faith does not constitute a privilege, but rather normal distributive justice in the field of education.¹³

However, not all educational undertakings with a Catholic identity have the same juridical status. It is necessary to distinguish between those that depend on the faithful and those that depend, to a greater or lesser extent, on the institutional Church. It is important to note that the criterion for this distinction is in no way related to the Catholic identity of the educational institution; it is not a question of whether there are institutions that are more or less substantially Catholic: they must all be so. Rather, it refers only to the juridical dependence of government, that is, to the determination of who holds the power and responsibilities with regard to the functioning of the entity in its educational activity.

As we have seen, the subjects primarily responsible for education are parents. This priority is assumed in the order of intra-ecclesial justice, in such a way that within the Church the subject primarily responsible for the promotion and functioning of educational initiatives are the faithful themselves who are parents or who act in their stead. Of course, parents need other members of the faithful such as teachers, administrators and administrative personnel in order to exercise their rights in this area, but these members of the faithful are entitled to work in this task in their primary capacity as collaborators with the parents. In the case of higher education, the relationship with parents less close, but there is another basis on which we can affirm the competence of the faithful: Christians who are engaged in university teaching and research are those primarily called, by virtue of the essence of their professional vocation, to work for the Christian vivification of these areas of human endeavour, and to join with others to do so, since both culture and the apostolate are intrinsically social.

The apostolic initiatives of the faithful in the Christian vivification of education represent the exercise of their human rights in the secular sphere. Therefore, although the faithful can have recourse to canonical means to shape their undertakings in this field, e.g. by creating Associations of the Faithful, the juridical channel most in conformity with the secular nature of these initiatives is logically that of secular law alone. In such a case, to the substantial secularity of any educational initiative of Christian inspiration - even those also canonically configured - is added the secular element of the legal way of organising and setting up such an initiative.

In my opinion, this exclusively secular juridical configuration, which for initiatives inspired by the Catholic faith is spreading in various countries in different ways, is well suited to the invitation that the Second Vatican Council addresses to Christians to distinguish between the rights they have as members of the Church and those that correspond to them as members of the earthly city¹⁴. The apostolic content of these initiatives is not a reason to privilege a possible canonical configuration, although the door remains open to do so if preferred, precisely because of their apostolic dimension. The connection with the institutional Church may even prove to be less effective - from the apostolic point of view -, insofar as it gives rise to unjust discrimination for religious

¹³ Cf. J.A. RIESTRA, *La libertad de enseñanza*, Ed. Palabra, 5th edition, Madrid 1977.

¹⁴ Cf. *Lumen gentium*, no. 36 d and *Gaudium et spes*, no. 76 a.

reasons in civil society or hinders the adequate participation of non-Catholics which, with due prudence so as not to alter the Catholic character of the initiatives, can be interesting from the apostolic point of view. Moreover, it should be borne in mind that in fact the greater part of the apostolate of the lay faithful in the exercise of their ecclesial right to communicate the word of God to all, is carried out in secular environments and according to fully secular forms in the family, in the world of work, in the world of rest, etc. which do not change their nature because of the Christian and apostolic spirit with which the baptized seek to sanctify them.

Educational entities of this type are set up by the faithful acting as citizens, in the exercise of their civil rights. Therefore, in the constitution and functioning of these entities, any participation of non-Catholic citizens who subscribe to the ideals that inspire the work carried out there and who respect its Christian-inspired identity is perfectly possible. Such entities admit a plurality of juridical configurations according to the various formulas foreseen by the civil law of each country (associations, foundations, cooperatives, etc., without excluding physical persons). In any case, they must receive a civil juridical recognition that is adequate to their secular nature, that is, they must not appear as entities of the Catholic Church, simply because this would be incorrect. The ecclesial community itself benefits, because it knows that in this way its apostolic mission can be carried out in a way that respects the secularity of its lay members, yet which offers considerable advantages from the point of view of a deep, widespread evangelization of the world of education and culture¹⁵.

It is only fair to state here that these ideas are inspired by the teachings of Saint Josemaria Escriva, who lucidly emphasized the secularity of these educational initiatives of the laity, while at the same time strongly stressing their sanctifying and apostolic value. Moreover, this secularity characterizes the apostolic works in the field of education and in other similar areas, such as social assistance for which the Prelature of Opus Dei is responsible from the pastoral, doctrinal and moral point of view.

In view of the independence of these educational initiatives of the faithful from the Church as an institution, concern can arise about the juridical protection of their Catholic identity¹⁶. This concern is quite legitimate, but it should not obscure the nature of things. In fact, when it is a question of enterprises that operate in the temporal sphere and in which the faithful participate as members of civil society, ecclesiastical authority does not have functions of government over them. The hierarchy can exercise its function of government only through the faithful involved, directing them to behave in a certain way if necessary to

¹⁵ On the secular juridical configuration of truly Catholic schools, cf. the precise observations of G. DALLA TORRE, *Scuola cattolica e "question scolaire"*. *Sondaggi nella nuova nuova codificazione Canonica*, in AA.VVV., *Studi in memoriam Mario Condorelli*, vol. Cf. also D. LE TOURNEAU, *La prédication de la parole de Dieu et la participation des laïcs au "munus docendi": fondements conciliaires et codification*, in *Ius Ecclesiae*, 2 (1990), p. 121.

¹⁶ This question is at the root of the Canonical problems that are currently being discussed in the United States of America in relation to Catholic Universities. In this regard, cf. J.J. CONN, *Catholic Universities in the United States and Ecclesiastical Authority*, Pontifical Gregorian University, Rome 1991; and F.J. HOFFMAN, *The Apostolic Constitution "Ex corde Ecclesiae" and Catholic Universities in the United States of America*, doctoral thesis *pro manuscript*, Roman Athenaeum of the Holy Cross, Rome 1992.

safeguard the truly Catholic nature of the activity. However, executing this directive is the responsibility of the faithful themselves, who, as the only ones directly responsible, together with the other citizens who participate, will have to find the means to put into practice these suggestions from the Hierarchy, which will naturally always refer to the protection of Catholic identity.*

On the other hand, it should be kept in mind that the primary responsibility for protecting the Christian identity of these organizations lies with the faithful themselves. It is up to them to find the juridical means - statutory and contractual clauses, internal procedures, etc. - that are effective in the secular order to ensure that the ideals of the institution are respected by all, even allowing for the necessary judicial remedies. For this reason, the best contribution of Canon law to these initiatives consists in recognizing them as such, that is, as spheres of exercise of the legitimate freedom of Christians in temporal matters (cf. Canon 227). The alternative of absorbing them in some way into the ecclesiastical organization to better protect their substantial link with the Church would deprive both them and civil society of a means of apostolate and human promotion which is fully in harmony with the last ecumenical Council. It is necessary to trust in the legitimate autonomy of these undertakings and assist them also by means of appropriate pastoral service.

The freedom of the faithful should not be misinterpreted as a weakening of the bonds of ecclesial communion, in particular the bond of communion in faith and the consequent duty of obedience to the ecclesiastical Magisterium. If this were true there would no longer be authentic ecclesial behaviour, and the Hierarchy would have to take appropriate measures to protect the preservation of the faith of the Church. In this area the teaching function (*munus docendi*) of the Hierarchy takes on particular relevance. As the Conciliar decree on the apostolate of the laity *Apostolicam actuositatem*, no. 24, teaches, “as regards works and institutions in the temporal order, the role of the ecclesiastical hierarchy is to teach and authentically interpret the moral principles to be followed in temporal affairs. Furthermore, they have the right to judge, after careful consideration of all related matters and consultation with experts, whether or not such works and institutions conform to moral principles and the right to decide what is required for the protection and promotion of values of the supernatural order.”

* At the author's suggestion, we include below two quotations from the Directory for the Pastoral Ministry of Bishops, *Apostolorum Successores* (published in 2004, after the original of this article), which relate to what has been discussed in these pages about the relationship of the ecclesiastical authority with different types of educational centres:

“The Bishop should hold in high regard educational centres promoted by the faithful themselves, especially by Catholic parents, respecting their legitimate autonomy while at the same time ensuring that the Catholic identity of the formation programme is faithfully maintained, perhaps by means of agreements with Church institutions able to guarantee this Catholic identity and to furnish pastoral assistance to the educational community” (no. 132);

“The Bishop will seek to establish dialogue and cooperation with all the universities present in the diocese. In addition to the universities formally constituted as Catholic, he will have a special appreciation for the work of centres promoted by the faithful with a truly Catholic inspiration. While respecting their academic autonomy, the Bishop should take steps to encourage this Catholic inspiration, perhaps by helping to draw up formal agreements with the diocese or other Church institutions so as to guarantee the doctrinal and moral framework of the teaching and research, and to provide appropriate pastoral assistance.” (no. 135)

The faithful have the duty, which is a guarantee of the authentic freedom of the children of God won for us by Christ, to adhere interiorly and to conform their works to the magisterial teachings that have a bearing on the educational task (the content of the disciplines taught, the morality of the research or other practices, as well as the life of the school or university community as a whole). All the measures for the protection of the integrity of faith and morals can be used with regard to the activity of the faithful in this field (even if these measures do not touch the educational initiative in itself, if it is only civilly configured). Among these measures, I think that the most effective is what is known as the moral judgment of the Church on temporal matters¹⁷. The Hierarchy can and sometimes must pronounce, by virtue of its power to teach - and not by virtue of its power of jurisdiction - on the evangelical conformity of certain educational initiatives. Naturally, all means of dialogue must be used to avoid having to go to the extreme of declaring that such conformity does not exist. In order to carry out this dialogue effectively, it is good to remember that the authoritative judgment on the catholicity of a school or university is the sole competence of the legitimate ecclesiastical authority in the Church. A possible negative judgment can be an indispensable means of clarification both for other members of the faithful and for civil society as a whole. When the facts show that all other avenues have been exhausted, the formulation of such a judgment will constitute a true moral and juridical duty of ecclesiastical authority: it will be required by the right of the faithful to have their faith preserved, and by the right of each person to receive the word of God in its purity and integrity.

Finally, it is worth recalling here the competence of the institutional Church to assume direct responsibilities in the field of education. In the first place, it can officially guarantee, from the doctrinal and moral point of view, the Catholic identity of certain initiatives, without implying canonical institutionalisation; these initiatives remain solely secular organisations in which the Hierarchy has no governing powers. The participation of the institutional Church in this case is limited to the religious and moral dimension of the activity, in a way that is very congruent with the aims of the Church. In situations where the Catholic ideal of such institutions is lost, the Hierarchy will be able to exercise its juridical power to break the bond previously agreed with them¹⁸.

The link with the Church as an institution can go further and refer to the educational activity as such, structured as an instance of the institutional presence of the Church in the temporal sphere. Evidently, in this case, we are not speaking of a transformation of human

¹⁷ Cf. A. DE FUENMAYOR, *El juicio moral de la Iglesia sobre materias temporales*, in *Ius Canonicum*, 12 (1972), pp. 106-121.

¹⁸ The responsibility assumed by the Prelature of Opus Dei with respect to certain initiatives with educational, welfare, and similar purposes is situated along these lines. The Statutes of this pastoral structure of the institutional Church state that the Prelature's responsibility never refers to the technical and economic aspects of the initiatives, but only to their Christian vivification through the appropriate means of doctrinal and spiritual orientation and formation, as well as through adequate pastoral assistance. Provision is also made for the possibility of simple spiritual assistance with regard to initiatives for which the Prelature does not assume any direct responsibility. Cf. nos. 121-123 of the Statutes, in A. DE FUENMAYOR - V. GOMEZ-IGLESIAS - J.L. ILLANES, *El itinerario jurídico del Opus Dei. Historia y defensa de un carisma*, EUNSA, Pamplona 1989, p. 646.

education into an aspect of the specific mission of the Church. They continue to be activities juridically situated in the secular sphere, but they are regulated by the law of the Church with regard to their institutional structure and functioning (in accordance with the autonomy that secular law itself recognizes for the self-organization of educational entities). They can be schools or universities directly dependent on the ecclesiastical authority in so far as ecclesiastical entities (dioceses, parishes etc.) are responsible for them; or they can be initiative which depend on other public canonical juridical persons, as is the case, for example, of religious institutes whose mission is teaching and whom the Code expressly invites to continue their activity (cf. Canon 801); finally, they can be initiatives carried out by any entity or physical person, to whom the Hierarchy recognizes an officially Catholic character. As can be seen, there is a whole range of possibilities in which the dependence of government on the faithful and on the institutional Church can occur¹⁹.

4. Religious formation and pastoral care in the field of educational initiatives of Christian inspiration.

In educational establishments of Catholic inspiration, in addition to the effort to educate the person in a Christian way in all human aspects, there should always be an offer of specifically Christian formation and pastoral assistance, respecting the religious freedom of the recipients. This freedom will be exercised personally or through their parents or legitimate representatives (as long as they depend on them in these areas)²⁰. Leaving aside many other aspects that could be touched on here, I will limit myself to describing the broad outlines of the participation of the faithful and of the institutional Church in these two areas.

The doctrinal-religious formation imparted in schools or universities in the teaching of both religion and theological disciplines is in itself an ecclesial matter but it does not necessarily constitute a manifestation of the hierarchical function of teaching in the Church. The faithful take part in such teaching by virtue of their own rights and duties as baptized persons to the extent to which they are technically competent. Nevertheless, ecclesiastical authority has legitimately established certain links in which it specifies the function of vigilance which is especially proper to it. This is stated in various Canonical dispositions concerning the appointment of professors (cf. Canons 805 and 812) and teaching texts (cf. Canon 827). Thus, both the institutional Church and the faithful themselves are involved in this area. The former can do so in a twofold way: via its responsibility to watch over faith

¹⁹ Referring to the responsibility of the Hierarchy in formally Catholic institutions, John Paul II, in the Encyclical *Veritatis splendor* (6 August 1993), no. 116, expresses himself in these terms: "A particular responsibility is incumbent upon Bishops with regard to Catholic institutions. Whether these are agencies for the pastoral care of the family or for social work, or institutions dedicated to teaching or health care, Bishops can Canonically erect and recognize these structures and delegate certain responsibilities to them. Nevertheless, Bishops are never relieved of their own personal obligations. It falls to them, in communion with the Holy See, both to grant the title «Catholic» to Church-related schools, (cf. Code of Canon Law, Canon 803 § 3) universities, (cf. Code of Canon Law, Canon 808) health-care facilities and counselling services, and, in cases of a serious failure to live up to that title, to take it away."

²⁰ It goes without saying that such an offer must also be made in state schools, insofar as the Catholic faith of the society which these schools serve in fact requires it. The same applies, of course, to other religious denominations, in accordance with the requirements of the civil law of religious freedom.

and morals (and this applies to any school that is in some way related to the faith), or insofar as the teaching of religion and theological disciplines depend to a greater or lesser degree on the Church itself as an institution.

As far as pastoral care is concerned, by its nature it depends on the institutional Church (unlike the apostolate in its baptismal dimension, which is the responsibility of all the faithful in the educational community, and carried out by each one according to their tasks within the community). Chaplains, university parishes and other properly pastoral centres in education should be set up by the institutional Church itself, either by direct action of the pastoral structures of the Church (intervening in the appointment of chaplains, setting up parishes or other similar centres, etc.) or by granting certain competencies to other canonical institutions - such as religious institutes - which can organize the pastoral care in their own centres with their own clergy. Every form of pastoral care should be adapted to the nature of the establishment in question, taking care that there is always the greatest possible harmony between the educational project and the pastoral work in question.

The lay faithful, besides being the recipients of this pastoral activity, can and sometimes must collaborate in it, according to their possibilities. But it should never be forgotten that their principal participation in the Church's mission in the world of education does not consist in this collaboration in pastoral work, but in the proper fulfilment of their personal and associated apostolate as members of the faithful and as members of an educational community, that is, precisely in the sanctification and apostolate of education and through education.