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**LA THÈSE A ÉTÉ
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THE CANONICAL RIGHTS AND DUTIES OF PARENTS
IN THE EDUCATION OF THEIR CHILDREN

by

Rev. Paul Baillargeon

A dissertation
submitted to the Faculty of Canon Law,
St. Paul University, Ottawa,
in partial fulfilment of the requirements
for the degree of Doctor of Canon Law

Ottawa, Canada, 1986



Rev. Paul Baillargeon, Ottawa, Canada, 1987.

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me the need for precision and conciseness in canonical writing.

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BIOGRAPHICAL NOTE

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Rev. Paul Baillargeon was born on June 29, 1951 in Windsor, Ontario. He received a Bachelor of Arts degree in History from the University of Windsor in 1973 before entering St. Peter's Seminary, in London, Ontario. Graduating with a Master of Divinity degree in 1977, he was ordained a priest for the Diocese of London on May 6, 1978. He served four years as Associate Pastor of St. Joseph Parish in Windsor, Ontario before commencing his studies in Canon Law at St. Paul University, Ottawa, Ontario. He received a Master's degree in Canon Law from the University of Ottawa and a Licentiate in Canon Law from St. Paul University in May 1984.

ABBREVIATIONS

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| | |
|------------------|---|
| <u>AA</u> | Apostolicam Actuositatem |
| <u>AAS</u> | Acta Apostolicae Sedis |
| <u>AS</u> | Acta synodalia Sacrosancti Concilii Oecumenici Vaticani II. Cura et studio Archivii Concilii Oecumenici Vaticani II |
| <u>CC</u> | Casti Connubii |
| <u>CIC 1917</u> | Codex Iuris Canonici (1917) |
| <u>CIC 1983</u> | Codex Iuris Canonici (1983) |
| <u>CLD</u> | Canon Law Digest |
| <u>CRF</u> | Charter of the Rights of the Family |
| <u>CT</u> | Catechesi Tradendae |
| <u>DH</u> | Dignitatis Humanae |
| <u>DIM</u> | Divini Illius Magistri |
| <u>EG</u> | Educational Guidance in Human Love |
| <u>EN</u> | Evangelii Nuntiandi |
| <u>FC</u> | Familiaris Consortio |
| <u>Fontes</u> | Codicis Iuris Canonici Fontes (Gasparri - Seredi) |
| <u>GE</u> | Gravissimum Educationis |
| <u>GS</u> | Gaudium et Spes |
| <u>IL</u> | De muneribus Familiae Christianae in mundo hodierno: Instrumentum laboris ad usum sodalium Quinti Coetus Generalis |
| <u>LG</u> | Lumen Gentium |
| <u>LIN</u> | Lineamenta. De muneribus Familiae Christianae in mundo hodierno (ad usum conferentiarum episcopalium) |
| <u>MM</u> | Matrimonia Mixta |
| <u>MS</u> | Matrimonii Sacramentum |
| <u>OR (Eng.)</u> | L'Osservatore Romano - Weekly Edition in English |
| <u>PA</u> | Pastoralis Actio |
| <u>PLUS</u> | Pastoral Letters of the United States Catholic Bishops |
| <u>PROP</u> | Synodus Episcoporum: De muneribus Familiae Christianae in mundo hodierno. Elenchus Propositionum (sub secreto) |
| <u>PTE</u> | Papal Teachings. Education (Benedictine Monks of Solesmes, eds.) |
| <u>PTM</u> | Papal Teachings. Marriage (Benedictine Monks of Solesmes, eds.) |

ABBREVIATIONS

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RB
RC
RM
SLF

Rite of Baptism of Infants
Rite of Confirmation
Rite of Marriage
Sharing the Light of Faith.
National Catechetical Directory
for Catholics of the United
States

S.Th.
TPE

Summa Theologica
The Papal Encyclicals (C. Carlen,
ed.)

TPS

The Pope Speaks

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The role of parents in the education of their children is emphasized in the scriptures. In the Book of Ecclesiasticus we read: "Have you children? Educate them (...)." ¹ This obligation is not unique to the Bible but has been urged upon parents by almost every human society and culture. Within the Judaeo-Christian tradition this duty has been stressed not only as regards the natural law and social necessity, but also as a command of God and the fulfilment of His law. It follows that the right and obligation of parents to educate their children has always been a prominent element in the Catholic theology of marriage and, as a consequence, has found a parallel place in the Church's Code of Canon Law.

As important as these rights and duties would appear to be, relatively little has been written outlining their nature and meaning. Both from the perspective of canonical studies and within the context of the theology of marriage and the family, the volume of literature on this question is comparatively small. "The question of parental obligation receives, as a rule, rather summary treatment whenever it comes to the fore.

1. Ecclesiasticus 7:23. All scripture quotations are taken from The Jerusalem Bible, New York, Doubleday and Company, Inc., 1966.

Parents are told that they have a serious duty, but not much more than that."²

The current study on "The Canonical Rights and Duties of Parents in the Education of Their Children" is undertaken not solely because it is an area unstudied and, therefore, a suitable subject for a dissertation. Rather, the principal motivation for this examination flows from the new Code of Canon Law, promulgated on January 25, 1983. Among the canons of the revised law, many address themselves directly to parents and to their role in guiding the religious, moral, social, cultural and physical development of their children. Indeed, parents are singled out and repeatedly referred to in the enumeration of rights in the 1983 Code, leading one commentator to write: "A new feature of this Code is a consistent effort to support the obligations and rights of parents. Over twenty canons in various parts of the Code spell out what might be called a bill of parental.

2. D. ENDEBROCK, The Parental Obligation to Care for the Religious Education of Children Within the Home With Special Attention to the Training of the Pre-School Child, Washington, D.C., The Catholic University of America Press, 1955, p. vii.

rights [...]."³ This renewed emphasis on parents, their role, their rights, their duties underline the importance of the question and invite a full study of the matter in the light of the 1983 Code and its theological perspective.

It is necessary in a work of this kind to fix at the very outset a precise, and even limited, scope to the area to be considered. In this case, the field of investigation is restricted to the rights and obligations of parents in the education of their children as this is specified in the official law of the Church. Thus, this study will use, as a comparative basis, the first promulgated collection of Church law, the Codex Iuris Canonici of 1917.

The thesis is divided into six chapters. Chapter I explores the various concepts employed in the thesis. In the first section, terms such as "parent", "rights", "duties", and "education" are considered. Next, the inquiry examines the sources of the parental right and duty in the natural law and the divine positive law.

3. J. PROVOST, "Book II. The People of God. Part I. The Christian Faithful (cc. 204-239)", in J. CORIDIEN, T. GREEN, D. HEINTSCHEL, eds., The Code of Canon Law. A Text and Commentary, New York, Paulist Press, 1985, p. 137.

In enumerating the rights and duties of parents as the first educators of their children, it is necessary to probe the interrelation of these rights and duties in education with those of the Church and the State. How these various prerogatives in education are reconciled and harmonized is an important question in the first chapter of the study.

From this consideration of first principles, the second chapter undertakes to scrutinize various canons in the 1917 Code that specify certain duties and responsibilities for parents. The canons are examined so as to draw out their full import and meaning, and to locate them in the larger scheme of the parental vocation.

From the review of the Code of 1917, the inquiry moves to a consideration of the Second Vatican Council and its teaching. Specifically, the purpose is to analyze the documentation of this great Synod in order to determine how it treats of parents and their role. This examination studies how the Fathers of Vatican II located the responsibility and right of parents within the larger framework of the Church as the people of God, a community sharing in the prophetic, priestly, and royal functions

of Christ. In this light, the educative duties of parents are seen as a participation in the prophetic mission of the Church. In a broader perspective on their role, parents are also presented as having a significant and irreplaceable task to perform in the sanctification of their children, thus exercising their share in the priestly office and realizing in the home the domestic Church. As well, by their efforts, parents are perceived as working to prepare the coming kingdom of Christ, in fulfilment of the royal role of all Christians.

These ecclesiological considerations lead to a perusal of the Council's teaching on marriage and the family, specifically as it is found in the Pastoral Constitution Gaudium et Spes. Particular attention is also paid to the Declaration on Christian Education, Gravissimum Educationis, a document where the Church's philosophy of education was restated. This Declaration of the Council has much to say on parental rights and obligations and it would become a major source in redrafting the canons in the new Code.

Chapter IV considers the period following the Council, focusing on the implementation of its directives, especially as these touch upon the role of parents in the formation of their children. To this end, it is necessary to consider various parts of the revised Roman Ritual, as well as a number of Instructions and Declarations from several dicasteries of the Roman Curia, as some of these speak of the obligations and prerogatives of parents. This review of the legislation which resulted from and followed the Council provides an understanding in the practical and pastoral application of the teaching on parental duties and responsibilities.

In a study of parents in the teaching and legislation of the contemporary Church, the Synod of 1980 on "The Role of the Family in the Modern World" is a significant occurrence requiring attention and reflection. Although the Synod did not devote a great amount of time in its deliberations to the question of parental rights and duties, the subject was raised in the study documents issued in preparation for the meeting. These are examined along with the final Propositions submitted by the assembled bishops, where these deal directly with rights and responsibilities in education.

The main summation of the Synod and synthesis of the Church's teaching on the family is found in Pope John Paul II's Apostolic Exhortation, Familiaris Consortio. The sections detailed are those concerned with "The Service of Life", wherein the Pope locates the vocation of parents and their mission on behalf of the Church.

A generally unnoticed by-product of the 1980 Synod was The Charter of the Rights of the Family. This document detailed, in the form of a legal charter, the rights of the family unit, among which prerogatives were many with regard to the education of children. A brief consideration is given to this document and to its place in the Church's teaching on parents.

Finally, Chapter VI of the treatise examines the revised Code of Canon Law and, in particular, the significant number of canons within it that address the area of parental rights and obligations. The evolution of the canons is traced through the various stages of the revision process, seeking the sources of the individual precepts, comparing them to their parallels in the 1917 Code, exploring their meaning from the viewpoint of Vatican II and their fidelity to conciliar orientations, marking any significant changes.

INTRODUCTION

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In drawing conclusions, the thesis attempts to outline the evolution that has taken place in the canonical exposition of the rights and duties of parents in education. A comparison is made between how the precepts in the 1917 Code and those of the 1983 Code give legal formulation to the principles on education as articulated by Vatican II.

CHAPTER ONE

BASIC PRINCIPLES

The study of the canonical rights and duties of parents in the education of their children necessitates some very basic and essential considerations. The reason for this arises from the nature of the material governing this subject. Indeed, a careful reading of the ecclesiastical legislation touching on these parental rights and obligations reveals that the appreciation of a number of terms, concepts and principles underlies the full understanding and accurate interpretation of the directives found in these texts. Thus, notions such as rights and duties, the distinctions between the various types of education, the sources in natural and divine positive law for the parental prerogatives and responsibilities, and the place of the other principal agents in education, all need to be explored and illuminated before proceeding further.

For this reason, the first section of this chapter will undertake an investigation of the principal terms and seek to clarify these basic ideas on which the remainder of this study will rest. The sources and nature of the rights and duties of parents will be outlined in

the second section. Thirdly, some consideration will be given to the rights and obligations of the Church and the State in education.

A. Establishing Terminology for a Study of Parents and Their Educational Function in Canon Law

Repeatedly in the course of this examination reference will be made to parents, rights, duties, education, Christian education, religious education, etc., and, although it might appear as if such terms are self-explanatory and readily understood, they need to be established and defined for the sake of precision and intelligibility.

1. The Juridical Definition of "Parent"

In civil law, "parent" is generally understood to mean the lawful father or mother of a person. "One who procreates, begets, or brings forth offspring."¹ This is the meaning of the term both in civil law and in canon law. The law, however, allows for various distinctions to be drawn within this definition; the term can legally be applied in a more extended use.

1. H. BLACK, et al., Black's Law Dictionary. Definitions of the Terms and Phrases of American and English Jurisprudence, abridged 5th edition, St. Paul, Minnesota, West Publishing Company, 1983, p. 579.

By statute "parent" has been defined to include (1) either the natural father or the natural mother of a child born of their valid marriage to each other, if no subsequent judicial decree has divested one or both of them of their statutory co-guardianship as created by their marriage; (2) either the adoptive father or the adoptive mother of a child jointly adopted by them, if no subsequent judicial decree has divested one or both of them of their statutory co-guardianship as created by the adoption; (3) the natural mother of an illegitimate child, if her position as sole guardian of such a child has not been divested by a subsequent judicial decree; (4) a child's putative blood parent who has expressly acknowledged paternity and contributed meaningfully to the child's support; (5) any individual or agency whose status as guardian of the person of the child has been established by judicial decree.²

Given this legal definition, the rights and duties of parents in education extend to and may be exercised by a larger number of persons than perhaps initially imagined.

According to the canonical legislation, therefore, priority of rights in the education of children belongs to the natural parents of the child in virtue of the fact that they have brought the child to birth. This right also legally pertains to those who have generated

2. Ibid.

children outside of marriage, and thus parents of illegitimate children, natural or spurious, are to provide for the education of their offspring. Additionally, parents who are separated retain the right and the duty to secure a full education for their children flowing from the act of procreation itself.³

There are other persons on whom the same responsibility devolves, even though they are not forbears. These secondary agents are those who assume the obligations in defect of parents and to whom the law grants the same rights in and to the child. Such is the case when parents are deceased or when they lack the ability to secure a suitable education for their offspring. In these circumstances, this right and duty is delegated to persons specified by nature itself, as brothers and sisters or grandparents, or to those persons appointed by the law, such as guardians and sponsors.⁴ Thus, canon law includes several different categories of

3. See further R. JANSEN, Canonical Provisions for Catechetical Instruction, Washington, D.C., The Catholic University of America, 1937, p. 111.

4: Cf. C. BOFFA, Canonical Provisions for Catholic Schools (Elementary and Intermediate), Washington, D.C., The Catholic University of America Press, 1939, p. 86.

persons when it refers to parents and their rights and duties in the education of children.

In the course of commenting on these rights, authors and jurists at times alternate between the term "parent" and the term "family", using them interchangeably with no seeming distinction. The meaning of the word "family" necessarily depends on the area of law in which the term is employed, the purpose intended to be accomplished by its use, and the facts and circumstances of each case.⁵ The general understanding of the expression "family" is of a group of persons consisting of parents and children: father, mother, and offspring who constitute the fundamental unit of society.

From the viewpoint of canonical precision, "parents" and "family" are not the same realities. In speaking of rights and duties in education, the law restricts itself explicitly to the term "parents". There is, however, ample precedent for the term "family" and the attendant prerogatives and obligations to be subsumed under its broader classification, and to associate both words to one and the same subject. The most notable

5. Cf. H. BLACK, op. cit., p. 311.

example of this is the encyclical letter on the Christian education of youth, Divini Illius Magistri, where Pope Pius XI interchanges the two words repeatedly. For example:

The family therefore holds directly from the Creator the mission and hence the right to educate the offspring [...].⁶

Yet in the very next paragraph, he writes:

And as this duty on the part of parents continues up to the time when the child is in a position to provide for itself [...].⁷

Clearly, two different groups of educational rights are not being indicated. It is possible, therefore, to follow the praxis of ecclesiastical documents and to group educational rights and duties under the larger heading of "family", especially when the consideration is of a more theoretical or abstract nature. The more precise and restricted term "parent" is utilized in specifying the juridic subject and the legal limits of these rights and duties in education.

6. DIM, n. 32, in TPE, vol. 3, p. 357; emphasis added.

7. Ibid., n. 33, in TPE, vol. 3, p. 357; emphasis added.

2. The Concept of "Rights and Duties"

A right, in a concrete sense, may be understood as "a power, privilege, faculty, or demand, inherent in one person and incident upon another."⁸ All rights and their corresponding duties devolve from the natural law and give moral authority over an object or an action. A right is inalienable when a person cannot surrender it except for a grave reason without violating his or her own nature. In the absence of an equally grave reason, no person or authority may deprive another human being of a natural right without transgressing his or her human nature.⁹ Natural rights, as distinct from civil, political, and personal ones,

... are those which grow out of the nature of man and depend upon personality, as distinguished from such as created by law and depend upon civilized society; or they are those which, by fair deduction from the present physical, moral, social and religious characteristics of man, he must be invested with, and which he ought to have realized for him in a

8. H. BLACK, *op. cit.*, p. 687.

9. Cf. J. GALLAGHER, "Parents' Right to Educate: A Right Inalienable", in Homiletic and Pastoral Review, 76:3(1975-1976), p. 30.

jural society, in order to fulfil the ends to which his nature calls him.¹⁰

For the Christian that society includes the Church and the end which is sought is the fullness of life with Christ and in Him.

Duty is accepted in law as that which is due from a person or which a person owes to another. It is a legal or moral obligation to do a thing or render a service.¹¹ In its use in jurisprudence, this term implies the corresponding notion of right. "Thus, whenever there exists a right in any person, there also rests a corresponding duty upon some other person or upon all persons generally."¹²

All those who are incorporated into the Church by baptism and are in full communion with it, are as persons the subjects of rights and duties in the ecclesial

10. H. BLACK, op. cit., p. 688.

11. Cf. ibid., p. 264.

12. Ibid. See further J. PROVOST, "Ecclesial Rights", in Canon Law Society of America. Proceedings of the Forty-fourth Annual Convention, 1982, Washington, D.C., The Canon Law Society of America, 1983, pp. 47-53.

society.¹³ The Church is a visible society with a supernatural end and possesses a social power to compel its members. Since rights and duties are correlative, the society which confers rights on its subjects can require corresponding duties.

Among the rights belonging to the members of the Church, there is the right to a Christian education. In reference to the fact that parents and those who take their place have to give their children a Christian education, the Code speaks of both a right and a duty. The two terms are analogous and are interconnected as means and ends. "Although they originate and exist concomitantly, the obligation logically precedes and postulates the right, for whenever a duty exists, the one obliged by it must have the power to fulfil it."¹⁴ Even

13. Cf. CIC 1917, c. 87; CIC 1983, c. 96. See further R. KENNEDY, "Canonical Tradition and Christian Rights", in J. CORIDEN, ed., The Case for Freedom, Washington, D.C., Corpus Books, 1969, pp. 91-106; J. PROVOST, loc. cit., pp. 53-60; IDEM, "Book II. The People of God. Part I. The Christian Faithful (cc. 204-239)", in J. CORIDEN, T. GREEN, D. HEINTSCHEL, eds., The Code of Canon Law. Law Text and Commentary, New York, Paulist Press, 1985, pp. 134-139.

14. C. BOFFA, op. cit., p. 89. J. PROVOST suggests that while this statement is true, it is not completely accurate when taken as the exclusive understanding of rights. Human nature and the dignity flowing from it produce fundamental rights that are prior to obligations; see further J. PROVOST, "Book II. The People of God. Part I. The Christian Faithful (cc. 204-239)", op. cit., pp. 137-138.

more, the seriousness of the responsibility conditions the scope of the right.¹⁵

3. The Meaning of "Education"

a. Education in general

Education is a comprehensive term that has many varying meanings. However, in surveying the ecclesiastical documentation and related literature, three basic elements of this concept become discernable: i) education as intellectual training; ii) as a development of the whole person; and iii) as it relates to a person's final end.

i) As intellectual training

In its simplest or most elementary understanding, education refers to the process of conveying knowledge from one person to another by means of the systematic instruction, training and development of the intellectual and moral faculties or powers. Education comprehends not only the imparting of knowledge as information for its own sake, but also the cultivation of certain abilities in the mind of its subject, namely: to think effectually, to communicate thought, to make appropriate decisions, to

15. See further L. ORSY, "The Religious Education of Children Born from Mixed Marriages", in Gregorianum, 45(1964), p. 753.

select among standards and ethics.¹⁶ The purpose of this process is to afford some measure of self-sufficiency, competence, and independence to the recipient as a result of the formal educational experience and at the end of it. Education, at its most basic level, is the progressive formation of the intelligence and of the will of the child to supply for its needs when it becomes independent and is no longer under the tutelage of its parents.

ii) As a development of the whole person

These first understandings confine themselves to the functional purpose of education and perceive it in somewhat pragmatic terms. Education, however, is best determined by its subject, the human person, who is a complexity of body and spirit, mind and will, cognition and emotion. As such, education encompasses a broader perspective than solely intellectual development. It also comprises the full development of the total person, embracing his or her intellectual, physical, religious and moral growth. Education admits to more than just

16. Cf. J. TINNELLY, "The Right to Educate - The Role of the Parent, the Church and the State", in The Catholic Lawyer, 4(1958), p. 201.

training in the arts and sciences; it is also a nurturing of the spiritual and ethical dimensions of the person.¹⁷

iii) As it relates to a person's final end

One further aspect of education and its meaning is highlighted by Pope Pius XI in his Encyclical Letter on the Christian education of youth. It deserves attention since it is the bridge between what has been said and the concept of Christian education itself; that element is education as it relates to the person's final end. In this "theology of education" (which is a homogeneous counterpart to the Codes of 1917 and 1983), the emphasis on the supernatural end of education is inescapably connected to the means, and is the governing factor in

17. This is the understanding of education presented by the Second Vatican Council, in the Declaration on Christian Education, Gravissimum Educationis; see further GE, n. 2. See also JOHN PAUL II, Allocution, "Je suis heureux", to a group of journalists, January 13, 1979; English translation in Servant of Truth. Messages of John Paul II, compiled by the Daughters of St. Paul, Boston, St. Paul Editions, 1979, pp. 108-109; SECRETARIATE OF STATE, Letter, "Al celebrarse", on the occasion of the Twenty-first Spanish Social Week, January 26, 1978; English translation in TPS, 23(1978), pp. 108-109; A. ANCEL, "L'éducation chrétienne dans la lumière du Concile", in La Documentation catholique, 66(1969), pp. 976-977.

determining the educational task of the agencies involved in education: the family, the Church, and the State.¹⁸

... since education consists essentially in preparing man for what he must be and for what he must do here below, in order to attain the sublime end for which he was created, it is clear that there can be no true education which is not wholly directed to man's last end, and that in the present order of Providence, since God has revealed Himself to us in the Person of His Only Begotten Son, who alone is "the way, the truth and the life", there can be no ideally perfect education which is not Christian education.¹⁹

b. Christian education

The supernatural end of education inevitably gives rise to the association of the word "Christian" with the term "education", and is understood as the instruction of a Christian for the end and purpose for which he or she was created. The objective of Christian education then, is to acquire the ultimate good, i.e., God, for those being educated, and the realization of the greatest

18. Cf. E. FITZPATRICK, "Theology of Education in the Encyclical on Christian Education", in The National Catholic Educational Association Bulletin, 44(February 1948), p. 14; see also E. de BEKKER, "Attendance at Non-Catholic Schools", in African Ecclesiastical Review, 3:3(1961), p. 181.

19. DIM, n. 7, in TPE, vol. 3, p. 354.

possible well-being for the community at large.²⁰ The primary and proper end of Christian education is, in union with divine grace, to form the full Christian. This implies the formation of Christ himself in those reborn, in baptism, their living the divine life in Christ, and evidencing it in all their actions. To investigate the substance of Christian life is, in effect, to discover the purpose of Christian education.²¹ As the Christian ethic must permeate the entire life of the Christian, so Christian education comprises the collective endeavors of human life, the physical and spiritual, intellectual and moral, personal, familial, and communal. It does not intend to restrict this life in any way, but "to elevate, regulate and perfect it, in accordance with the example and teaching of Christ."²²

The intention of Christian education is to produce Christians who both know and live their faith in the circumstances of their everyday lives, amidst the society of which they are a part, with a view toward the end

20. See further ibid., n. 8, in TPE, vol. 3, p. 354.

21. Cf. E. FITZPATRICK, loc. cit., p. 15. See further DIM, n. 94, in TPE, vol. 3, pp. 367-368.

22. DIM, n. 95, in TPE, vol. 3, p. 368. See also WINNIPEG STUDY GROUP, "Parental Rights", in Religious Education, 68(1973), p. S-44.

purpose for which they were created, eternal life in Christ.²³

An additional distinction is necessary within the general category of Christian education. This is the meaning of the expression "Catholic education". What is said of Christian education may be applied equally to Catholic education, with the added specificity of a strictly Catholic ethic and practice as the norm to be lived and observed. "What we mean by Catholic education is the complete training of the mind and the heart, the body and the soul, according to the Catholic ideal."²⁴

c. Characteristic features of Christian education

The canons of the Code of 1917, the magisterial statements on education, the documents of the Second Vatican Council, and the revised Code of 1983, all

23. See further A. ANCEL, loc. cit., pp. 976-979.

24. F. VAUGHAN, "Education, The Duty of Parents", in The Tablet, 156(1930), p. 736. See also JOHN PAUL II, Allocution, "Once again", to a group of bishops from the United States making their visit ad limina Apostolorum, October 28, 1983, in TPS, 29(1984), pp. 12-13; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, "To Teach As Jesus Did: A Pastoral Message on Catholic Education", November 1972, in PLUS, vol. 3, n. 7, p. 307. More will be seen of this in reference to CIC 1983, c. 793,1 in Chapter Six.

indicate the particular features of the education which parents are to be mindful of obtaining for their children, not only by their direct activity, but also by utilizing the resources which the Church and the State provide. Religious and moral training, together with a physical and civil instruction are among the various elements that constitute a true Christian education.²⁵ These elements must be studied separately so that the duty to educate may be fully comprehended in all of its facets.

i) Religious education

One of the objectives of the Christian faith is the achievement of certain dispositions, standards, behaviour patterns, understandings and knowledge in persons, especially Church members. That is the general function of religious education.²⁶

Religious education per se does not greatly differ from the definitions of Christian education identified above, in that it too "consists of teaching the child Christian truths and training its natural powers, with

25. Cf. C. BOFFA, op. cit., pp. 88-89.

26. Cf. M. O'NEILL, "Catholic Schools and Religious Education", in America, 122(1970), p. 338.

the view of accustoming them to translate into actions the teaching of the faith."²⁷ More precisely, religious education teaches its subject two items: 1) to know God, which concerns a training of the mind;²⁸ and 2) to love and serve God in response to that knowledge of Him, which involves a training of the will.²⁹ Religious education, consequently, could be further subdivided to comprise two subsequent activities, namely: religious instruction, which pertains to the knowledge of the fundamental principles of religion; and religious training, which pertains to the practice of religious principles.³⁰ Neither of these, however, is an element in its own right, but aspects of the whole and related to it as

27. "L'éducation religieuse de l'enfant comporte l'enseignement des vérités chrétiennes et l'exercice de ses facultés dans le but de l'habituer à traduire en actes les enseignements de la religion." R. NAZ, "Epoux", in R. NAZ, ed., Dictionnaire de droit canonique, Paris, Librairie Letouzey et Ané, 1957, vol. 5, col. 389.

28. Cf. M. O'NEILL, loc. cit., p. 339. See further LEO XIII, Encyclical Letter, "Nobilissima Gallorum Gens", February 8, 1884; English translation in TPE, vol. 2, n. 3, p. 86.

29. Cf. D. ENDEBROCK, The Parental Obligation to Care for the Religious Education of Children Within the Home with Special Attention to the Training of the Pre-School Child, Washington, D.C., The Catholic University of America Press, 1955, p. 1.

30. Cf. C. BOFFA, op. cit., p. 91.

means to an end.³¹ Indeed, all these terms are frequently used interchangeably along with "religious formation", and "religious development" to signify the overall activity of religious education.³²

ii) Moral education

Canon law points out that parents must procure for their children a moral education as part of their overall duty to provide a Christian one. That moral training is a necessary element in the process of education was made abundantly clear in a pastoral letter of the American episcopate:

Since the child is endowed with physical, intellectual, and moral capacities, all these must be developed harmoniously. An education that quickens the intelligence and enriches the mind with knowledge, but fails to develop the will and direct it to the practice of virtue, may produce scholars, but it cannot produce good men. The exclusion of moral training from the educative process is more dangerous in proportion to the thoroughness with which the intellectual powers are developed, because it gives the impression that morality is of little importance, and

31. Cf. ibid., p. 94.

32. See further QUEBEC CITY STUDY COMMITTEE, "Religious Education - Parental Rights - Student Needs", in Religious Education, 68(1973), p. S-40.

thus sends the pupil into life with a false idea which is not easily corrected.³³

Moral education, like religious education, for that matter, consists of two facets: 1) instructing the student to live according to the principles of morality, which is to say, knowing the difference between good and evil; and 2) moving the person receiving the education to choose good and to avoid evil. Once again, in the first case there is a training of the mind and in the second a training of the will.³⁴

Moral education, nevertheless, does not differ all that greatly from religious education. It is generally acknowledged that there is a distinction between the two, but it is likewise admitted that they are, for all intents and purposes, inseparable since the process of formation is not exclusively doctrinal instruction nor disciplinary education, but involves and includes both.³⁵

33. BISHOPS OF THE UNITED STATES, Pastoral Letter, September 26, 1919, in PLUS, vol. 2, n. 183, pp. 327-328. See also L. ORSY, loc. cit., p. 746.

34. Cf. D. ENDEBROCK, op. cit., p. 2.

35. Cf. ibid., p. 3; C. BOFFA, op. cit., p. 83.

iii) Physical education

Modern education is not limited to simple instruction or religious education only. A complete education demands a suitable physical education as well. For this reason, ecclesiastical law makes it an element of the larger concept of Christian education and binds parents to secure this type of nurturing for their children as part of their overall responsibilities toward them. This kind of education has many facets and encompasses a variety of perspectives:

The essential aspects of physical education are accomplished in the normal physical care of feeding, clothing, sheltering, etc., that accompanies the various stages of physical development from birth through childhood and into adulthood. A sound physical education also teaches and inculcates lessons on the physical traits of cleanliness, neatness and personal hygiene. Beyond this, physical education aims at instilling lasting habits conducive to good health, such as moderation in food and drink and a necessity for physical well-being.³⁶ The development of physical talents and

36. Cf. S. KUBIK, The Family and the State. A Study Based on the Teachings of Popes Pius XI and Pius XII, Montreal, Grand Seminary of Montreal, 1945, pp. 30-31.

abilities by means of involvement in amateur sporting activities, whatever form they may take, is an added dimension of physical education. These are not, however, to become an end in themselves, but are to serve the broader purpose of Christian education.³⁷ Physical education is not a lesser element in the scheme of Christian education. It contributes directly and critically to the full realization of the other areas of this education.³⁸

iv) Civil education

Civil education is the final element mentioned in canonical documentation as part of an integral Christian education. Like physical education, civil education is a wide term allowing for many particular types of instruction.

Intellectual instruction which develops and sharpens the mental faculties and prepares the recipient to assume a productive role in society is considered to come under the larger domain of civil education. This

37. Cf. DIM, n. 49, in TPE, vol. 3, p. 360.

38. See PIUS XII, Allocution, "Davanti a questa", to mothers of Italian families, October 26, 1941; English translation in PTE, p. 319.

education is usually associated with that period of formation spent in a public or private school.

Civil education also embraces a civic and political education, which clarifies the pupil's duties toward the State and which directs the citizen as to the proper exercise of his or her civil and political rights. This form of education is required so that all inhabitants of the country may participate fully in the public life of the nation and satisfy their civil responsibilities.³⁹ The result of this instruction is a respect for public authority and an awareness and consideration for the rights of others.⁴⁰ A further and final component of a civil education is social training which instills a sense of justice and charity, both of which are necessary for the right ordering of society.

Thus, Christian education as envisioned by the legislation of the Church is a complete and full development of the human person and the totality of his

39. Cf. SECRETARIATE OF STATE, Letter, "J'ai l'honneur", on the occasion of the Fourth Portuguese Social Week, October 16, 1952; English translation in PTE, p. 441.

40. Cf. BISHOPS OF THE UNITED STATES, Statement, "The Christian Family", November 21, 1949, in PLUS, vol. 2, n. 10, p. 92.

or her capacities and powers, physical and spiritual, natural and supernatural.⁴¹

B. Sources of the Rights and Duties of Parents

"The obligation of parents to provide for the ... education of their children comes primarily from the natural law, the provisions of which have been strengthened and clarified on this point by the divine positive law and ecclesiastical law."⁴² While the norms of ecclesiastical law will be considered in subsequent chapters, it will be helpful to examine the first two sources of this obligation, each in their turn, in order to have a fuller understanding of the duty which, according to canon law, belongs to parents to see to their children's education, and in particular their Christian education.

41. Cf. ANONYMOUS, "Le mariage et la famille dans les documents conciliaires", in L'Anneau d'or, 128 (1966), p. 105.

42. D. ENDEBROCK, op. cit., p. 14.

1. Natural Law Sources

One moral theologian, writing in the last years before the Second Vatican Council, declared: "Fundamentally, the parents' responsibility for the [...] education of the child is rooted in the very nature of things, which is just another way of saying that it is commanded by the natural law."⁴³ Traditionally, the Church has grounded its teaching and legislation on the rights and duties of parents in the education of their children in arguments from the natural law. Although statements regarding the natural law need to be carefully weighed and considered in context, these philosophical demonstrations sustaining the parental claims in education merit consideration since they underlie many of the canons examined in this study.

It would be advantageous, before proceeding further, to examine the concept of natural law. What is meant by this term?

Natural law, according to the definition provided in Black's Law Dictionary, is,

43. Ibid.

[...] intended to denote a system of rules and principles for the guidance of human conduct which, independently of enacted law or of the systems peculiar to any one people, might be discovered by the rational intelligence of man, and would be found to grow out of and conform to his nature, meaning by that word his whole mental, moral and physical constitution.⁴⁴

What is involved then is a rule of action that does not alter because it is based on human nature, the fundamental principles of which can be discovered by human intelligence without outside assistance or aid.

If the claim is made that parents are bound to educate their children, particularly to give them religious education by command of the natural law, then arguments must be available, based in human nature, which make this responsibility clear.

a. Obligation to provide an education

A double argument based on the writings of St. Thomas Aquinas has been traditionally invoked to demonstrate the truth of the statement that natural law obliges parents to give their children an education. The

44. H. BLACK, op. cit., p. 535.

first argument is based on the nature of the family; the second is from a consideration of God's providence.

The proof based on the nature of the family begins by positing that God is one supreme source of all life and of the means necessary to bring that life to its highest development. For human beings those means of development or perfection are education and discipline. In establishing the family, God made it the vehicle for the communication of life, at least in the natural order. Therefore, the family shares in God's role of life-giver, together with all that is needed for the completeness of life given.⁴⁵ As St. Thomas says: "a father is the principle of generation, of education, of learning and of whatever pertains to the perfection of human life."⁴⁶ Having used this very argument, Pope Pius XI, in his Encyclical Letter on the Christian education of youth, Divini Illius Magistri, added:

The family, therefore, holds directly from the Creator the mission and hence the right to educate the offspring, a right inalienable because inseparably joined to the strict obligation, a right anterior to any

45. Cf. D. ENDERBROCK, op. cit., p. 15.

46. S. Th., IIa-IIae, q. 102, a. 1.

right whatever of civil society and of the State, and therefore inviolable on the part of any power on earth.⁴⁷

Other popes before this had offered the argument that by nature itself, parents have a right and duty to educate their children. For example, Pope Leo XIII. in 1884 wrote that parents are to be zealous in educating their children because, "both the divine and the natural law impose this duty on them, nor can parents on any ground whatever be freed from this obligation".⁴⁸

Other arguments by St. Thomas Aquinas will lead to the same conclusion, albeit employing a different route.⁴⁹ Whichever one is utilized, it is evident from Aquinas' thought that nature intends not only the procreation of children, but also their education and development until they achieve the perfect state of human person as person, and that is the state of virtue. Three

47. DIM, n. 32, in TPE, vol. 3, p. 357.

48. LEO XIII, Encyclical Letter, "Nobilissima Gallorum Gens", February 8, 1884, op. cit., n. 3, p. 86. See further LEO XIII, Encyclical Letter, "Sapientiae Christianae", January 10, 1890; English translation in TPE, vol. 2, n. 42, p. 221; BISHOPS OF THE UNITED STATES, Pastoral Letter, September 26, 1919, op. cit., n. 189, p. 329.

49. See further S. Th., IIa-IIae, q. 10, a. 12.

things are derived, therefore, from parents: existence, nourishment and education.⁵⁰

The second argument showing that natural law obliges parents to give their children an education, again using the writings of St. Thomas Aquinas, builds from a consideration of God's providence.

In the Summa Contra Gentiles, St. Thomas argues that God cares for everything in respect of what is good for it, and the good is for everything to obtain its end. Yet, the life received by a human being at its birth is not the full measure of its natural perfection. The child needs not only nourishment to maintain its life, but also instruction to achieve its full potential.⁵¹ God, therefore, has provided that children may reach their full natural perfection by giving to those to whom He gave the power to beget them, the right and the duty to educate them. It is evident that children are incapable of providing for themselves, not only in matters having

50. Cf. ibid., Supplement, q. 41, a. 1.

51. "Rursus considerandum est quod in specie humana proles non indiget solum nutritione quantum ad corpus, ut in aliis animalibus; sed etiam instructione quantum ad animam." THOMAS AQUINAS, Summa Contra Gentiles, III, 122.

to do with their natural life, but also in what concerns their intellectual, spiritual and moral life, and consequently require many years to be helped, cared for, instructed and educated by others. Pope Pius XI wrote in similar terms:

Now it is certain that both by the law of nature and of God this right and duty of educating their offspring belongs in the first place to those who began the work of nature by giving them birth, and they are indeed forbidden to leave unfinished this work and so expose it to certain ruin. But in matrimony, provision has been made in the best possible way for this education of children that is so necessary, for, since the parents are bound together by an indissoluble bond, the care and mutual help of each is always at hand.⁵²

It follows then that parents have a grave obligation to provide for the proper education of their children; an obligation whose origin is the natural law itself. The basis of this responsibility is the fact of generation, the actuality of parenthood. For while persons are free to marry, or not to marry, once they enter the married state, and have become parents, they assume the obligations of education. The object of this duty will be the children themselves and their promotion to the full or perfected state of their human nature,

52. CC, n. 16, in TPE, vol. 3, p. 394.

which if left to their own devices they could not achieve or realize.

b. Religious education as an essential element

Having presented the argument that the natural law obliges parents to give their children an education, it is next necessary to consider the natural law arguments that such an education should include the element of religious education to make it complete. Canon law posits that religious education is required by the law of nature as an intrinsic part of the child's overall instruction and hence an essential aspect of the parental duty to provide a Christian education.

It was evident in the first arguments that demonstrated the natural law obligations that parents must teach their children, and that education has as its aim the elevation of the person to its highest development and equipping it for the responsibilities that life will demand. Once again, the natural law, knowable by reason alone, makes clear what these responsibilities are and reveals that each person has a two-fold responsibility: first, to God; and secondly, toward his or her fellow human beings.⁵³

53. Cf. D. ENDEBROCK, op. cit., pp. 19-20.

"Now all these duties, those toward God and those toward his neighbour, can be acknowledged and fulfilled only if the individual has been taught the sacred character of his obligations as a human being."⁵⁴ This is particularly true of the child who requires the formative direction of its parents as its first teacher. In effect, the responsibilities that life demands and the obligations that each person has to God and neighbour, as reasoned from the natural law, are parallel to the goals or ends of religious education. It seems reasonable, therefore, to conclude that the natural law requires religious education as an integral element of the education parents are to procure for their children.⁵⁵

2. Divine Law Sources

Founded as they are on human nature, the requirements of the natural law may be said to have been established by the creator of that human nature. It may

54. Ibid., p. 21.

55. See W. TOBIN, "The Rights and Obligations of Parents With Reference to the Religious Formation of Their Children", in Ius Populi Dei, Roma, Università Gregoriana Editrice, 1972, vol. 3, p. 284.

also be said that the injunctions of this law have been given by God Himself. Yet, God has not left human reason entirely to itself in its quest for a universal norm which fixes the limits of human conduct. Though the imperatives of the natural law may be discovered by the use of reason alone, the time and effort needed, as well as the obstructions that may be encountered in this pursuit, create the possibility that some persons will be in peril of stumbling into error concerning some of the prescriptions God has ordained. Accordingly, He has given "a plain statement of the principal points of His law."⁵⁶ This revelation by God is known as the divine positive law. By divine law, what is understood are those precepts ascribed to God.⁵⁷ Positive law refers to "law actually and specifically enacted or adopted by proper authority for the government of an organized society."⁵⁸ In the case of divine positive law, the authority legislating is God and the juridic group for whom the prescriptions were originally given is the Hebrew people.

56. D. ENDEBROCK, op. cit., p. 23.

57. Cf. H. BLACK, op. cit., p. 251.

58. Ibid., p. 606.

a. Old Testament

The primary example of this divine positive law is the Ten Commandments given to Moses on Mount Sinai. These Commandments incorporate into specific statutes what has already been commanded of humankind as a requirement by the law of nature. Given by supernatural revelation, these Commandments formed, together with the precepts for the religious and civic life of the Jewish people, a collection of regulations which is at the heart of the Old Testament. Christ in His preaching and ministry confirmed the Commandments and appended His own further specifications to these ordinances. Thus, this body of prescriptions found in sacred scripture constitutes an important source of law for the Church, since it makes explicit or distinct many of the truths of the natural law, and serves as the basis of its own particular law.

As concerns the parental obligation to provide for the education of children, the divine positive law confirms what is to be found in the natural law and specifies it. Hence, of the Ten Commandments, the Fourth concerns the regulation of the parent-child relationship, laying down obligations that each needs to fulfil in a complementary exchange. "Honour your father and your

mother so that you may have a long life in the land that Yahweh your God has given to you."⁵⁹

The Church has consistently taught that this maxim imposes responsibilities not only on the children of the family, but also on the parents. The law commands children to honour, respect, and obey their parents. Yet parents are bound by this same precept to corresponding duties toward their children. This interpretation is faithful to the tradition of those to whom the law was first given. As one commentator has written:

[...] in Old Testament times Yahweh's great formative admonition that children should honor and care for their parents [...] was viewed from the reciprocal duty and obligation of parents to care for their children and share their faith heritage with them.⁶⁰

Parents are required by the Commandment to give their children a full education for the regulation of their lives, an education which includes the knowledge and practice of religion. This is the duty imposed by the natural law. In effect, the Commandment makes plain in a rule the correlative responsibilities parents must render

59. Exodus 20:12.

60. W. TOBIN, loc. cit., p. 257. See further J. HUESMAN, "Exodus", in R. BROWN, J. FITZMEYER, R. MURPHY, eds., The Jerome Biblical Commentary, Englewood Cliffs, New Jersey, Prentice-Hall, Inc., 1968, p. 57.

their children so that these may fulfil their obligations to God and to the society of which they are a part. In so doing, parents not only satisfy the divine statute and the grave commission that is their's by the act of generation, but they also perform a worthy act in the service of God and the Church.⁶¹

The Church's interpretation of the Fourth Commandment, establishing liability upon parents as well as upon children, is enforced when other passages of scripture dealing with parents and children are examined.

In the Book of Deuteronomy, the author records Moses as saying:

But take care what you do and be on your guard. Do not forget the things your eyes have seen, nor let them slip from your heart all the days of your life; rather, tell them to your children and to your children's children. The day you stood at Horeb in the presence of Yahweh your God, Yahweh said to me, "Call the people round me that I may let them hear my words, that they may learn to fear me all the days they live on earth, and teach this to their children."⁶²

61. See further J. CARROLL, Pastoral Letter, May 28, 1792, in PLUS, vol. 2, n. 3, p. 17; LEO XIII, Encyclical Letter, "Arcanum Divinae Sapientiae", February 10, 1880; English translation in TPE, vol. 2, n. 10, p. 31; n. 12, p. 32; CC, n. 13, in TPE, vol. 3, p. 393.

62. Deuteronomy 4:9-10; emphasis added. See further Deuteronomy 6:6-7.

The Psalmist, meditating on the place of the law in Israelite history, says:

When he issued the decrees for Jacob and instituted a law in Israel, he gave our ancestors strict orders to teach it to their children; the next generation was to learn it, the children still to be born, and these in their turn were to tell their own children so that they too would put their confidence in God, never forgetting God's achievements, and always keeping his commandments [...].⁶³

The Book of Proverbs advises: "Correct your son, and he will give you peace of mind; he will delight your soul."⁶⁴ Ecclesiasticus takes up a similar theme when it insists: "Be strict with your son, and persevere with him, or you will rue his insolence."⁶⁵

Education in ancient Israel was centred on the home, with parents providing the necessary instruction and the first model for their children to copy. The educational role of the Jewish family, emphasized in

63. Psalm 78:5-7; italics added.

64. Proverbs 29:17.

65. Ecclesiasticus 30:13.

their sacred writings, was of central importance to the Hebrew culture.⁶⁶

b. New Testament

From the evidence examined, it is certain that the importance of the family, particularly the role of parents, is clearly indicated in many passages of the Old Testament. But,

Since the New Testament is the completion of the Old Testament, the importance of the family -- and by extension the importance of parents -- in passing on the heritage of faith is a continuing principle.⁶⁷

There is no direct admonition to parents in any of the four gospel narratives. This is not to say, however, that the New Testament is devoid of any such references. Several of the letters to the early church communities, touching as they do on a variety of matters, raise the question of parents and children.

In the Letter to the Ephesians, St. Paul touches on the alternate responsibilities the Fourth Commandment imposes on children and parents.

66. Cf. R. WIATROWSKI, The Responsibility of Parents in Presenting a Child for Baptism. Recent Particular Applications of Various Dioceses in the United States of America, Rome, Pontificia Studiorum Universitas a S. Thomas Aq. in Urbe, 1981, pp. 4-8.

67. Ibid., p. 25.

Children, be obedient to your parents in the Lord -- that is your duty. The first commandment that has a promise attached to it is: Honour your father and mother, and the promise is: and you will prosper and have a long life in the land. And parents, never drive your children to resentment but in bringing them up correct them and guide them as the Lord does.⁶⁸

In the First Letter to Timothy, the exhortation on family responsibilities, though of a more general nature, could nonetheless be understood to concern also the parental duty and to underscore the significance of its omission for those who neglect it.⁶⁹

From a very cursory examination of the scriptures, it would seem that the divine positive law, particularly as expressed in the Fourth Commandment and has been traditionally interpreted by the Church, repeats the charge that parents are to give their children an education which embraces religious instruction and training. These norms make explicit and unambiguous the demands of the natural law in this regard.

3. The Gravity of the Parental Obligation to Educate

The certainty of the obligation parents have towards the education of their children has been

68. Ephesians 6:1-4.

69. See 1 Timothy 5:8.

demonstrated both from the natural law and the revealed law of God. Though the parameters of this duty have been detailed, it is also necessary to study the gravity of these responsibilities and to assess their seriousness.

The Church's teaching on this obligation and the subsequent canonical legislation are very explicit. Repeatedly this duty is presented as a "most grave obligation" or a "most serious duty". This firm interpretation by the Church is not the result of any arbitrary decision. The laws that the ecclesiastical legislator has promulgated for the good of the faithful simply repeat what God has enacted and gives to them the weight which such laws have as their due. "Whether one looks to the divine positive law -- specifically the Fourth Commandment -- or considers the law of nature, the duty of parents is undeniably serious."⁷⁰

The natural law comprehends the parental obligation as a serious one. Parents are to educate their children so that they may realize their full potential. Additionally, since the child by the reception of life from the hands of God is involved in a close relationship of love, worship, and service, it is to be trained to

70. D. ENDEBROCK, op. cit., p. 30.

carry out the duties entailed by this relationship. In essence, the child depends on its parents to give the instruction it needs in order to understand the very meaning of its existence. The child requires nurturing if it is to achieve its temporal goals; in parallel fashion education under the supervision of parents is all the more imperative if the youngster is to realize eventually the supernatural destiny for which it was created. Obviously, such obligations are far-reaching and indispensable.

The law of God, as revealed in sacred scripture, assigns to parents the same work of educating their children. Here again, the eternal goal of each person as a child of God and a member of Christ's Church is the vital motivation for parents to meet their responsibilities. Without the careful direction of its parents, the child cannot come to the awareness of what it is and what it is called to be, much less avoid the negative experiences that could deter from that goal. Without the guidance of its parents the child is seriously hindered in its quest to achieve salvation. Parents are gravely bound by the divine positive law to an obligation that is both solemn and momentous.⁷¹

71. Cf. ibid., pp. 30-31.

C. The Rights and Duties of the Secondary Agents in Education

The place of parents in the education of their children is apparent from a perusal of the law of nature and the law of God. Yet, the dominion of parents in this concern is not absolute or exclusive since the family is but one society of which human beings are a part; "education belongs to three societies into which a man is born namely, the family, the Church, and the State".⁷² Thus, outside of the family, two other bodies have a concern in education: the Church and the State. The State has, as its goal, the common temporal good of its citizens, while the Church seeks the common supernatural welfare of all humanity. Hence the work of education is of vital interest to both of these societies as a tool in the achievement of their respective ends.⁷³

Any consideration of the parental role in education must broach the subject of the prerogatives of the other two chief agencies in the education of the

72. S. KUBIK, *op. cit.*, p. 127. See also DIM, n. 11, in *TPE*, vol. 3, p. 354; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, "Let the Little Children Come to Me", November 10, 1976, in *PLUS*, vol. 4, n. 9, p. 160.

73. Cf. J. GRIFFIN, "Papal Pronouncements on Parental Rights", in *Ave Maria*, 69(January 15-22, 1949), p. 73.

child.⁷⁴ Each of them has rights but in no case are these rights absolute; each of them has duties, the fulfilment of which satisfy demands of morality and justice.

1. The Rights and Duties of the Church

The position of the Church as the divinely appointed guardian of truth gives it a singular role in the task of education.⁷⁵ Further, the Church's title to a prominent profile in education belongs to it by reason of a double claim in the supernatural order, conferred by God and absolutely superior to any other prerogative in the natural order.⁷⁶

The first title is founded on the commission to teach given expressly to the Church by Christ.⁷⁷ The basis for the Church's second claim in the supernatural order to rights in education devolves from its spiritual parenthood, whereby the Church generates divine life for its members through the sacrament of baptism. As author,

74. See SECRETARIATE OF STATE, Letter, "J'ai l'honneur", October 16, 1952, op. cit., p. 441.

75. See further DIM, n. 13, in TPE, vol. 3, p. 355.

76. Cf. ibid., n. 15, in TPE, vol. 3, p. 355.

77. See Matthew 28:18-20. See also BISHOPS OF THE UNITED STATES, Pastoral Letter, September 26, 1919, op. cit., n. 188, pp. 328-329.

the Church is thus responsible for the nurturing and the training of this new life by means of the sacraments and its doctrine.⁷⁸

Additionally, since education in its truest sense concerns the human person as a whole both temporally and spiritually, it necessarily interests the Church. Though the Church has as its first object the transmission of revealed truths, its authority also touches whatever is related to these truths in the natural order and is linked to salvation.⁷⁹

The Church as a result of these circumstances and determinations has rights as well as duties in regard to the work of education and the institutions it employs in this field. Five areas of particular ecclesial prerogatives are normally claimed, and with them the attendant responsibilities.

a. In reference to schools, the Church maintains the right to demand that religious instruction be given to all its children.

78. See S. LEVEN, "The Role of the Church", in The Catholic Lawyer, 4(1958), p. 216.

79. Cf. C. BOFFA, op. cit., p. 72. See further DIM, n. 18, in TPE, vol. 3, p. 355; SECRETARIATE OF STATE, Letter, "Al celebrarse", January 26, 1978, op. cit., p. 112.

b. In addition, the Church asserts the right to determine how this religious instruction is to be imparted, coupled with the moral training that cannot be separated from it.

c. Implicit in the Church's rights in education is the authority to found schools of its own, not only for religious instruction, but also for the teaching of every area of human learning.⁸⁰

d. Among the rights of the Church in education is the right to determine the duties of parents concerning the religious and moral training of their children. In those matters which are of a purely secular nature, the Church does not trespass on the parental right. Yet, the Church does have an indirect right even over these questions when they are joined to spiritual issues and encompass areas of moral substance.⁸¹ It is because of its spiritual parenthood that the Church asserts the right to oversee, indeed, supervise the child's religious and moral education. Its right in this regard has preeminence over the right of the family because of the superiority

80. See further DIM, in TPE, vol. 3, n. 21, p. 356; C. BOFFA, op. cit., p. 73.

81. See further C. BOFFA, op. cit., p. 74.

of the end that the Church seeks, namely, the eternal salvation of persons which the family of itself cannot attain.

It is for the Church as spiritual parent to provide its children with the knowledge of God, leading as a consequence to a love and service of Him, the final and ultimate end.⁸² The Church, therefore, in a true sense completes and complements the family's educational function.⁸³

e. The Church does not declare that any and all educational institutions must be under its exclusive control and care. As the Church affirms its right to establish schools, it also acknowledges that others possess an equal right. In whatever school, however, that is attended by Catholic students, whether public or private, the Church claims the right to watch over the faith and morals of these pupils even to the extent of directing the secular instruction to the degree

82. Cf. R. NAZ, op. cit., col. 389; J. TINNELLY, loc. cit., p. 200.

83. See further J. GRIFFIN, loc. cit., p. 109; J. TINNELLY, loc. cit., p. 200; E. WHITE, "The Role of the Home in the Religious Development of Children", in Review and Expositor, 80(1983), pp. 238-239; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, "Let the Little Children Come to Me", November 10, 1976, op. cit., n. 12, p. 161.

necessary.⁸⁴ Nevertheless, the Church acknowledges and ~~upholds the~~ right of the State to direct and further the physical, intellectual, and otherwise secular education of its children. The Church does not intrude on fields of learning which concern only the temporal sphere, except where such have direct bearing on religion and morality.

The Church's right to control religious and moral education and to oversee the entire instruction of its children is not abrogated by the refusal of the State to accept or to recognize its divine mission to teach. If such regulation and supervision is not granted to the Church, it does not pass automatically to the State, but to the parents whom natural law designates as the primary educators of their children. And should parents in their turn elect to entrust this work to the Church, no public authority has the right to impede them in their selection.⁸⁵

2. The Rights and Duties of the State

The third society which has a function in the work of education is the State. Even though Catholic teaching, in accordance with the natural law, posits the anterior

84. Cf. C. BOFFA, op. cit., p. 74. See further DIM, n. 23, in TPE, vol. 3, p. 356.

85. Cf. C. BOFFA, op. cit., p. 69.

right of parents over the State, this is not to say that it does not accord rights and duties in education to the State as well. It would be a serious error to deny the civil power any natural right in the regulation of the education of its citizens. Since the education of children is "essentially a social and not a mere individual activity",⁸⁶ the State necessarily has rights in the education of children.

It has the right to educate as part of its general right and duty to promote the common welfare. This communal well-being consists in the peace and security in which individual persons and families have the full and free exercise of their prerogatives, and at the same time partake of the greatest spiritual and temporal prosperity possible, by the mutual consolidation and harmonization of the work of all.

The function, therefore, of the civil authority residing in the State is twofold, to protect and to foster, but by no means to absorb the family and the individual, or to substitute itself for them.⁸⁷

86. DIM, n. 11, in TPE, vol. 3, p. 354.

87. Ibid., n. 43, in TPE, vol. 3, p. 359.

The State has a dual function: the protection and advancement the family and the individual without its causing their displacement or substitution in the process. In the matter of education for instance it is the right of the State to protect by its laws the rights of parents concerning the education of children, and also to acknowledge the supernatural right of the Church in such education.⁸⁸

In fostering education, the State discharges its office by two means. One may be a direct furthering wherein the State is chiefly interested in regulating the type of education to be given, and where the objective of such instruction directly influences the well-being of the civil community as such. Or it may be accomplished indirectly in the name of the parents. In such a case, the State's main concern is to ensure that its citizens are instructed, without imparting this education directly or detailing the exact form it should take. The object of the State is not to control the child's education but to assure that it is given an education. The purpose of such training is not so much the immediate welfare of the State per se, but rather the common good as embodied in

88. Cf. R. NAZ, op. cit., col. 389. See also R. JANSEN, op. cit., p. 110; SECRETARIATE OF STATE, Letter, "Al celebrarse", January 26, 1978, op. cit., pp. 110-111.

the intellectual, moral, and physical circumstances of its people.⁸⁹

Beyond these general propositions, there are very detailed rights and duties in education which belong to the State and are within its jurisdiction to exercise and execute. In surveying both the secular and ecclesiastical writings on this subject, ten general prerogatives are identifiable, along with three specific duties.

a. It is within the competence of the State to make provision for the correct administration of public affairs and for the protection of its peace and security. Such necessities ~~directly~~ concern the public good and call for particular skills and precise training. It is therefore the State's definite right to establish schools which are necessary for proper public administration and for the defence of peace. It is a matter of national importance that military, diplomatic, government, and other officials be suitably and carefully trained for their responsibilities. The control and direction of this

89. Cf. C. RYAN, "Parents, State and Education", in Thought, 13(March 1938), pp. 83-84. See also W. TOBIN, loc. cit., p. 287.

type of education in the specialized schools established for such purposes belongs to the State.⁹⁰

b. As the public well-being is to a large degree dependent on the intelligence of the population, the State has an essential role in education by the fact that its first obligation is to promote the temporal welfare of the community. The State has the right, therefore, to demand that its citizens possess a certain degree of education without which the correct operation of government is impossible. A democratic rule requires subjects with sufficient education to fulfil their civic duties.

c. The State has the right to pass compulsory education laws in order to assure that the general population has sufficient instruction to perform its civic and national duties, and the degree of moral, intellectual and physical culture which is necessary for the common welfare of the society. In view of the overriding principle that the parents have the primary right to direct the education of the child, it is apparent that the State's purpose in passing such laws is to ascertain that the parents fulfil their obligations toward the

90. See further DIM, n. 47, in TPE, vol. 3, p. 359.

child and that the child receives an education. It does not follow that the State itself must give this education in the schools it establishes. It is enough that it sees to it that the child is instructed.⁹¹

d. Since education should be balanced, it belongs to the public authority to require that the populace be adequately instructed in science, morals, and physical culture to the extent and measure necessary for the common welfare of the times. The State has a right to demand such education as will give it a good and upright citizenry.⁹² In consideration of this, the State has the right to demand that the education chosen by parents meet certain standards. Beyond this very fixed right of the civil authority, the details and direction of the child's education is determined by the parents. It is not the task nor the right of the State to control the circumstances of instruction.⁹³

91. See further BISHOPS OF THE UNITED STATES, Statement, "The Christian Family", November 21, 1949, op. cit., n. 14, p. 93.

92. See further DIM, n. 47, in TPE, vol. 3, p. 359.

93. See further BISHOPS OF THE UNITED STATES, Pastoral Letter, September 26, 1919, op. cit., n. 194, p. 330.

e. Physical education is also within the boundary of the State's rights since public health, which is an element of the temporal well-being, requires a population that is physically fit. The acquisition of strong religious, moral and intellectual formation depends on a sound physical education. It is within the competence of the State to establish institutions for physical education, as well as to insist on a training in good hygiene by all educational authorities and establishments.⁹⁴

f. One area where the State has a primary role is with respect to civic education. "In general ... it belongs to civil society and the State to provide what may be called civic education, not only for its youth, but for all ages and classes."⁹⁵ The purpose of such education, which is so extensive as to include practically every effort the State makes for the common good, is to inform the minds and rouse the emotions of the citizens, urging the practice of what is upright and the suppression of what is harmful to public order.⁹⁶

94. Cf. S. KUBIK, op. cit., p. 127.

95. DIM, n. 50, in TPE, vol. 3, p. 360.

96. Cf. ibid. See also T. MARTIN, "The Role of the State", in The Catholic Lawyer, 4(1958), p. 224.

g. The State has the right to furnish vocational training in order to assure that there will be an adequate supply of technically skilled persons to provide for the needs of the community. The State does not, however, have any authority to compel students to pursue such instruction against their will and in violation of their freedom; individuals are to be left free in their choice of vocation. The civil authority, nonetheless, may exercise an important role in vocational guidance by suggesting different professions to youth and aiding them in the choice of an occupation for which they have an aptitude.⁹⁷

h. Granting the fundamental right of parents in education, the civil authority has the right to inspect all schools to verify that nothing detrimental to public order and the community well-being is taught. It is the right and duty of the State to exclude the dissemination of doctrines which have as their purpose the subversion of law and order and, therefore, aim at the destruction of the State itself.⁹⁸

97. Cf. S. KUBIK, op. cit., p. 130.

98. Cf. BISHOPS OF THE UNITED STATES, Pastoral Letter, September 26, 1919, op. cit., n. 194, p. 330.

The acceptance of the right of the public authority to prevent the teaching of any creed disruptive of public order or injurious to the moral fiber of society does not bestow the further right to interfere in the schools on the grounds of protecting morality. This would be tantamount to making the State a teacher of morals, a role that it does not naturally possess. Further, no monopoly of schools or imposition of a unique course of studies may be vindicated on the basis that the State is defending itself against doctrines that would be harmful to its members.⁹⁹

i. It is within the ambit of the State to stimulate the dissemination of learning by its sponsorship and subsidization of libraries, museums, and other such establishments. These establishments are required for the cultural advancement of the population, but are usually outside the realm of private individuals to provide.

j. There are instances when parents neglect to fulfil their rights and responsibilities in the education of their children. In such situations, the State has the right to intervene, but only in conformity with the injunctions of the natural law, and without prejudice to the rights of the Church.

99. See further C. BOFFA, *op. cit.*, p. 68.

It is clearly the State's right and duty to protect the rights of the child to education whenever its parents are found deficient in their care, whether physically or morally, whether by default, incapacity, or misconduct. This prerogative of the State follows from the premise that though the rights of parents in education are primary, they are not absolute. They are rather dependent upon the structures of the natural and divine positive law and, therefore, subject to the governance of the Church and the watchfulness of the State which has responsibility for the common good. Though such action is always the exception and not the rule, in so doing the State does not supplant the family; but, in keeping with the basic right of the child to be cared for, supplies for the deficiency with appropriate assistance.

The rights of the State having been enumerated, it is now left to list its ordinary duties.

a. Charged with serving and guaranteeing the public good, it belongs to the State to assist the family and the Church in fulfilling their educational obligations, including their responsibilities for Christian education. Accordingly, the State may not impose an irreligious education on children nor constrain parents to send their

charges to public schools. Indeed, it is the public authority's duty to ensure that parents are completely free in their choice of schools.¹⁰⁰ Any laws passed by the State which infringe on this parental freedom would be a violation of natural rights and would thus be immoral.¹⁰¹ It is a cardinal principle of Catholic teaching on education that the State may not obscure the independent right of the parents to choose the teachers of their children nor their obligation to do so in conformity with their conscience. The State has the duty to preserve the parents' right in education so long as that right is reasonably and properly exercised.¹⁰² Rather, it is the duty of the State to give full range to the educational initiatives of the family and the Church, supplying them with such help as they require and justice demands.¹⁰³

100. Cf. R. PETERS, "What Rights Do Parents Have (re the Education of Their Children)?", in Ave Maria, 86(August 27, 1957), p. 17.

101. See further PIUS XI, Encyclical Letter, "Mit Brenender Sorge", March 14, 1937; English translation in TPE, vol. 3, n. 31, p. 532.

102. Cf. R. CUSHING, "Education and the Christian Home", in The National Catholic Education Association Bulletin, 43(May 1947), pp. 13-14.

103. Cf. S. KUBIK, op. cit., p. 113.

b. It is the duty of the State to perform those functions for its citizens that must be carried out, but which they are incapable of completing by themselves. In particular, this applies to the State's educational efforts, because parents, finding themselves unable to provide the full education their children require due to their limited ability and resources, must rely on the civil authority's assistance in completing this instruction. It is then the responsibility of the State to give aid to schools of general education, maintained by the cooperative efforts of its citizens, whenever these schools cannot be sustained without public assistance.¹⁰⁴

c. The laws of the State promoting education and instruction are always to acknowledge the prior rights of parents and the Church, while at the same time having regard for distributive justice.¹⁰⁵ Should the State be required to enter the area of education by opening its own schools, it is to give consideration to the desires of all parents and not just to the wishes of a majority of them. It is the apparent duty of the State that if schools are maintained from public funds, it is to

¹⁰⁴. Cf. R. PETERS, loc. cit., p. 16; C. BOFFA, op. cit., p. 68.

¹⁰⁵. Cf. DIM, n. 81, in TPE, vol. 3, pp. 365-366.

support those schools that conform to the conscience of any significant minority. Failing that, it is to give them assistance in proportion to the aid it gives its own schools. There is no question that it is the responsibility of the State to act with equity and support the educational systems preferred by its component families.¹⁰⁶

Summary

A consideration of the canonical rights and duties of parents in the education of their children is founded on certain basic principles. The legal parameters of the word "parent" are not confined to those who gave the child life. The term in both civil and canon law embraces not only the natural father and mother of the child, but also any and all who have legal responsibility for the child. Rights and duties are correlative, in that a duty carries with it the right to perform that function.

Education itself entails not only the technical instruction of children, but also their religious, moral, physical and civil education. Education therefore prepares its recipient to fulfil his or her duty to God.

¹⁰⁶. Cf. C. BOFFA, op. cit., p. 71.

and neighbour and so prepare for the ultimate end of all Christians, salvation in Christ.

The basis for the rights and duties of parents in the education of their children is established in the natural law. This has been crystallized by the divine positive law. The gravity of the parental obligations is profound in that the neglect of this duty by parents will impair the child from achieving both its natural and ultimate end.

Parents have the fundamental right and duty to supervise every facet of their child's education. Yet their right in education is not absolute. Since they are unable to realize the objective of a full education for the child because of their limited resources, parents share with the Church and the State the work of education, retaining always the primary right which is theirs. The Church, having given supernatural life, supervises the religious and moral education of the child, while the State supports by its laws, resources and initiatives the educational work of the parents and the Church.

THE 1917 CODE OF CANON LAW AND THE EDUCATION OF CHILDREN

The 1917 Code of Canon Law referred to parents in a number of canons and attached rights and duties as well as legal consequences to their role. As a result, the natural function of parenthood was seen as having juridical effects both in ecclesiastical and in civil law.

Among the canons of the former Code, references to parents were found in virtually all areas, from general norms, through the sacramental law, continuing in the statutes on schools and catechesis, and into the procedural rules of the Church. Yet the study at hand centres on the educational role of parents, and a close examination of the Code of 1917 clearly reveals that it contained significant legislation on these questions.

Specifically, two canons were concerned explicitly with the rights and duties of parents in the education of their children. Canon 1013,1 listed the ends of marriage, pointing out that, "The primary end of marriage is the procreation and education of children."¹

1. CIC 1917, c. 1013,1; English translation in T.L. BOUSCAREN, A. ELLIS, F. KORTH, Canon Law: A Text and Commentary, 4th revised edition, Milwaukee, The Bruce Publishing Company, 1966, p. 466.

The law then went on, in canon 1113, to describe in fuller detail what this obligation embraced.

Parents are bound by a most serious obligation to provide to the best of their power for the religious and moral as well as for the physical and civil education of their children, and also to provide for their temporal welfare.²

This canon was the central norm in the 1917 legislation on the parental role in education. Any other canons that outlined prescriptions with regard to children's upbringing were connected to or were a consequence of this law. For the most part, those duties which satisfied the overall obligation to educate were enumerated in the canons referring to the sacraments and to schools; the responsibilities of parents were not confined to broad propositions but to some degree at least, were detailed in a number of precepts of the Pio-Benedictine Code.

With these points in mind, this chapter will consider the specifics of the parental role in education as established in the precepts of the 1917 Code. Consideration will be given to the parent-education

2. CIC 1917, c. 1113; English translation in T.L. BOUSCAREN, A. ELLIS, F. KORTH, op. cit., p. 605.

canons in the old law, noting what provisions the legislation suggested in reference to the obligation of providing for the education of children. Other topics touched on by the canons related to the question at hand, such as separation of spouses, mixed marriage, and canonical penalties will be discussed in a concluding section.

A. Canon 1013,1: Marriage, Procreation and Education

According to canon 1013,1 of the 1917 Code: "The primary end of marriage is the procreation and education of children; its secondary end is mutual help and the allaying of concupiscence."³ This precept deserves careful consideration since it was the juridical foundation for all of the former Code's regulations on parents and education, particularly the precept found in canon 1113. However, it is evident that this maxim reflected the established teaching of the Church on the primary and secondary ends of marriage current at the time of the law's inception. An understanding of this theological perspective is therefore the key to the

3. CIC 1917, c. 1013,1; English translation in T.L. BOUSCAREN, A. ELLIS, E. KORTH, op. cit., p. 466.

interpretation of this canon, and important in relation to the other parent-education norms that will follow.

Since the time of St. Augustine, the sacrament of marriage had been viewed as conveying three blessings or goods to those who shared in it. These blessings were designated as: 1) offspring (bonum prolis); 2) conjugal faith or fidelity (bonum fidei); and 3) the sacrament (bonum sacramenti). Augustine's teaching was adopted by the Church and became a principal element in its theology of marriage.

In the perspective of marriage built on these three bona, particular stress was placed on the first, that is, the blessing of offspring. Pope Pius XI underlined this when he wrote, "Amongst the blessings of marriage, the child holds the first place."⁴ Using this framework, the primary purpose of marriage was thus seen as the procreation of children; this was the first and chief goal of conjugal life. As such, all other ends of

4. CC, n. 10, in TPE, vol. 3, p. 392.

marriage were seen as subordinate to this primary end and dependent on it.⁵

The truth is that matrimony as a natural institution, by virtue of the will of the Creator, does not have as its primary, intimate end the personal improvement of the couples concerned but the procreation and education of new life. The other ends, though also connected with nature are not in the same rank as the first, still less are they superior to it. They are subordinate to it.⁶

That the child holds first place among the blessings of marriage is, according to Pope Pius XI, a fulfilment of the divine command:

... indeed the Creator of the human race Himself, who in His goodness wishes to use men as His helpers in the propagation of life, taught this when, instituting marriage in Paradise, He said to our first parents, and through

5. See further J. ABBO, J. HANNAN, The Sacred Canons. A Concise Presentation of the Current Disciplinary Norms of the Church, revised edition, St. Louis, B. Herder Book Company, 1957, vol. 2, p. 164; S. WOYWOD, A Practical Commentary on the Code of Canon Law, Revised and Enlarged by C. SMITH, New York, Joseph F. Wagner, Inc., 1962, vol. 1, pp. 706-707.

6. PIUS XII, Allocution, "Vegliare con sollecitudine", to midwives, October 29, 1951; English translation in Moral Questions Affecting Married Life, Washington, D.C., National Catholic Welfare Conference, NO DATE, n. 47, p. 18.

them to all future spouses: "Increase and multiply, and fill the earth."⁷

In accordance with this line of thought, God has chosen spouses to play a definite part in the propagation of the human race. Through the legitimate union of husband and wife children are born. It has thus been said that,

[...] when parents bring a child into the world, they make use of their ability to participate in God's creative power, which they do in a human and, therefore, analogous, but nevertheless unique manner. In giving new life, they share the work of the ultimate giver of all life.⁸

However, the blessing of children entails something more than a mere reproduction of the species; it also involves bringing to birth individuals made in the image and likeness of God, created to share in his divine life.⁹ Thus, the theology of the primary end of marriage was concerned not only with the procreation of children, but also with their education. For this reason,

7. CC, n. 11, in TPE, vol. 3, p. 393.

8. W. MOLINSKI, "Parent", in K. RAHNER, gen. ed., Encyclopaedia of Theology. The Concise Sacramentum Mundi, New York, The Seabury Press, 1975, pp. 924-925.

9. CC; n. 12, in TPE, vol. 3, p. 393.

canon 1013,¹ clearly stated: "The primary end of marriage is the procreation and education of children [...]."¹⁰ The two terms were joined and were understood by the legislator as constituting a continuous responsibility. "Canon 1013 gives to the education of the child the same importance as procreation: the two in effect stand together [...]."¹¹

The fact that parents not only took upon themselves the responsibility of giving life, but also the duty to care for and educate their children has been repeatedly taught by the popes. Pope Pius XI, after having expounded on the blessing of children in marriage from the point of view of their procreation, completed his reflection on this 'first bonum by stating: "The blessing of offspring, however, is not completed by the mere begetting of them, but something else must be added,

10. CIC 1917, c. 1013,¹; English translation in T.L. BOUSCAREN, A. ELLIS, F. KORTH, op. cit., p. 466; emphasis added.

11. "Le can. 1013 accorde à l'éducation de l'enfant la même importance qu'à sa procréation: les deux sont en effet solidaires [...]." R. NAZ, "Enfants", in R. NAZ, ed., Dictionnaire de droit canonique, Paris, Librairie Letouzey et Ané, 1947, vol. 5, col. 340.

namely the proper education of the offspring."¹² Pope Pius XII in an allocution in March 1942 sounded a similar note:

Besides collaborating in giving physical life and health to the child, you must also collaborate in his education and spiritual life. ... The principal end of marriage is not only to procreate children, but to educate them and bring them up in the fear of God and in faith, so that in this collaboration, which fills your entire married life, you may find and taste that happiness, the seeds of which God has prepared and watered by His grace in the Christian family.¹³

Merely bringing children into existence was not the sole purpose of marriage according to the theology that underlay the Code of 1917. It also and necessarily included the task of caring for the infant and of rearing it to maturity because this belonged by nature to those

- - -12. CC, n. 16, in TPE, vol. 3, p. 393.

13. PIUS XII, Allocution, "Un giogo", to newly-weds, March 18, 1942; English translation in PTE, p. 326. See further IDEM, Allocution, "Vous nous avez exprimé", to the Second World Congress on Fertility and Sterility, May 19, 1956; English translation in PTM, p. 491; JOHN XXIII, Letter, "Al termine", on the occasion of the Second Catechetical Congress, April 22, 1961; English translation in TPS, 7(1961), p. 220; H. de RIEDMATTEN, "Responsible Parenthood: Theory and Practice", in J. MCHUGH, ed. Marriage in the Light of Vatican II, Washington, D.C., Family Life Bureau - United States Catholic Conference, 1968, pp. 41-42.

who brought the child into existence. "The education of children is the logical and necessary complement of their procreation; it gives them moral life as the latter gives them physical life."¹⁴ The law of the previous Code, then, found its foundation of truth in that, through the theology it mirrored, it reflected the existing order of created nature.¹⁵

All other purposes of marriage were seen as subordinate to the primary end. Indeed, the essential properties of marriage, unity and indissolubility, which were listed in paragraph 2 of canon 1013, according to the commentators also served to promote the primary task

14. J. ABBO, J. HANNAN, op. cit., vol. 2, p. 165.

15. See M. CRONIN, "The Duty of Caring for the Child", in J. LEIBELL, ed., Readings in Ethics, Chicago, Loyola University Press, 1926, pp. 847-848. Interestingly, few authors conceded grounds for nullity based solely on the failure to educate; see N. O. GRIESE, The Marriage Contract and the Procreation of Offspring, Washington, D.C., The Catholic University of America Press, 1946, pp. 29-31; F. SCHENK, The Matrimonial Impediments of Mixed Religion and Disparity of Cult, Washington, D.C., The Catholic University of America, 1929, pp. 208-209; P. CREMIN, "Conditions Contrary to the Substance of Marriage", in The Irish Ecclesiastical Record, 85(1956), p. 358.

of procreation and education.¹⁶ In this perspective, even the sacramental grace of marriage carried with it a special title to accomplishing God's design for the education of their children.¹⁷

B. Canon 1113: The Effects of Marriage - The Obligation to Educate

Based on the principle set forth in canon 1013,1, canon 1113 decreed that parents had very distinct and pronounced educational responsibilities.

Parents are bound by a most serious obligation to provide to the best of their power for the religious and moral as well as for the physical and civil education of their children, and also to provide for their temporal welfare.¹⁸

16. See further J. ABBO, J. HANNAN, op. cit., vol. 2, p. 166; C. AUGUSTINE, A Commentary on the New Code of Canon Law, St. Louis, B. Herder Book Company, 1925-1936, vol. 5, 5th revised edition, p. 18; G. BRINKMAN, "The Role of Parents as Educators in the Home", in The Family and Franciscan Ideals. Report of the Forty-first Annual Meeting of the Franciscan Educational Conference, Quincy College, Quincy, Illinois, August 9-11, 1960, Washington, D.C., The Franciscan Educational Conference, Capuchin College, 1960, vol. 41, p. 139.

17. CC, n. 40, in TPE, vol. 3, p. 397.

18. CIC 1917, c. 1113; English translation in T.L. BOUSCAREN, A. ELLIS, F. KORTH, op. cit., p. 605.

This canon indicated the features of the education which parents were to be mindful of providing for their children, not only through their own personal resources, but also by availing themselves of the means which the Church and the State offered. Proper care was to be taken for the children's physical education, that is, their life, food, and material security. Moreover, every effort was to be made to ensure that the children became worthy members of the civil society into which they had been born. Finally, parents were to make adequate provision for the proper religious and moral education of their children, on which the eternal reward or punishment of the children was understood to greatly depend. It was basically this religious and moral education that the Church wished to specify in its canonical legislation, particularly in the precepts respecting catechetical instruction.¹⁹

19. Cf. R. JANSEN, Canonical Provisions for Catechetical Instruction, Washington, D.C., The Catholic University of America, 1937, p. 111.

C. Canons 750 and 751: Baptism and the Educational Rights and Duties of Parents

One of the first duties the 1917 Code of Canon Law prescribed for parents was ensuring and procuring the reception of the sacrament of baptism for their children.²⁰ They acted as co-creators with God in the giving of life and in the bringing of that new life into the world. As a result, their next concern had to be the completion of that life in the gift of salvation, accomplished by the regeneration of baptism.²¹

Underlying the regulations on baptism in the former Code was the conviction that the assurance of the child's salvation must be the preeminent aim of all education since it is the final end and summit of human perfection. Parents, while the children were in their care and under their supervision, were to rear them with this objective in mind, and were bound to make every effort necessary to see to it that it was attained. An indispensable step to this goal was the reception of baptism. "Parents must see to it, then, that the child is

20. See CIC 1917, cc. 745, 770.

21. See CC, n. 14, TPE, vol. 3, p. 393.

baptized; to this they are obliged."²² And since the salvation of persons was concerned, this obligation was a precept of the Church's law on parents.

The 1917 Codex Iuris Canonici treated of the sacrament of baptism in canons 737-779. A significant number of these forty-two canons had a relevance and bearing on the obligations and responsibilities of parents in this matter. In particular, two of them touched upon the parental role in the education of their children, and their correct interpretation rested upon the recognition of unique parental prerogatives and obligations.

Canon 750 dealt with the delicate question of the baptism of children of unbaptized parents, a complex issue that was directly connected with the natural right of parents to direct the upbringing of their children. The canon stated:

1 Even if its parents are unwilling, the infant of infidel parents is lawfully baptized when its life is so threatened that it can prudently be foreseen that it will die before it attains the use of reason.

22. D. ENDEBROCK, The Parental Obligation to Care for the Religious Education of Children Within the Home with Special Attention to the Training of the Pre-School Child, Washington, D.C., The Catholic University of America Press, 1955, p. 36.

2 Outside the danger of death, if there is sufficient guarantee of its Catholic education, it may be lawfully baptized:

1. If its parents or guardians, or at least one of them assents;

2. If it has lost its parents, that is, its father, mother, grandfather, grandmother and guardians, or if they have been deprived of their parental right over him or have been efficiently enjoined from exercising it in any way.²³

The theological and canonical background to this precept had its sources in the Middle Ages where it sometimes happened that over-zealous Christians would baptize the children of non-Christians, without consulting their parents. It was understood that adults could not be forcibly baptized, but nothing had been said regarding their children. It was argued that since by divine command baptism is the condition of salvation, non-Christian parents did not have the right to prohibit their children from being baptized. St. Thomas Aquinas condemned this practice as contrary to the Church's tradition, since it involved an intrusion on parental prerogatives and resulted in the violation and

23. CIC 1917, c. 750; English translation in J. ABBO, J. HANNAN, op. cit., vol. 1, p. 753.

degradation of the sacramental character.²⁴ He argued that the parents' right is a natural one, and as such it is from God. The command to baptize is a precept of the divine positive law, pertaining only to the supernatural order. Since God had given no indication that the supernatural injunction was to override the natural right, the natural right of parents could not be interfered with or intruded upon.²⁵ Theologians generally followed this teaching.

On February 28, 1747, Pope Benedict XIV in his Constitution Postremo Mense²⁶ legislated in this matter and pronounced in favour of the Thomistic opinion. This teaching was the basis for canon 750 in the Pio-Benedictine Code. The document argued that the parents' right is a natural one, established for the real and eternal good of the child. The child is never to be seen in isolation, but as a component in a divinely established economy which includes duties not only to

24. Cf. H. AYRINHAC, Legislation on the Sacraments in the New Code of Canon Law, New York, Longmans, Green and Company, 1928, p. 27.

25. Cf. E. GRAF, "Parental Rights and Responsibility", in Homiletic and Pastoral Review, 37(1936-1937), pp. 850-851. See further S.Th., IIa-IIae, q. 10, a. 12.

26. See Fontes, vol. 2, n. 377, pp. 62-91.

God, but also to society and to the State. It is the right and duty of parents to educate their children so that they may fit into that order, and no outside power can ever be justified in attempting to usurp such fundamental rights.²⁷ The constitution affirmed that by the law of nature, children are under the care of their parents as long as they cannot provide for themselves, and that it would therefore be a serious transgression of natural justice to baptize infants against the will of the parents.²⁸

As a result of this teaching, the Church continued to insist on the necessity of baptism and the fulfilment of the baptismal promises, which included an education in conformity with the principles of the Christian religion. At the same time, however, the Church also sought to maintain and acknowledge the anterior, natural right of parents. Therefore, it did not and could not sanction the wholesale and random baptism of children without parental consent.²⁹ Rather, ever protective of the family's inviolable natural right to educate the children, it

27. Cf. E. GRAF, loc. cit., p. 851.

28. Cf. S. WOYWOD, op. cit., vol. 1, p. 422.

29. Cf. C. AUGUSTINE, op. cit., vol. 4, 3rd edition, p. 53.

rarely accepted, except under precise circumstances and with special cautions, to baptize the children of non-Christians. It did not generally provide for their education against the will of the parents, until such time as the children could choose for themselves and freely embrace the Catholic faith.³⁰ Canon 750 incorporated these principles into the universal law.

The constitution, and consequently the canon, admitted of two exceptions. First, the children of non-Christians could be lawfully baptized against the wishes of their parents when they were in danger of death. This danger did not have to be immediate; it sufficed to have a good reason to conclude that the child would not reach the age of reason.³¹

The law also permitted a second departure from the general principle, even when there was no danger of death. If the non-Christian parents themselves requested baptism for their children, the sacrament could be given, provided there was a sufficient guarantee they would be brought up in the Catholic religion and receive a

30. Cf. DIM, n. 39, in TPE, vol. 3, p. 358.

31. Cf. C. AUGUSTINE, op. cit., vol. 4, 3rd edition, p. 54.

Christian education. This rule also held when only one of the parents or the guardians presented the child, and the other one opposed the baptism. When Catholic sponsors presented a child of non-Christian parents for baptism, the sacrament could therefore be administered if there was a reasonable hope that the child would indeed receive a Christian education. This canon recognized the right of parents to provide for their children, but in a limited way which endeavored to take the final responsibility for the good of the children, even of non-Christian parents, away from the parents themselves.³²

The norms established in canon 750 were continued in canon 751, with reference to the baptism of children of non-Catholics or of apostates. The Church, at that time, claiming jurisdiction over all baptized persons, could compel such individuals to have their children baptized. However, the Church did not possess the physical means of enforcing its laws against those who

32. Cf. R. WIATROWSKI, The Responsibility of Parents in Presenting a Child for Baptism. The General Development of Church Law, and Recent Particular Applications of Various Dioceses in the United States of America, Roma, Pontificia Studiorum Universitas a S. Thoma Aq. in Urbe, 1981, p. 79.

who refused to obey it or to recognize the power it had received from Christ. It was therefore thought imprudent to permit the baptism of such children in the Catholic faith where there was no hope that they would receive any education in it. Consequently, the Church did not exercise its perceived right, and when both parents were non-Catholics it applied to their children the same rules as for non-Christians.³³

The law insisted on a reasonable prospect for the future Christian education of the children before it permitted baptism in the Catholic faith of the children of non-Christians, non-Catholics, or of Catholic parents who had lapsed from their faith. The parents or guardians, or at least one of them, had to consent to the baptism of the child, and provide moral certainty that it would be raised in the Catholic faith. What criteria were to be used in gaining the required moral certitude of the future Christian education of the child could not be determined by one absolute rule, because much depended on the circumstances of each individual case.³⁴

33. Cf. H. AYRINHAC, op. cit., p. 29; S. WOYWOD, op. cit., vol. 1, p. 422.

34. Cf. S. WOYWOD, op. cit., vol. 2, p. 423.

D. Canon 1374: Parents and Catholic Schools

1. The Duty of Attending Catholic Schools

The basic proposition governing the former Code's legislation on education maintained that, for all faithful Christians, formation was to commence from early childhood under the guidance of parents who had the primary responsibility to provide for it.³⁵ It was nevertheless understood that notwithstanding the best effort ~~and~~ the conscientious performance of this task by parents, at a certain juncture in the child's maturation it should attend an established school to continue its formal education under the supervision of teachers designated by the parents.³⁶ Since apart from the home, the school would have the most profound impact on the overall conditioning of the child, the parents had to be careful that the school of their choice, its curriculum, and its personnel were in conformity with their

35. See further PIUS XII, Allocution, "Davanti a questa", to mothers of Italian families, October 26, 1941; English translation in PTE, pp. 318-319.

36. Cf. D. ENDEBROCK, op. cit., p. 211. See further PIUS XII, Allocution, "Il vostro desiderio", November 4, 1945; English translation in PTE, pp. 337-338.

conscience and the programme of Christian formation they had already begun in their offspring.³⁷

It was with this attitude of mind that the 1917 Code in canon 1374 declared:

Catholic children shall not attend non-Catholic schools, neutral schools, or mixed schools, that is, schools that are also open to non-Catholics. Only the local ordinary is competent to determine, in accordance with the norm of the instructions of the Apostolic See, in what circumstances and with what safeguards to overcome the danger of perversion, the attendance of such schools can be tolerated.³⁸

The canonical foundation for this regulation flowed directly from what had been prescribed in canon 1372; that is, from the centrality of religious and moral instruction in the plan of Christian education, and from the obligation incumbent upon parents to see that their children were not only given such instruction, but also that no outside influence imperilled their full faith development. Canon 1372 decreed:

37. See further PIUS XII, Allocution, "Davanti a questa", October 26, 1941, loc. cit., pp. 323-324.

38. CIC 1917, c. 1374; English translation in J. ABBO, J. HANNAN, op. cit., vol. 2, p. 607.

1 All the faithful must from childhood be educated in such a way that not only are they taught nothing that is contrary to faith and morals, but that religious and moral training takes the first place.

2 Not only parents, but all those who take their place, have the right and the solemn duty to provide a Christian education for their children.³⁹

By this regulation of the old Code, the Church declared its belief that it was not sufficient to give Catholic children an education in which they were taught nothing contrary to Christian faith and morals, but that positive religious and moral principles were to be transmitted along with secular scholarship. Indeed, the teaching of religious knowledge and moral practice was to occupy the chief place in the child's Christian education, as it was meant to form an essential part of its life and exercise the most powerful influence on its activities.⁴⁰

39. CIC 1917, c. 1372; English translation in C. AUGUSTINE, op. cit., vol. 6, 3rd edition, p. 412.

40. Cf. H. AYRINHAC, Administrative Legislation in the New Code of Canon Law, New York, Longmans, Green and Company, 1930, p. 262; S. WOYWOD, "Law of the Code. On Schools", in Homiletic and Pastoral Review, 28(1928), p. 509. See further C. BOFFA, Canonical Provisions for Catholic Schools (Elementary and Intermediate), Washington, D.C., The Catholic University of America Press, 1939, pp. 92-93.

It was for these reasons that canon 1374 stipulated that Catholic parents were to send their children to Catholic schools when these were available, since their natural duty to provide religious and moral training was to be best accomplished, in normal circumstances, through the Christian education to be received in a Catholic school⁴¹ where it was certain they would be taught the fundamental truths of the faith.⁴² "It is a matter of obligation insofar as it is, normally speaking a necessary means to an obligatory end; but only the end is obligatory in the absolute sense."⁴³

This indicates that canon 1374 could not be read too narrowly to mean that Catholic children were always bound to attend Catholic schools. It would be exaggerated to conclude that this precept was absolute in

41. Cf. G. GALLEN, "The Promise of Catholic Education of Children of Mixed Marriages", in The Australasian Catholic Record, 38(1961), p. 150. See also L. McREAVY, "The Mixed Marriage Promise of Catholic Education", in The Clergy Review, 45(1960), p. 421.

42. Cf. W. McDERMOTT, "Responsibilities of Parents With Regard to Catholic Education", in National Catholic Education Association Proceedings, 48(1951), p. 275.

43. L. McREAVY, loc. cit., p. 421.

the sense that no departure from it was to be admitted under any condition.⁴⁴ Indeed, canon 1374 did not contain any express and positive norm that Catholic parents were bound to send their children to Catholic schools.⁴⁵ It prohibited Catholic children from being sent to non-Catholic schools, but it nowhere commanded that they be sent to Catholic schools, even where such were locally available.⁴⁶ The law accepted that it was possible to bring up children carefully in the knowledge and practice of the Catholic faith without sending them to any specific school. The attendance at a Catholic school was not so crucial to a Christian education that it was impossible to have one without the other.⁴⁷ Nevertheless, it was also clear from the nature of things and established by canon 1374 that, where the two were lawfully separated, special safeguards were to be formulated to ensure the integrity of faith and morals.⁴⁸

44. Cf. G. GALLEN, loc. cit., p. 150.

45. Cf. ibid.

46. Cf. L. McREAVY, loc. cit., p. 421.

47. Cf. G. GALLEN, loc. cit., p. 151.

48. Cf. ibid.

If the children were to attend schools at all, it was presupposed they would attend Catholic schools. Parents were bound to send their children to Catholic schools when feasible, since other types of institutions were eliminated by the very nature of things (i.e., anti-Catholic schools), or by the restrictions contained in the law excluding neutral and mixed schools.⁴⁹

The canon, nevertheless, allowed for the possibility that exceptional circumstances might create situations in which this obligation could be fulfilled without attendance at a Catholic school. Canon 1374 left to the local Ordinary the responsibility of judging when such attendance was permissible, although it did not refer to the type of circumstances that could warrant a deviation from the conduct that was normally required.⁵⁰

2. Types of Schools Forbidden to Catholic Children

The law mentioned three types of schools that were prohibited to Catholic students: the non-Catholic school, the neutral school, and the mixed school.

49. Cf. ibid.

50. Cf. ibid., pp. 150-151.

a. Non-Catholic schools

The concept of a non-Catholic school may be understood either in a general or in a specific sense. Generally, a non-Catholic school is any establishment whose obvious purpose is not the transmitting of Catholic instruction or training. As such, the term includes both neutral and mixed schools. A more specific meaning would comprehend either an anti-Catholic school, that is, an establishment whose declared fundamentals are in direct opposition to Catholic principles, or a school conducted by some non-Catholic religious denomination and where the creedal tenets of that faith would be included in the course of studies.⁵¹ Canon 1374 used the term in the latter or stricter sense since it distinguished a non-Catholic school from a neutral and mixed school, these two being separate categories and not mentioned only by way of example.⁵²

b. Neutral schools

Neutral schools are those which exclude religion from the curriculum, and which in the course of studies

51. Cf. C. BOFFA, op. cit., p. 108; D. ENDEBROCK, op. cit., pp. 212-213.

52. Cf. C. BOFFA, op. cit., p. 108.

concentrate exclusively on temporal realities.⁵³ Such institutions are more commonly known in North America as public schools, although in some documents a neutral school is called a "lay" school.⁵⁴

c. Mixed schools

A mixed school may be either one to which children of both sexes are admitted in which case the school is designated a coeducational institution or it may be one which admits pupils of any or no religious affiliation. According to the understanding utilized in this canon, a mixed school is of the latter nature, that is, one open to Catholics and non-Catholics alike.⁵⁵

In such a school, religious instruction is a unit in the course of studies but is taught separately

53. Cf. T.L. BOUSCAREN, A. ELLIS, F. KORTH, op. cit., p. 769.

54. Cf. C. BOFFA, op. cit., p. 109. See further LEO XIII, Encyclical Letter, "Nobilissima Gallorum Gens", February 8, 1884; English translation in TPE, vol. 2, n. 3, pp. 86-87; PIUS X, Encyclical Letter, "Editae Saepe", May 26, 1910; English translation in TPE, vol. 3, n. 24, pp. 120-121; DIM, n. 79, in TPE, vol 3, p. 365.

55. Cf. DIM, n. 79, in TPE, vol. 3, p. 365; C. BOFFA, op. cit., p. 109; D. ENDEBROCK, op. cit., p. 213.

according to the various faiths of the students. It may also be that in such institutions beliefs and convictions shared by all religions are taught indiscriminately to the pupils.⁵⁶

3. Reasons for the Prohibition on Attendance of Certain Schools

The types of schools mentioned in the first part of canon 1374 were forbidden to Catholic students because of the danger they were seen as posing to faith and morals.⁵⁷ Catholic youth in such schools were regarded as being in a disadvantageous, if not hazardous, situation with reference to their full development as members of the Church because of their constant exposure to non-Catholic doctrine,⁵⁸ or at least, to irreligious

56. Cf. C. BOFFA, op. cit., p. 109. See further LEO XIII, Encyclical Letter, "Militantis Ecclesiae", August 1, 1897; English translation in TPE, vol. 2, n. 16, p. 421; IDEM, Encyclical Letter, "Affari Vos", December 8, 1897; English translation in TPE, vol. 2, n. 4, p. 430; DIM, n. 79, in TPE, vol. 3, p. 365.

57. See J. MCKEE, "Mixed Marriages and Divine Law: Another View", in The Clergy Review, 49(1964), p. 427 for an interpretation of the word "perversion" as it is used in the legislation.

58. See further C. BOFFA, op. cit., p. 111.

teaching,⁵⁹ and their proximate association with non-Catholic teachers,⁶⁰ and pupils.⁶¹

It was the belief of the legislator and the cardinal principle of this statute that education in a non-Catholic institution was detrimental to a Catholic. From the law's viewpoint, Christian education was to include religious instruction and training, and by this was meant instruction in Catholic doctrine by Catholic teachers, and training in the practice of the Catholic faith in whatever grade of school and throughout the whole course of studies. This was understood as being almost impossible to realize in the categories of schools mentioned in the canon.⁶²

Since the law was given to avoid a general danger for the common good, it could neither be contravened nor suspended arbitrarily, even if the danger did not exist in an individual instance. According to the Code of

59. See further ibid.

60. See further ibid., p. 110; also D. ENDEBROCK, op. cit., pp. 213-214.

61. See further C. BOFFA, op. cit., p. 111; also D. ENDEBROCK, op. cit., pp. 213-214.

62. Cf. F. CONNELL, "The Catholic Student in a Non-Catholic College", in American Ecclesiastical Review, 140(1959), pp. 229-230; DIM, n. 80, in TPE, vol. 3, p. 365.

1917,⁶³ Catholic parents were not free, therefore, to disregard this ordinance and to decide for themselves which school their children could attend. The ecclesiastical prohibition was absolute in its tenor, although it admitted in the second part of the canon of the possibility of an exception.

4. Regulations Governing the Attendance of Catholic Children in Certain Schools When Necessary

The Code of 1917 prescribed that when children came of school age they were to be taught Christian doctrine in the classroom.⁶⁴ Parents who had the primary responsibility to see to it that their offspring received a full Christian education were to send their children to a Catholic school to receive this instruction. The law did not, however, bind parents to the impossible. When conditions made it gravely difficult to place children in a Catholic school, then the law recognized that there was sufficient reason to permit enrolment in another type of school. For this reason, the second half of canon 1374 tolerated exceptions to the general rule prohibiting

63. See CIC 1917, c. 21.

64. See CIC 1917, c. 1373.

Catholic attendance at non-Catholic schools,⁶⁵ with certain qualifications and restrictions.

The canon set down three conditions to be satisfied for a legitimate exception to the universal norm to be authorized. Firstly, the canon was very unmistakable in its statement that it belonged solely to the local Ordinary to judge situations of exception to the prohibitive precepts in the first part of the canon.⁶⁶ Secondly, the local Ordinary alone was to decide under what conditions children could be permitted to attend any but a Catholic school, as well as determine which safeguards were to be utilized to preserve their faith from harm. Thirdly, the local Ordinary was to exercise this power either in passing judgment in each individual case or simply by establishing general precepts applicable to his territory. In his decisions or regulations, however, he was to be guided, as the canon

65. The term "non-Catholic school" is here used in its broadest and most general sense.

66. See further C. BOFFA, op. cit., p. 113; also [ANONYMOUS], "Catholic Schools and the Duties of Parents", in Ecclesiastical Review, 105(August 1941), pp. 148-149.

pointed out, by the instructions of the Apostolic See in this matter.⁶⁷

From the perspective of the parents, since the local Ordinary alone was to make the decision, the parents were obviously prohibited from doing so by themselves or on their own authority. They had the duty by law to consult him, a duty that was both strict and serious.⁶⁸ The rule, nonetheless, did admit of some variations. One exception to this was when the local

67. Cf. C. BOFFA, *op. cit.*, p. 113. For examples of such instructions, see S.C. de Prop. Fide, Instr. (ad Vic Ap. Societ. Mission. ad Exteros), "Hoc in primis curandum", a. 1659, in *Fontes*, vol. 7, n. 4463, pp. 19-22; S.C. Prop. Fide, Litt. Encycl. (ad Ep. Hiberniae), "Quod D. N. Iesus Christus", September 18, 1819, in *Fontes*, vol. 7, n. 4714, pp. 240-241; S.C. de Prop. Fide, Litt. (ad Archiep. Hiberniae), "Quantam negotii", January 16, 1841, in *Fontes*, vol. 7, n. 4787, pp. 308-309; S.C. de Prop. Fide, Litt. Encycl. (ad Ep. Orient.), "Venne recentemente", March 20, 1865, in *Fontes*, vol. 7, n. 4863, p. 401; S.C.S. Off., Instr., "Tampridem ad sacram hanc congregationem", March 21, 1866, in *Fontes*, vol. 4, n. 992, pp. 272-276; S.C. de Prop. Fide, Instr. (ad Vic. Ap. Indiar. Orient.), "Quandoquidem aucto extremis temporibus", September 8, 1869, in *Fontes*, vol. 7, n. 4876, pp. 416-428; S.C.S. Off., Instr. (ad Ep. Stat. Foeder. Americae Septentrion.), "Pluries S. Congregatio de Propaganda Fide", November 24, 1875, in *Fontes*, vol. 4, n. 1046, pp. 362-365; S.C. de Prop. Fide, Litt. Encycl. (ad Ep. Canad.), "Falso quorundam mentibus", March 14, 1895, in *Fontes*, vol. 7, n. 4932, pp. 538-539; S.C. Ep. et Reg., Instr., "A tutti è noto", July 21, 1896, in *Fontes*, vol. 4, n. 2031, pp. 1078-1082.

68. See further D. ENDEBROCK, *op. cit.*, pp. 220-222 for applications of this principle.

Ordinary, having issued regulations disclosing his mind in the matter (i.e., what reasons permitted the child's attendance at other than Catholic schools, and what safeguards had to be put into effect), dispensed parents from seeking his permission in each case, with the understanding that they would follow the regulations. In all other situations, the parents were to seek the authorization of the local Ordinary when they intended to send their child to a prohibited school instead of to a Catholic one.⁶⁹

The canon stated distinctly that the local Ordinary was to assess the reasonableness of a request to attend a non-Catholic school in accordance with the instructions of the Apostolic See. These norms indicated that if no Catholic school was available, or if there was one but it did not correspond to the pupil's need, then cause existed for allowing the child to enroll in a non-Catholic one. Further, the fact of the Catholic school's being filled to capacity, which virtually amounted to having no school at all, or a civil law which

69. See further S. WOYWOD, op. cit., vol. 2, p. 152; F. CONNELL, loc. cit., pp. 231-235; [ANONYMOUS], "Catholic Schools and the Duties of Catholic Parents", loc. cit., p. 150. See also T.L. BOUSCAREN, A. ELLIS, F. KORTH, op. cit., p. 770 for a contrary opinion.

compelled parents to send their children to the public schools, were additional circumstances which could provide grounds for the allowance of Catholic attendance at non-Catholic schools. In every instance, there was to be a genuine requirement or need, and not only a perceived one. In evaluating this necessity, the fundamental consideration was to be the tenets of Christian faith and morality, and not individual preference, styles, or pretended social conveniences.⁷⁰ Even if parents were fairly convinced that they could institute the necessary securities to watch over their children's faith and morals, they still were not free to send them to other than a Catholic school without a commensurately serious reason.⁷¹

It was also stipulated in the second half of canon 1374 that the local Ordinary was to ascertain the safeguards invoked to protect the child's faith when the attendance of such schools was permitted. It belonged first and foremost to the parents to assure that all established precautions were carefully observed. Among these, they were to make regular inquiries into the

70. Cf. C. BOFFA, op. cit., p. 115.

71. Cf. D. ENDEBROCK, op. cit., p. 223.

instruction given to their children while examining them on the lessons received in class. They were to preserve their children from harmful contacts with non-Catholics and guard against their having access to writings and textbooks contrary to or critical of the faith. Most importantly, children and youth in non-Catholic schools were to receive catechetical instruction from a Catholic teacher after regular school hours.⁷² The parents were to make certain that the child received this catechetical instruction outside the school, as well as see that it received the sacraments and practiced the faith.

These measures did not suggest either an approval or encouragement of education for Catholic children in other than Catholic schools.⁷³ Their seriousness was emphasized in the various curial pronouncements referring to parents who failed to furnish the requisite Christian education for their children with no other reason for

72. Cf. C. BOFFA, op. cit., p. 118. See also F. CONNELL, loc. cit., p. 234.

73. Cf. C. BOFFA, op. cit., p. 119.

doing so than sheer neglect of duty.⁷⁴ Such parents, if pertinacious and unrepentant, were to be denied sacramental absolution.⁷⁵ This exclusion from absolution was to continue as long as they were contumacious, but it was to be granted as soon as the parents were repentant and seriously promised amendment. On the other hand, absolution was not to be refused to parents for the simple fact that they sent their children to prohibited schools if they did so for a grave reason approved by the local Ordinary and took the required care to remove all danger to faith and morals.⁷⁶ It is to be noted that these provisions were for the internal forum only. The denial of absolution to parents did not create an excommunication nor a reserved case of any kind.

74. Cf. D. ENDEBROCK, op. cit., p. 217.

75. Cf. T.L. BOUSCAREN, A. ELLIS, F. KORTH, op. cit., pp. 770-771. See also D. ENDEBROCK, op. cit., pp. 217-218; E. DUNNE, "Catholic Parents Versus Catholic Schools", in The Australasian Catholic Record, 43(1966), pp. 130-131; A. CARR, "Refusing Absolution to Negligent Parents", in Homiletic and Pastoral Review, 63(1962-1963), pp. 1068; 1070.

76. Cf. H. AYRINHAC, Administrative Legislation..., op. cit., p. 266.

E. Canon 854,4: First Communion and First Confession and the Role of Parents

The regulations on the administration of communion to children were outlined in canon 854 of the 1917 Code.⁷⁷ In particular, paragraphs 4 and 5 of the canon were central in determining the rights and duties of parents in reference to the first reception of the Eucharist by their children.⁷⁸

Paragraph 4 mandated that the judgment about the sufficient disposition of children for first communion, that is the sufficiency of their knowledge of the sacrament and of the truths required for its proper reception, and of the devotion demanded of them, was to

77. For a more complete treatment of this question from the perspective of the Code of 1917, see further M. CROTTY, The Recipient of First Holy Communion, Washington, D.C., The Catholic University of America Press, 1947, ix-142 p.

78. "De sufficienti puerorum dispositione ad primam communionem iudicium esto sacerdoti a confessionibus eorumque parentibus aut iis qui loco parentum sunt. "Parocho autem est officium advigilandi, etiam per examen, si opportunum prudenter iudicaverit, ne pueri ad sacram Synaxim accedant ante adeptum usum rationis vel sine sufficienti dispositione; itemque curandi ut usum rationis assecuti et sufficienter dispositi quamprimum hoc divino cibo reficiantur." CIC 1917, c. 854,4 and 5.

be made by a priest from their confessions and by their parents. This did not necessarily imply priority of right for the confessor, but indicated only the greater weight his intervention generally had.

The determination to be made in such instances pertained to the child's mental development, its instruction and moral disposition. The parents who had daily contact with the child were deemed well situated to observe and evaluate its intellectual advancement and the extent of its training. The confessor, when the child came to him, had a similar opportunity, and he was thus qualified to correct or agree with the parents' judgment. In any case, he alone was to pronounce on the internal dispositions of the child. In the event of a conflict, unless the parents were clearly unreasonable, the confessor did not normally admit to the Eucharist a child they considered unready. Nor were parents to send the child to communion against the advice of the priest.

The canon referred to the intervention of both the confessor and the parents without necessarily requiring their consent. Indeed, the decree Quam Singulari, upon

which this canon is based, in its fifth principle refers to the consent of parents or of the confessor.⁷⁹

In truth, the child had an independent right to the Eucharist as soon as it fulfilled the conditions determined by the Church for its reception,⁸⁰ but in practice assistance was needed in order to exercise this right. Thus, the law provided that this help was to be given by the parents or the confessor, or both. As a result, parents had the obligation to prepare their children for first communion, seeing that the candidates knew the principal truths of the faith and understood the eucharistic bread to be the body of Christ.⁸¹ Yet, they also had the right to assess the disposition for the reception of Eucharist of individual children, even if they had not reached the legal age of discretion. If the

79. "Semel aut pluries in anno curret parochi indicere atque habere Communionem generalem puerorum, ad eamque, non modo novensiles admittere, sed etiam alios, qui parentum confessariive consensu, ut supra dictum est, iam antea primitus de altari sancta libarunt." SACRED CONGREGATION OF THE SACRAMENTS, Decree, "Quam Singulari", August 8, 1910, in AAS, 2(1910), n. V, p. 582.

80. See CIC 1917, c. 853.

81. Cf. R. JANSEN, op. cit., pp. 114-115.

child was found to be sufficiently mature and disposed, parents had the right to take the child with them to communion privately in their own parish or elsewhere.

By its use of the term "confessor", paragraph 4 was the only section of this canon to make any reference to the sacrament of penance. It implied the child's reception of the sacrament of penance before its admission to eucharist. This deserves closer scrutiny, because it had direct consequences on the parents' duties.

The law directed that for a child, the obligation of annual confession began to bind when he or she was capable of committing mortal sin, which the norms presumed to be around seven years of age, the age of reason. The child was not excused from this duty because it had not made its first communion. Since, however, it could attain the necessary discernment, and maturity to receive the Eucharist before the legal age of discretion, it was bound by the precept of annual confession even though it had not completed seven years of age. Parents

and others who acted in their place were responsible for seeing to it that the child complied with this duty.⁸²

This rule did, however, have a very precise application. Canon law and moral theology had long maintained that this regulation did not oblige anyone who had not committed mortal sin, although annual confession had been urged for other reasons.⁸³ The references to the "confessor" in both Quam Singulari and canon 854 are to be interpreted from this viewpoint. Each of these texts stated that the parents and confessor were to determine whether the child had the necessary maturity to be admitted to the Eucharist, although, as indicated, the decision did not need to be a joint one, but could be made by either the confessor or the parents. If the child had not committed a mortal sin, there was no obligation canonically to receive the sacrament of penance before first communion. Parents, therefore, were free to present their child for the Eucharist when they determined he or

82. Cf. J. ABBO, J. HANNAN, op. cit., vol. 2, p. 34.

83. Cf. F. BUCKLEY, "Parents, Children, and First Communion", in American Ecclesiastical Review, 156(1967), p. 400; C. AUGUSTINE, op. cit., vol. 4, 3rd edition, p. 348; J. ABBO, J. HANNAN, op. cit., vol. 2, pp. 33-34.

she was ready, without consulting the confessor and without requiring the child to receive penance beforehand.⁸⁴

Canon 854, having affirmed the ability of confessors or parents to determine the suitability of children to receive the Eucharist, took care in paragraph 5 to point out the rights and duties of the pastor in this matter. The law did not give the pastor the right, much less the exclusive one, to admit children to first communion. Nor was the pastor to turn away from communion a child considered by its parents or confessor to be adequately disposed, unless he had objective reasons for doubting this disposition. He was within his rights, however, in refusing a child who asked for the Eucharist in the absence of a decision made by either the confessor or parents. The parents were not required to inform him of the fact of admission to first communion although such notification was recommended. The pastor was obliged by this canon to ensure children received communion within a month or two after reaching the required age. However, he could only urge; he had no authority to command or to compel anyone. In addition, it was his responsibility to

84. Cf. F. BUCKLEY, loc. cit., pp. 400-401.

provide that children received the Eucharist with a proper disposition. This duty allowed him to test the claim of the confessor or parents as to a child's readiness for first communion.

F. Canon 1335: Parental Responsibilities in the Catechetical Instruction of Children Attending Non-Catholic Schools

The Code of 1917 provided several canons as directives for the catechetical instruction of children who did not receive such teaching in the course of their regular programme of education. These canons were primarily addressed to the pastor who had the foremost responsibility in supplying catechetical instruction.⁸⁵ In particular, they required the pastor to prepare children for the reception of the sacraments of penance, confirmation and Eucharist,⁸⁶ and to continue their catechetical instruction thereafter.⁸⁷

The pastor was not, however, the only person the law charged with duties in regard to catechetical instruction. Canon 1335 stated:

85. See further CIC 1917, c. 1329.

86. See further CIC 1917, c. 1330.

87. See further CIC 1917, c. 1331; also R. JANSEN, op. cit., p. 97.

Not only parents, but also those who take the parents place, as well as masters and sponsors, are obliged to see to it that their subjects and those entrusted to them receive catechetical instruction.⁸⁸

In particular, this canon bound parents with children in non-Catholic schools, whether licitly or illicitly. When a child attended a school other than a Catholic one, parents were responsible for seeing to its Christian training and education outside the classroom.⁸⁹

Two fundamental reasons urged this obligation. First, the child's spiritual growth and proper character development required persistent and sound direction. Second, the child needed special assistance to balance any dangers it might be forced to face in a non-Catholic institution. The child did not have the benefit of the full-time, day-long religious environment and the systematic programme of catechetical instruction to be found in a Catholic school. Since it found itself in an atmosphere devoid of if not contrary to religious truths

88. CIC 1917, c. 1335; English translation in C. AUGUSTINE, op. cit., vol. 6, 3rd edition, p. 349.

89. See further BISHOPS OF THE UNITED STATES, Statement, "The Child: Citizen of Two Worlds", November 17, 1950, in PLUS, vol. 2, n. 12, p. 99.

and practice, parents were obliged to increase their efforts to educate it in religious beliefs and observances.⁹⁰

Specifically, canon 1335 required that parents whose children did not receive catechetical instruction in school observe the regulations which outlined the programme of religious instruction. They were to enroll their offspring in the general classes, and likewise at the proper time in the classes in preparation for the reception of the sacraments of Eucharist, penance and confirmation. Finally, they were to see to it that their children attended the advanced classes subsequent to the reception of these sacraments. Since these were conducted for the advantage and benefit of children who attended non-Catholic schools, parents were to be particularly diligent in the accomplishment of this duty.⁹¹

While no penalties were prescribed by the law for parents who failed to send their children to the parish catechetical classes, it was within the Ordinary's authority to determine suitable penalties for parents who

90. Cf. D. ENDEBROCK, op. cit., pp. 228-229.

91. Cf. R. JANSEN, op. cit., pp. 113-114.

were deliberately delinquent and obstinate in this regard.⁹²

Finally, the canon permitted other parties to see to the child's religious and moral instruction if the parents were negligent in the performance of their duty. In a particular way, whenever a child's Christian education had not been or could not be supplied by its parents or those who acted in their place, then it became the responsibility of sponsors to teach the child and likewise to provide for its attendance at the catechetical classes.⁹³

G. Other Questions

There remain a few selected areas to consider in a comprehensive study of the rights and duties of parents in the Christian education of their children as outlined in the Code of Canon Law of 1917.

1. The Mixed Marriage Promise of Catholic Education

One facet of parental involvement in the education of children carefully regulated by the law of the Code

⁹². Cf. ibid., p. 114.

⁹³. Cf. ibid., pp. 116-117.

concerned the Catholic education of offspring of a mixed marriage.⁹⁴ Canon 1061, 1 provided:

1. The Church does not dispense from the impediment of mixed religion unless:

1. There are just and grave reasons therefor;

2. The non-Catholic party shall have given a guarantee to remove all danger of perversion from the Catholic party, and both parties shall have given guarantees to baptize and educate all the children in the Catholic faith alone;

3. There exists a moral certainty that the guarantees will be fulfilled.⁹⁵

Catholic parents in the exercise of their function in education have the right and duty of raising their children in the Catholic faith. This obligation, in fact, results from their faith and baptism, which confer an apostolic duty.⁹⁶

94. Mixed marriage is here taken to mean both a marriage of mixed religion and one of disparity of cult.

95. CIC 1917, c. 1061,1; English translation in T.L. BOUSCAREN, A. ELLIS, F. KORTH, op. cit., p. 526. For a more complete treatment of this question from the perspective of the Code of 1917, see further F. SCHENK, The Matrimonial Impediments of Mixed Religion and Disparity of Cult, Washington, D.C., The Catholic University of America, 1929, xvi - 306 p.

96. Cf. B. O'HIGGINS, "Mixed Marriages: The 'Cautiones' II", in The Irish Theological Quarterly, 41(1974), p. 283.

The parent who is in possession of the truth has the obligation to communicate that truth to the child and from this he cannot abdicate. The obligation springs in the concrete from the parent's baptism, his confirmation, and from the sacrament of marriage and from the fact of his voluntary acceptance of the child.⁹⁷

For this reason, the duty applies not only in the case where both parents are of the Catholic faith, but also where only one is a member of the Catholic Church, as in a mixed marriage. Such a parent is bound to transmit the faith to the children, and to instruct them in the true religion. In the case of a mixed marriage, the Catholic parent has a right and duty, as much as the Catholic couple, to instruct the children in the Catholic religion, a prerogative and responsibility which extends to every child.⁹⁸

It was with this understanding that canon 1061,1,2¹ prescribed that both parent in a mixed marriage were to promise to have the children baptized and educated in the Catholic faith. This requirement derives

97. L. ORSY, "The Complex Question of Mixed Marriages", in The Heythrop Journal, 4(1963), p. 379; emphasis in the original.

98. Cf. L. ORSY, "The Religious Education of Children Born From Mixed Marriages", in Gregorianum, 45(1964), p. 747.

from two sources. First, the law stipulated this guarantee in consequence of the solemn obligation upon the parent from both the natural and divine law to educate the children in true religion. This truth is possessed in its objective fullness by the Catholic parent. Second, this duty imposed by the canon is demanded by divine law because of the danger mixed marriage presents not only to the faith of the Catholic party, but also to the propagation of error among the offspring. The Catholic parent, accordingly, was required to make the promise to preserve his or her own faith and to convey it to his or her own children as a counter-balance and protection against the danger of perversion, from which obligation he or she could not be dispensed. The natural and divine law obligations of the Catholic party were, as a result, reinforced and secured by the canonical requirement of the mixed marriage promise of Catholic baptism and education.⁹⁹

On the other hand, the non-Catholic parent was not totally excluded from the child's education. He or she was also, according to the provisions of the canon, to guarantee the Catholic baptism and upbringing of all the

99. Cf. B. O'HIGGINS, loc. cit., p. 283.

children born of the marriage. Commentators on the law allowed that the non-Catholic's role in the Catholic education of the children was not a merely passive one, involving acquiescence to the Catholic rearing of the offspring by the Catholic parent and nothing more. The non-Catholic parent was also entitled to educate each child. He or she had the right and duty, therefore, to educate the children, both physically and civilly. Further, because of the basic right of all parents to educate their children in religion, the non-Catholic parent in a mixed marriage had a role to play in the religious instruction of the offspring. Not only was he or she not to place any obstacle in the way of the Catholic formation of the children, but the non-Catholic parent was to do all that was possible to promote their spiritual well-being.¹⁰⁰

The particulars of the mixed marriage promise of Catholic education were fairly straightforward. In entering upon the guarantees required by the canon, both parties agreed to have all the children of the union baptized and raised in the Catholic faith alone. This was to be accomplished by the usual means. Normally then, it

100. Cf. L. ORSY, "The Religious Education of Children...", loc. cit., pp. 747-748.

is correct to interpret the promise required by canon 1061,1,2^o as inferring a duty to enroll the children in a Catholic school, where one was available. The obligation of sending the children to a Catholic school did not derive directly from the promise by the parties to the mixed marriage. They had the duty from natural and divine law to see to the Catholic education of their children. The Catholic school was deemed to be the ordinary means by which parents fulfilled this responsibility, but it was not held to be the only means.¹⁰¹ It was possible to bring up children attentively in the knowledge and practice of the faith without sending them to any school, or by enrolling them in a non-Catholic school where necessary and yet taking the other means to ensure they learned, understood and practiced the Catholic religion.¹⁰²

These, however, were exceptions to the general rule. The promise that was demanded by canon 1061,1,2^o was therefore to be understood as indicating an obligation to send any children of mixed marriages to a Catholic school if one was available. The fact that

101. See further CIC 1917, c. 1374.

102. Cf. L. McREAVY, loc. cit., pp. 421-422.

attendance of Catholic schools afterwards were to become seriously inconvenient, if not impossible, was not to be a factor of consideration when the guarantee was being given. Undeniably the promise alluded to a duty to furnish a Catholic education, and this inferred attendance at a Catholic school, where such was available.

2. The Separation of the Spouses and the Education of Children

The issue of the full Christian education of children by parents also appeared in the Code of 1917 in connection with the law on the canonical separation of spouses. Among the legitimate causes for such a separation, canon 1131,1 listed the education of the children as non-Catholics by one of the parties. Such an education was understood to be not only one devoid of any formation in Catholic practice or instruction in Catholic principles, but also to include a training in a non-Catholic religion by either a sectarian school or tutor. Where one of the spouses compelled this type of education for his or her children against the wishes of the other parent, then the law recognized that a licit reason existed to discontinue cohabitation. The canon made this allowance on the basis that the innocent party was not required to acquiesce to a violation of the divine law or to place his or her faith and the faith of

the children in jeopardy for the sake of the community of conjugal life.

The Christian education of children was also a primary consideration in the 1917 law in respect to the provisions following the separation of spouses, regardless of the cause for separation. Canon 1132 ruled that when separation occurred, the children were to be educated by the innocent party if both parties were Catholic. If one of the parties was a non-Catholic, the law required that the education of the children be supervised by the Catholic parent. The Ordinary, however, in either case, was free to make other provisions in consideration of the children's welfare, and on condition that their Catholic education was duly provided for. Thus, children of a mixed marriage could be entrusted to the non-Catholic parent if it was deemed to be to their advantage, and if their Catholic upbringing was guaranteed.¹⁰³

3. Canonical Penalties

The 1917 Code of Canon Law emphasized the importance of the parental obligation to furnish a

103. Cf. C. AUGUSTINE, op. cit., vol. 5, 5th revised edition, p. 378.

Christian education for their children by attaching a canonical penalty of excommunication latae sententiae reserved to the Ordinary to those who knowingly and deliberately neglected or disregarded this responsibility. The specific infractions and violations were listed in canon 2319, 1, 2⁻⁴:

2. Those who contract marriage with the implied or express agreement that all or some of the children shall be educated outside the Catholic Church.

3. Those who knowingly dare to offer their children to non-Catholic ministers for baptism;

4. Parents or those who hold their place, if they knowingly offer children to be educated or brought up in a non-Catholic denomination.¹⁰⁴

Those guilty of any one of these transgressions incurred the excommunication, and were, according to paragraph 2 of this canon, also suspected of heresy.

To contract marriage with the explicit or implied agreement that some or all children were to be educated outside the Catholic faith, was an offence against divine and ecclesiastical law.¹⁰⁵

104. CIC 1917, c. 2319, 1, 2⁻⁴; English translation in C. AUGUSTINE, op. cit., vol. 8, 3rd edition, pp. 297; 299; 300.

105. Cf. S. WOYWOD, op. cit., vol. 2, p. 596.

Although such an agreement generally occurred more frequently in mixed marriages, the penalty comprehended all marriages contracted under such an understanding. If such a pact was made after marriage, the offence fell under canon 2316 of the 1917 Code.¹⁰⁶

The infraction in number 3 was committed by parents who with full knowledge had their children baptized by a non-Catholic minister. The excommunication was incurred by the parents, as the canon spoke of those who offered their children; it did not apply to other persons.¹⁰⁷ Further, the precept supposed full knowledge of the law, of the censure attached to it, and of the fact that the one to whom the parents applied was a non-Catholic minister. Finally, the penalty was imposed only where the parents acted in complete freedom.¹¹³ Since the norms specified "daring", if a parent did so reluctantly, the penalty was not incurred.

106. Cf. ibid.

107. Cf. C. AUGUSTINE, op. cit., vol. 8, 3rd edition, p. 299.

108. Cf. H. AYRINHAC, Penal Legislation in the New Code of Canon Law, revised by P. LYDON, New York, Benziger Brothers, Inc., 1936, p. 170.

The final part of paragraph 1, number 4, concerned parents or those who acted in their place who knowingly handed over the children to be educated in a non-Catholic religion. Here the law applied not only to parents, but also to whosoever took their place, as for example, guardians and tutors. The act which was declared punishable in this law was that of educating or bringing up the child in a non-Catholic religion. This was done by sending the child to a sectarian school that did not attempt to observe neutrality in religious matters, or by securing private tutors and teachers for the child to instruct it in a non-Catholic tradition. Once again, the canon presupposed that parents or guardians recognized and were aware of the non-Catholic tendency or perspective of the school or teacher.¹⁰⁹

Summary

After establishing that parents have the right and obligation to provide for the Christian education of their children, the Code of Canon Law of 1917 proceeded to regulate certain specific activities where parents

109. Cf. ibid.; C. AUGUSTINE, op. cit., vol. 8, 3rd edition, p. 300.

concretely exercised and fulfilled this primary prerogative and duty which was theirs. The majority of these canons focussed on the sacramental life of the child, particularly its baptism, first confession and first communion, attendance at Catholic schools and catechetical instruction. Related norms of the Code applied the general principles to the areas of mixed marriage and the canonical separation of spouses; they also accented the careful and faithful performance of this parental responsibility by attaching a canonical penalty to the conscious and deliberate neglect of this obligation.

In particular, the old Code obliged parents:

- to provide for the religious and moral, as well as the physical education of their children (c. 1113);
- to take care not to send their children to non-Catholic, neutral, or mixed schools (c. 1374);
- to send their children to Catholic schools whenever and wherever this was possible (c. 1374);
- to seek the authorization of the local Ordinary before sending their children to a non-Catholic school (c. 1374);

- to ensure that whatever safeguards were established as a consequence of their children's attendance at non-Catholic schools were carefully maintained and observed (c. 1374);
- to see that their children attending non-Catholic schools received catechetical instruction, and were prepared for the sacraments, and practiced their faith (c. 1335);
- to judge the sufficiency of their child's disposition for reception of first communion, and to prepare it for reception of the Eucharist (c. 854,4);
- to promise, in a case of a mixed marriage, that all children born of the union would be baptized and educated in the Catholic faith (c. 1061,1,2).

Except for canon 1372,2, the Code of 1917 did not directly express the rights of parents in the education of their children. Nevertheless, the various obligations specified by this law were understood to entail consequent prerogatives. For example, parents had the duty to assess their child's disposition for reception of the Eucharist and to prepare it for first communion. As a result they had the corresponding right to bring the

child they judged prepared and properly disposed with them to communion, even if it had not yet reached the legal age of reason. Moreover, the right of parents to supervise their children's upbringing though unstated was implicit in the Code's legislation on baptism, as evidenced in the principles underlying canons 750 and 751. In more than a score of canons, the fundamental position, and thus the rights of parents in the education of their children, was specified and stressed.

The norms of the 1917 Code of Canon Law were built on the principles established in the natural law and the divine positive law. The teachings of the Second Vatican Council would establish these parental rights and duties within the larger scheme of the mission of the people of God.

THE TEACHING OF VATICAN II RELATING TO THE
EDUCATION OF CHILDREN

An examination of the canons of the 1917 Code reveals that the ecclesiastical law places a notable emphasis on the central role of parents in the education of their children. From canon 1013,1 which assigns education with procreation as the primary end of marriage, through the canons on Catholic schools and catechesis, the work of parents in the instruction and training of their children is consistently emphasized. These norms generally build on and specify the principles established in the natural law and the divine positive law with regard to the rights and duties of parents in the education of their offspring.

The canons, although highlighting the primacy of the parental prerogatives and the seriousness of these obligations, nevertheless allot the parents a predominately passive role. While it is their duty to oversee their children's education, the actual task of education, however, is often delegated to other agencies.

More importantly, nowhere does the old law situate this task within the broader context of the overall mission of the Church to evangelize. The work of parents is not considered from the perspective of the sacramental and ecclesial nature of marriage; this results in a rather static interpretation of the parental role.¹

For this reason, the vocation attributed to parents in the mission of the Church by the Second Vatican Council contrasts vividly with what was said of them in the teachings previous to the Council and in the prescriptions of the 1917 Code.² Within the teaching of Vatican II, parents are consecrated by the sacrament of marriage to a specific function: they are active co-workers in the salvific and evangelizing mission of the Church, a service they perform by the accomplishment of their educational duties toward their children.

1. Cf. D. MARTIN, "The Function of the Family in the Salvific Mission of the Church", in OR (Eng.), n. 10 571, March 5, 1979, p. 9.

2. Cf. D. BOUREAU, La mission des parents. Perspectives conciliaires, Paris, Les Editions du Cerf, 1970, p. 308.

In the sixteen documents issuing forth from the Council, an emphasis is discernable wherein the family, the "domestic Church" (domestica Ecclesia)³, especially through the sacramental mission of parents, becomes the primary instrument in the transmission of the faith and in value formation.⁴ In the vocation of the people of God, parents are witnesses of the faith to one another and to their children.⁵ From this ecclesial and sacramental basis, the parameters of the educational role are newly formulated and recast, particularly in the Declaration on Christian Education, Gravissimum Educationis.

In respect to the vocation of parents, the Second Vatican Council was most innovative.⁶ Its body of teaching

3. LG, n. 11, p. 29. All quotations from the documents of the Second Vatican Council are taken from the English translation by W. ABBOTT, gen. ed., The Documents of Vatican II, J. GALLAGHER, translation ed., Piscataway, New Jersey, Association Press, New Century Publishers, Inc., 1966, xxi - 792 p.

4. Cf. W. TOBIN, "The Rights and Obligations of Parents with Reference to the Religious Formation of their Children", in Ius Populi Dei, Roma, Università Gregoriana Editrice, 1972, vol. 3, p. 268.

5. LG, n. 11, p. 29.

6. Cf. D. BOUREAU, op. cit., p. 308. D. MARTIN, loc. cit., p. 9 argues that the innovation was in fact a return to the early Church's theology of marriage, family, and parenthood.

becomes the central element in the construction of the new canons on the responsibility of parents in the education of children. A critical investigation of the conciliar statements on the family, parents and education of children establishes a necessary context prior to any consideration of the revised Code of 1983.

A. The Dogmatic Constitution on the Church - Lumen Gentium

Among the first and most important documents of the Second Vatican Council is the Dogmatic Constitution on the Church, Lumen Gentium, which was promulgated at the conclusion of the third session on November 21, 1964.

Several themes that appear in the document contribute the theological groundwork for an expanded understanding of the duty of parents within the context of the Church's overall mission. Not least of these is the formulation in Chapter II of a theology of the people of God, particularly in articles 10 to 12. These articles form a unit which describe the new dignity of the people of God in the light of its call to participate in the priestly, prophetic, and royal office of Christ. The sharing in the royal function is only briefly developed

but the notion of priesthood is given extensive treatment in articles 10 and 11.⁷

This theological framework of the triple function is repeated and given particular specification in Chapter IV of the document where, among other elements, the participation of the laity in this threefold function is outlined in articles 34, 35 and 36. As members of the laity, Christian parents, in the exercise of the vocation that is theirs in the rearing and education of their children, discharge a unique aspect of this triple mission in which every member of the Church participates.⁸

An examination of each of these three functions, as presented in Lumen Gentium, establishes the

7. Cf. A. GRILLMEIER, "Dogmatic Constitution on the Church. Chapter II: The People of God", translated by K. SMYTH, in H. VORGRIMLER, gen. ed., Commentary on the Documents of Vatican II, Montreal, Palm Publishers, 1969, vol. 1, p. 156; also P. DELHAYE, "Quelques thèmes majeurs du Synode 1980. La famille chrétienne 'église domestique'", in Esprit et Vie, 91(1981), p. 115.

8. Cf. C. BRUSSELMANS, Les fonctions de parrainage des enfants aux premiers siècles de l'Eglise, Washington, D.C., The Catholic University of America, 1964, p. 10. Similar sentiments are echoed in A. DOUGHERTY, "The Parent's Challenge in Christian Development in the Home", in Spiritual Life, 16(1970), p. 270; UNITED STATES FAMILY LIFE DIRECTORS, Statement, "The Mission of the Family", December 26, 1976, in OR (Eng.), n. 8 465, February 24, 1977, p. 12.

theological foundation for a wider interpretation of the parental role as envisioned by the Fathers of Vatican II. This frame of reference forms the basis for what is contained in other conciliar and post-conciliar documents concerning parents and the instruction and training of children.

1. The Church and the Priestly Office

a. Article 10: The priesthood of the people of God

The general assertions in article 10 on the nature of the common priesthood of the faithful furnish the necessary background material for an examination of its application to marriage and the family in article 11.

Christ the Lord, High Priest taken from among men (cf. Heb. 5:1-5), 'made a kingdom and priests to God his Father' (Apoc. 1:6; cf. 5:9-10) out of this new people. The baptized, by regeneration and the anointing of the Holy Spirit, ~~are consecrated~~ into a spiritual house and a holy priesthood.⁹

By baptism all Christians participate in the one priesthood of Jesus Christ: through him they offer themselves to God in the works and prayers of a holy

9. LG, n. 10, pp. 26-27.

life, and they witness the gospel before the world.¹⁰ The faithful express their priestly dignity by their participation in offering the Eucharist.

This priesthood of the people of God is realized fundamentally in the Church as a whole. As a community, the Church is the focus for the full worship of God, of public witness to His works, to salvation in Christ and to the hope of eternal life. This priesthood is not, however, exclusively communal; the whole life of each baptized person is also priestly, in a genuine and real sense, even in the reception of the sacraments which are proper acts of Church life.¹¹ The witness of the gospel in their vocation and work, and the sacrifice of a holy life in the circumstances of their everyday lives, constitute each baptized person a priest in his or her own right within the priestly people of God.¹²

10. Cf. K. McNAMARA, ed., Vatican II: The Constitution on the Church. A Theological and Pastoral Commentary, London, Geoffrey Chapman, 1968, p. 114.

11. Cf. A. GRILLMEIER, op. cit., p. 157.

12. See further K. McNAMARA, op. cit., pp. 115-116, and C. O'DONNELL, "The People of God", in A. FLANNERY, ed., Vatican II: The Church Constitution, Chicago, The Priory Press, 1966, p. 56, for a synthesis of the requisite elements of priesthood, in comparison to the priesthood of Israel.

b. Article 11: The domestic Church

In article 11, the life of this priestly people is described in more detail:

It is through the sacraments and the exercise of the virtues that the sacred nature and organic structure of this priestly community is brought into operation.¹³

The first part of the article demonstrates how the Church is built up on the sacraments and how the total sacrament of the Church is represented in the individual sacraments.¹⁴ The second half of the article is of particular interest. Here the ecclesiological dimension of the sacraments touches on the marriage of the baptized. It is here that Christian spouses and parents are presented as participating in an original way in the common priesthood of the people of God by the sacrament of marriage.¹⁵

13. LG, n. 11, pp. 27-28.

14. Cf. A. GRILLMEIER, op. cit., p. 159.

15. Cf. P. DELHAYE, loc. cit., p. 115; also D. BOUREAU, op. cit., p. 311.

[...] Christian spouses, in virtue of the sacrament of matrimony, signify and partake of the mystery of that unity and fruitful love which exists between Christ and His Church (cf. Eph. 5:32). The spouses thereby help each other to attain to holiness in their married life and by the rearing and education of their children. And so, in their state and order of life, they have their own special gift among the People of God (cf. 1 Cor. 7:7).

For from the wedlock of Christians, there comes the family, in which new citizens of human society are born. By the grace of the Holy Spirit received in baptism these are made children of God, thus perpetuating the People of God through the centuries. The family is, so to speak, the domestic Church. In it, parents should by their word and example be the first preachers of the faith to their children. They should encourage them, fostering with special care any religious vocation.¹⁶

These paragraphs characterize the ecclesiological significance of marriage in three ways.¹⁷ First, marriage is viewed as a sacramental symbol, in which the spouses signify and share in the mystery of fruitful love and unity existing between Christ and His Church.¹⁸ Second,

16. LG, 11, pp. 28-29.

17. See T. POTVIN, "La famille - Eglise domestique", in Prêtre et pasteur, 83(1980), pp. 319-322 for greater detail in this regard.

18. See further K. McNAMARA, op. cit., p. 131.

marriage is considered from the standpoint of the work which married people have to effect among the people of God as a whole, namely to offer each other mutual assistance in attaining holiness of life, and to build up the people of God by the generation and education of children.¹⁹ To put it simply, the partners in the marriage sanctify each other through their conjugal life and the rearing and education of their children. Their marriage, in other words, is a lasting means of grace that is realized in and through the faithful performance of their marital obligations.²⁰ This is their singular God-given gift, and it is beneficial not only for themselves but also in generating new members for the Church.²¹

This leads to the third consideration on marriage in article 11. Marriage is presented from the perspective

19. Cf. A. GRILLMEIER, op. cit., pp. 163-164. See also LG, n. 41, p. 69.

20. The view of theologians is that marriage not only sanctifies the spouses but the whole family as well. See B. HARING, "The Christian Family as Community for Salvation", translated by G. STEVENS, in D. BURKHARD, et al., eds., Man Before God. Toward A Theology of Man, New York, P.J. Kenedy and Sons, 1966, p. 151; JOHN PAUL I, Allocution, "It is a real pleasure", to a group of bishops from the United States making their visit ad limina Apostolorum, September 21, 1978, in TPS, 23(1978), p. 335.

21. Cf. K. McNAMARA, op. cit., p. 131.

that the family is the primary unit of society and the Church. The birth of children and their regeneration in baptism together contribute to and enrich the people of God. By means of marriage, the Church's mission of making disciples and baptizing all people is fostered through the natural function of parents, for when they bring a child to birth they bring a disciple to birth as well. "It is through Christian parents that the substance of the human world, in the very act of its increase, turns into Body of Christ and into Church."²² The family is sacramentally the "domestic Church" or the "Church of the home" where parents perform an ecclesial service in first proclaiming the gospel to their children, chiefly by their word and example, and in nurturing the vocation proper to each of them.²³ This metaphor of "domestic Church" bears witness to a reality that exists in itself and for a mission of its own: the procreation and

22. Y. CONGAR, Lay People in the Church, revised edition, with additions by the author, translated by D. ATTWATER, London, Geoffrey Chapman, 1965, p. 202. C. BRUSSELMANS sees this action as the aspect which gives parental responsibility a priestly character: in love parents give life and have it sanctified. See further ANONYMOUS, "Family is Church in Miniature, Catholic Educators Told", in Our Sunday Visitor, 69(April 20, 1980), p. 7.

23. Cf. A. GRILLMEIER, op. cit., pp. 163-164; also W. TOBIN, loc. cit., pp. 268-269.

education of children of the family, but also the manifestation to society of the living presence of Christ in the world.²⁴

The Christian family mirrors the priestly community of the people of God, and its official recognition as the "domestic Church" is acknowledged not only because it contributes new members, but also because it contains perceptible and definite ecclesial elements. Among these is the fact that the family is a locus of Christ's presence through and because of the sacrament of marriage; it is also a means of evangelization for itself and other families; the family continues the official worship of the Church in its prayer; and it is an experience of love for both parents and children expressed in sacrifice and offering, contributing thereby to an awareness of the redemptive love of God.²⁵ The family is the "domestic Church" by its mission, its

24. Cf. COMMITTEE FOR THE FAMILY, Instruction, "Des Interrogations", September 1975; English translation in CLD, vol. 8, p. 828.

25. For a fuller exploration of the theology of the domestic Church, see N. PROVENCHER, "Vers une théologie de la famille: l'Eglise domestique", in Eglise et théologie, 12(1981), pp. 9-34; also T. POTVIN, loc. cit., pp. 322-328.

ability to sanctify, and its unique aptitude for proclaiming and transmitting the gospel.²⁶

As the people of God continue aspects of the priestly work of the high priest, Jesus Christ, in and through the "domestic Church", all members of the "Church of the home" participate in that priesthood, and their function has a sacerdotal quality. This is certainly demonstrable with regard to the work of parents. Spouses are actively associated with this priesthood by the insertion of their spousal love in the agapè which unites Christ and the Church, and by reciprocally assisting each other to achieve sanctification in the conjugal life.²⁷

The action of parents also has a specific sacerdotal quality; it is sacramental by the procreation and regeneration of their children in baptism and in their subsequent education.²⁸ As Pope John Paul II said:

26. See further NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, "Human Life In Our Day", November 15, 1968, in PLUS, vol. 3, n. 89, p. 181.

27 See Y. CONGAR, op. cit., p. 203. Congar believes spouses have a sacramental consecration to this priesthood. See also CIC 1983, c. 1134 where this notion is also found.

28. Cf. P. DELHAYE, loc. cit., pp. 115-116.

... Christian parents, have been and are participants in this spiritual procreation, having been for your sons the first witnesses of the faith: the 'priests', I would say, of that 'domestic Church' which the Christian family community is29

The priesthood of parents is also acted out in several other important ways within the family sanctuary. These occur as a direct consequence of the other ecclesial elements that characterize the "domestic Church".

Since it is an image of the entire Church, the family is likewise a worshipping community,³⁰ and parents in their capacity as priests of the "Church of the home" preside over family worship, the liturgy of the home. This liturgy includes prayer in common, and the parents' personal intercession for their children in faith, hope, and love. There is teaching the children to pray and to offer up their own lives. Additionally present are the family testimonies of faith that merge family life with

29. JOHN PAUL II, Allocution, "La vostra", to the parents and relatives of Roman seminarians, March 20, 1983; English translation in OR (Eng.), n. 17 781, April 25, 1983, p. 3.

30. See further UNITED STATES FAMILY LIFE DIRECTORS, op. cit., p. 12.

the life of the parish and of the Church at large.³¹

The role of spouses and parents in the life of the "domestic Church" also has a priestly dimension in the sense of sacrifice. The state of being husband and wife requires continuing sacrifice, and is therefore a priestly state. Husband and wife sacrifice much in relation to one another in and through the renunciation required in the very structure of marriage. Likewise, parents are priests in that they sacrifice themselves on behalf of their children.³²

c. Article 34: The laity and the priestly office

In the fourth chapter of Lumen Gentium entitled "The Laity", the priesthood of the faithful is once again mentioned. It is stated that Jesus Christ, the supreme and eternal high priest, binds himself closely to all the members of the people of God in order to exercise through them his priestly office. As a result, all human activity, and notably all the activities of conjugal and

31. Cf. Y. CONGAR, op. cit., p. 204. See also UNITED STATES FAMILY LIFE DIRECTORS, op. cit., p. 12 for reflections on the interrelationship between family prayer and parish sacramental celebrations.

32. Cf. Y. CONGAR, op. cit., p. 204.

family life, become "spiritual sacrifices acceptable to God through Jesus Christ".³³

The laity's share in Christ's "priestly function of offering spiritual worship"³⁴ is explored in article 34. The one priest Jesus Christ wills to continue his witness and to serve through the laity, that is, his priestly ministry and priestly witness, and thus all members of the laity are handed over to Christ who "vivifies them in His Spirit".³⁵ Therefore, "anointed by the Holy Spirit they are marvellously called and equipped to produce in themselves ever more abundant fruits of the Spirit."³⁶

In the Spirit all the lay persons's good works become an act of spiritual worship.³⁷ In the celebration of the Eucharist, all these facets of living are "offered

33. LG, n. 34, p. 60. See further ANONYMOUS, "Le mariage et la famille dans les documents conciliaires", in L'anneau d'or, 128(1966), p. 93.

34. LG, n. 34, p. 60.

35. Ibid.

36. Ibid. See further F. KLOSTERMANN, "Dogmatic Constitution on the Church. Chapter IV: The Laity", translated by R. STRACHAN, in H. VORGRIMLER, gen. ed., op. cit., vol. 1, p. 244.

37. See LG, n. 34, p. 60.

to the Father along with the Lord's body"³⁸ and taken up into Jesus' sacrifice. Indeed, the lay person offers all his or her life with the divine offering, through and with the ordained priest.³⁹

This dimension of participation by the laity in the priesthood of Jesus Christ allows for a further interpretation of the role of parents in a sacerdotal frame of reference. Article 34 specifically states that in their ordinary married and family life, the laity find the matter for spiritual worship. As with all members of the laity, parents as sharers in the priesthood of Jesus Christ offer up their efforts and work on behalf of their children - their physical care, their education, their spiritual formation - to God the Father through Jesus Christ. In virtue of their baptism, these parental labours

38. Ibid. See further P. MASTERSON, "The Laity", in A. FLANNERY, ed., Vatican II: The Church Constitution, Chicago, The Priory Press, 1966, pp. 112-113 for some further explanation of sacrifice as a necessary element in the priestly character.

39. Cf. F. KLOSTERMANN, op. cit., p. 244; also K. McNAMARA, op. cit., pp. 250-251; B. KLOPPENBURG, The Ecclesiology of Vatican II, translated by M. O'CONNELL, Chicago, The Franciscan Herald Press, 1974, pp. 316-317; P. MASTERSON, op. cit., p. 113; J. NEWMAN, ed., Vatican II: The Christian Layman, Dublin, Scepter Books, 1967, p. 56.

are assimilated to the life of worship and become the spiritual sacrifices presented and offered through the Eucharist and give the mission of parents a priestly quality.

2. The Church and the Prophetic Office

a. Article 12: The prophetic office of the people of God

The people of God, who are established by Christ, and who by the gift of the Spirit, participate in his life, mission, and dignity exercise a part not only in Jesus' priesthood but also in his function as prophet. Indeed, Christ's priesthood, if it is not limited to the narrower sense of consecration to offer public sacrifice, already includes his prophethood. In its broadest sense, priesthood encompasses the office of mediating between God and humanity, and to Christ's mediation belongs his witness to the truth.⁴⁰

Christians discharge their prophetic role in testifying to the gospel by a life of faith and charity and by giving praise to God.⁴¹ The designation of praise to God as a sacrifice recalls the doctrine of article 10 concerning the spiritual sacrifices of a holy life and

40. Cf. K. McNAMARA, op. cit., p. 132.

41. Cf. LG, n. 12, p. 29.

confirms the concept of the priestly nature of the prophetic activity of the faithful.⁴²

b. Article 35: The laity and the prophetic office

The laity's share in the prophetic office of Christ is treated of in article 35:

Christ, the great prophet ... continually fulfills His prophetic office until His full glory is revealed. He does this not only through the hierarchy who teach in His name and with His authority, but also through the laity. For that very purpose He made them His witnesses and gave them understanding of the faith and the grace of speech ... , so that the power of the gospel might shine forth in their daily social and family life.⁴³

Like the sacraments, lay persons are themselves a sign of salvation for the world, being authorized preachers of the faith. The unique character, effectiveness, and power of this preaching through the life and words of the layperson lies in its being conveyed in the everyday world.⁴⁴

41. Cf. LG, n. 12, p. 29.

42. Cf. K. McNAMARA, op. cit., p. 132.

43. LG, n. 35, p. 61.

44. Cf. F. KLOSTERMANN, op. cit., p. 246. See further K. McNAMARA, op. cit., p. 254 for a fuller examination of the leavening role of the laity.

Married people in their conjugal and family lives bear witness to Christ in a special way:

In connection with this function, that state of life which is sanctified by a special sacrament is obviously of great value, namely, married and family life. For where Christianity pervades a whole way of life and ever increasingly transforms it, there will exist both the practice and an excellent school of the lay apostolate. In such a home, husband and wife find their proper vocation in being witnesses to one another and to their children of faith in Christ and love for Him. The Christian family loudly proclaims both the present virtues of the Kingdom of God and the hope of a blessed life to come.⁴⁵

Married and family life are designated as a specific area for lay preaching; a state of life which is sanctified by a special sacrament.⁴⁶ The home is the school and training ground for the lay apostolate for both parents and children.⁴⁷ Within the family environment, faith is to permeate daily life, transforming it in

45. LG, n. 35, p. 61.

46. See further K. McNAMARA, op. cit., p. 235 for some elaboration on this statement.

47. See further J. NEWMAN, op. cit., p. 57 for a perspective that parents in simply being good parents fulfil an important apostolate.

the process. It is within this ambit that married persons have a singular vocation of mutually begetting the faith and love of Christ for themselves and their children. By the example of their Christian lives and the instruction they give to their children, they are exercising that share in Christ's prophetic office which they received at baptism and which is given a special impetus and direction by their marriage. Not merely the spouses, but the entire family bears witness to the truth of the gospel. And it is in the precincts of the family that Christian hope and the kingdom of God are discovered and communicated to others.⁴⁸

What is stated in this article 35 has bearing for the interpretation of the parental role. The article addresses the prophetic mission of the Church, but this passage decidedly accentuates the role of parents in educating their children. It locates the role of parents in the Church's teaching mission within a sacramental context. The task of evangelization is entirely compatible with the married state since the duty to teach is latent

48. Cf. F. KLOSTERMANN, op. cit., p. 246. See also UNITED STATES FAMILY LIFE DIRECTORS, op. cit., p. 12.

in the natural and sacramentalized authority of parents whose responsibility it is to ensure the Christian education of their children.⁴⁹

The parental teaching function is one aspect of the Church's mission to teach. Other documents of the Council explicitly consider the role of Christian parents implied in Lumen Gentium, 35. The singular contribution of the constitution, however, is the association between the laity and the prophetic mission as flowing from the sacraments of baptism and matrimony.⁵⁰

It should be noted that in this section of the document, the priestly dimension of the work of parents is reinforced, in the sense that priesthood encompasses mediation which includes witness to the truth. Parents, therefore, in giving their children a Christian education not only participate in the prophetic function of Christ, but also exercise thereby a further aspect of the priesthood that belongs to all the baptized.

49. Cf. Y. CONGAR, op. cit., p. 296.

50. Cf. A. PREW-WINTERS, The Role of Christian Parents in the Church's Teaching Mission According to the 1980 "Schema" in Light of Vatican II and Post-Conciliar Teachings, Washington, D.C., The Catholic University of America, 1983, ms., pp. 6-7.

3. The Church and the Royal Office

a. Article 36: The laity and the royal office

The third function in which all Christians share in by virtue of their baptism is the royal office of Christ. Although this is mentioned in article 10, it is only briefly touched upon in that portion of the Constitution. In detailing the participation of the laity in each of these three offices in Chapter Four, the document devotes the whole of article 36 to a consideration of this function.

In this treatment of the royal service whereby the laity are called to insert the germ of the kingdom of God at the heart of social life, neither the family or spouses or parents are explicitly mentioned. This is not to suggest that these do not play a part in the royal mission; as baptized members of the Church they likewise share in this function according to their vocation.

The grace of the sacrament of marriage with which the family is impregnated, is called to spread through it in the network of human and social relationships that the family sets up in society and in the Church.⁵¹

51. COMMITTEE FOR THE FAMILY, op. cit., p. 829.

Parents exercise this office because it is to them that the task of instructing and leading their children in the ways of justice and peace is committed.⁵²

B. The Decree on the Apostolate of the Laity - Apostolicam Actuositatem

On November 18, 1965, toward the end of the fourth and final session of the Council, the Fathers of Vatican II approved the Decree on the Apostolate of the Laity, Apostolicam Actuositatem. Two articles in this document, articles 11 and 30, concern themselves with the place of married persons and families in the lay apostolate, and consequently offer further substance to the body of conciliar teaching on parents and the education of children.

1. Article 11: The apostolate of married persons and families

Article 11 treats of the "apostolate of married persons and of the family",⁵³ which is of consequence for

52. Cf. ANONYMOUS, "Family is Church in Miniature, Catholic Educators Told", loc. cit., p. 7. For a fuller exposition of this theme with illustrations of how parents train children in justice, see J. MCGINNIS, K. MCGINNIS, "Parenting for Peace and Justice", in Spirituality Today, 36(1984), pp. 34-46.

53. AA, n. 11, p. 502.

the Church and for the whole of human society. The text states that Christian spouses are "cooperators in grace and witnesses of faith on behalf of each other, their children, and all others in their household."⁵⁴ The education of children in a Christian manner is a central feature of the parental role:

They are the first to communicate the faith to their children and to educate them; by word and example they train their offspring for the Christian and apostolic life.⁵⁵

Not only are parents to be the first to proclaim the faith to their children, they are also as a result to rear them in it. This is a critical factor. Since the child's belief is a product of the parents' faith, it is their expressed and lived faith that will nurture the underdeveloped faith of the child until it grows and attains maturity. Without this cultivation, the faith of the child will not develop beyond an infantile level into a substantially personal and adult faith. Parents,

54. Ibid.

55. Ibid.

therefore, have a serious responsibility in this regard.⁵⁶

The Christian family is not only to be a school of faith but a training ground for the apostolate as well. This is to be achieved as a result of a life which expresses itself in a truly apostolic manner. As such, it is not the words of parents which are crucial but rather their example.⁵⁷ This factor will be emphasized again in article 30.

Christian parents and the rest of the faithful are to join with all persons of good will to assure that "the right and duty of parents and guardians to educate children in a Christian manner"⁵⁸ and other family rights are protected and defended by civil governments.⁵⁹ The

56. Cf. F. KLOSTERMANN, "Decree on the Apostolate of the Laity", translated by J. JAKUBIAK, in H. VORGRIMLER, gen. ed., op. cit. vol. 3, p. 339.

57. Cf. F. KLOSTERMANN, "Decree on the Apostolate of the Laity", op. cit., pp. 339-340; also W. TOBIN, loc. cit., p. 272.

58. AA, n. 11, p. 502.

59. Cf. W. TOBIN, loc. cit., p. 272. See also J. NEWMAN, "The Decree on the Apostolate of Lay People: Commentary", in J. NEWMAN, ed., Vatican II: The Christian Layman, Dublin, Scepter Books, 1967, p. 77.

parental role in educating thus involves not only an internal familial dimension exercised by the direct teaching of children, but it also has an external aspect, whereby parents are to insist in civil society on respect for their educative rights and obligations.⁶⁰

2. Article 30: The training of children for the apostolate

Article 30 gives its attention to those who have the responsibility for apostolic formation:

Training for the apostolate should start with a child's earliest education. ... It is evident, therefore, that those who have the obligation to provide for a Christian education also have the duty to provide for formation in the apostolate.⁶¹

The Council Fathers establish an important principle in this passage: those who have the duty to provide a Christian education have the corresponding obligation to ensure apostolic education, since Christian education is essentially education for the apostolate.⁶² Parents as the primary educators are responsible then for both types

60. Cf. A. PREW-WINTERS, op. cit., pp. 26-27.

61. AA, n. 30, p. 518.

62. Cf. F. KLOSTERMANN, "Decree on the Apostolate of the Laity", op. cit., p. 398.

of education, that is spiritual formation and intellectual instruction, as both aspects contribute to the child's training for the apostolate.⁶³

Training for the Christian apostolate of love evidenced through service is to be carried on through the family.

In the family, parents have the task of training their children from childhood to recognize God's love for all men. Especially by example they should teach them little by little to show concern for the material and spiritual needs of their neighbor. The whole of family life, then, would become a sort of apprenticeship for the Apostolate.⁶⁴

The pedagogical method parents are to use in training their children for the apostolate is established in this section of the article. As regards the spiritual dimension, parents are to teach not so much by word but by example; likewise, children are to learn not so much by verbal instruction but by living and doing. Such an accent, noted earlier in article 11, does not suggest however that the right and duty of parents to instruct

63. Cf. A. PREW-WINTERS, op. cit., pp. 27-28.

64. AA, n. 30, p. 518.

their children in an intellectual manner and by word is to be minimized or depreciated.⁶⁵

Finally, the formation of children for the apostolate is to continue in conjunction with schools, the parish, etc., throughout the lives of the children in view of the demands of ever increasing responsibilities. This means that an ever greater responsibility devolves upon parents to assure the adequacy of this preparation.⁶⁶

C. The Pastoral Constitution on the Church in the Modern World - Gaudium et Spes

The greatest portion of the Second Vatican Council's teaching on marriage and the family is to be found in the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes. Within the space of seven articles in the second section of the Constitution, a new, charismatic Christian vision of marriage and the family is presented and outlined.⁶⁷ Although the main

65. Cf. A. PREW-WINTERS, op. cit., p. 28.

66. Cf. AA, n. 30, p. 518; also F. KLOSTERMANN, "Decree on the Apostolate of the Laity", op. cit., p. 399; W. TOBIN, loc. cit., p. 273.

67. See D. BOUREAU, op. cit., pp. 329-332, 337-340 for a full overview of marriage and the family as it is touched upon or referred to in every part of the Pastoral Constitution.

focus of articles 46 to 52 is not on the rights and duties of parents in education, nevertheless their description of the marriage covenant, of the place and importance of conjugal love in the life of the spouses, and of the sanctity of married life, have direct bearing and consequences for the interpretation of the parental role.

1. Article 48: The grace of the sacrament of marriage and the education of children

Article 48 opens by breaking new ground, giving an interpretation of marriage as a communion of life and love, irrevocable because of the total self-donation of the couple in love. Grounded in the "conjugal covenant of irrevocable personal consent",⁶⁸ the stability of the marriage partnership is fixed by the divine will and the irreversible nature of the consent.

Marriage is presented as an institution, with God as its author, who endows it with its various benefits and purpose. The article specifies the blessings and purposes of marriage, but not in the sense of the Augustinian doctrine; it is simply a matter of the richness with which God has inherently gifted marriage

68. GS n. 48, p. 250.

itself with a view to the continuation of the human race and the temporal and eternal well-being of the spouses and children. No attempt, however, is made to subordinate any of these purposes and blessings under a classification of primary and secondary.⁶⁹ The text, nevertheless, gives the essential objective of marriage in traditional terms:

By their very nature, the institution of matrimony itself and conjugal love are ordained for the procreation and education of children and find in them their ultimate crown.⁷⁰

The clear stress that marriage and conjugal love are fundamentally directed towards the generation and education of children, cannot be employed to argue that conjugal love is a purely secondary, non-essential end and blessing of marriage.⁷¹ The interpersonal communion of life and love established by mutual consent and self-

69. Cf. B. HARING, "Pastoral Constitution on the Church in the Modern World. Part II, Chapter I. Fostering the Nobility of Marriage and the Family", translated by W. O'HARA, in H. VORGRIMLER, gen. ed., op. cit., vol. 5, p. 233.

70. GS, n. 48, p. 250.

71. Cf. B. HARING, "Pastoral Constitution on the Church in the Modern World", op. cit., p. 234.

gift is not secondary in any sense of being unimportant, for it is evident that the procreation and education of children will depend, to a great degree, on the atmosphere of self-offering love of the couple itself.⁷² At the same time, the text nevertheless makes it clear that procreation and education are not minor and insignificant, nor are they to be understood as being peripheral to conjugal love and family life. The vocation of parenthood and the love between spouses are intrinsically connected.⁷³

... marriage and family, inseparable according to the plan of God, are thus linked in the most profound unity doubly shared by the two persons, that is, being spouses and parents, who are not totally the one without being the other as well, and who to be fully one and the other need to be both.⁷⁴

72. Cf. P. RIGA, The Church Made Relevant. A Commentary on the Pastoral Constitution of Vatican II, Notre Dame, Indiana, Fides Publishers, Inc., 1967, p. 171. See also J. DOMINIAN, "The Family Today. Marriage and Children", in The Tablet, 233(1979), p. 798.

73. Cf. D. O'HANLEY, "Rights Within the Family Structure", in Eglise et théologie, 12(1981), p. 172.

74. " ... mariage et famille, inséparablement, dans le dessein de Dieu, liant ainsi dans l'unité la plus profonde ces êtres doublement partagés, les époux, les parents, qui ne sont l'un totalement qu'en étant l'autre aussi, et qui, pour être l'un et l'autre pleinement, ont besoin d'être deux" D. BOUREAU, op. cit., p. 332.

Although the love of husband and wife is the source of their cooperation in bringing the child to birth, the child is the fruit of conjugal love in another manner. The child is only truly and completely brought into the world when it has been reared by the same love which called it to life and gave it substance, and so made able to assume its proper place in society as a mature adult.⁷⁵ As Pope John Paul II has said:

You must transmit what is best in your flesh and your soul! To beget means at the same time to educate; and educating signifies begetting. In the human person what is carnal and what is spiritual interpenetrate, and therefore the two great dimensions of parenthood, procreation and education, also interpenetrate.⁷⁶

Basing their interpersonal relationship and community of love on the model of Christ's unselfish love for the Church, spouses imitate him in their total

75. Cf. P. RIGA, op. cit., pp. 182-183.

76. JOHN PAUL II, Allocution, "Vi saluto", to participants in the convention on the family and love, organized by the New Families Movement, May 3, 1981; English translation in OR (Eng.), n. 19 [683], May 11, 1981, p. 3. "The decision to give life to another person is the responsibility under God, of the spouses who, in effect, ask the Creator to commit to their care the formation of a child [...]." NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, November 15, 1968, op. cit., n. 19, p. 167.

offering of the gift of self and by so doing encounter Christ in their mutual gift. "Thus, this love can lead the spouses to God with powerful effect and can aid and strengthen them in the sublime office of being a father and a mother."⁷⁷ The effect of the abundant blessings of Christ on mutual self-giving is both the personal sanctification of the partners, and the appropriate realization of their vocation as parents. Sanctification and the successful rearing of children are not merely juxtaposed to married love and unconnected to it. The more authentic and redeemed the love of the spouses, the more marriage becomes a source of salvation and children a genuine blessing.⁷⁸

Through the sacrament of Christian marriage, Christ is always present in the spousal relationship, and each partner becomes a sign and a means of the divine presence in their midst throughout the entirety of their married lives in all its joys and sorrows, in its

77. GS, n. 48, p. 251.

78. Cf. B. HARING, "Pastoral Constitution on the Church in the Modern World", op. cit., p. 235. See also JOHN PAUL II, Homily, "Queridos hermanos y hermanas!", at a mass for families, November 2, 1982; English translation in OR (Eng.), n. 5 [769], January 31, 1983, p. 10.

responsibilities and rewards. Each of these elements of married existence is then sanctified within this total Christian view of the conjugal reality of marriage.⁷⁹

In living their conjugal love to the full in the home, parents offer the finest example and commentary on human and divine love, and children who are brought to birth by this love continue to benefit from it.

As a result, with their parents leading the way by example and family prayer, children and indeed everyone gathered around the family hearth will find a readier path to human maturity, salvation and holiness. Graced with the dignity and office of fatherhood and motherhood, parents will energetically acquit themselves of a duty which devolves primarily on them, namely education, and especially religious education.⁸⁰

Echoing Lumen Gentium where parental participation in the prophetic office of Christ by the education, especially religious education, of their children is described, this portion of article 48 reemphasizes that the primary responsibility for religious education

79. Cf. P. RIGA, op. cit., pp. 174-175; also B. HARING, "Pastoral Constitution on the Church in the Modern World", op. cit., p. 235.

80. GS, n. 48, p. 251.

belongs to the parents. In this context, however, it is conjugal love which in the plan of God, gives to Christian parents their unique participation in the prophetic office of the Church.⁸¹

As this duty is first and foremost theirs, parents are endowed by God with the gifts and blessings required to take it on themselves. The education of children is to be both integral and humane, its completeness guaranteed by the inclusion of religious education in the overall programme. Since parents are bound to educate their children, then education and religious education are completely and intimately wedded to family life.⁸²

In return, spouses are blessed by parenthood. "As living members of the family, children contribute in their own way to making their parents holy."⁸³ There is a mutual solidarity of parents and children as concerns salvation. Children contribute to the holiness of their

81. Cf. D. BOUREAU, op. cit., p. 333; also A. PREW-WINTERS, op. cit., p. 11.

82. Cf. A. PREW-WINTERS, op. cit., p. 11. See also PAUL VI, Allocation, "Salutiamo con compiacenza", to the participants in the thirteenth National Congress of the Italian Women's Center, February 12, 1956; English translation in TPS, 11(1966), p. 11.

83. GS, n. 48, p. 252.

parents by means of the attitudes naturally proper to them.⁸⁴

2. Article 49: Conjugal love and the education of children

Having located conjugal love at the heart of the marriage covenant, the document next evolves a basic description of what constitutes this particular love. In the pre-conciliar teaching about the "ends of marriage", the primary end of procreation and education received first consideration, with conjugal love being dealt with in a more or less subsidiary way. The Council, however, describes the basic nature of marriage as a covenant of love. Love is as a consequence, not merely a subjective addition to the objective divinely established "ends" or "purposes of marriage" but it is the font from which truly human, generous fecundity is to emerge. Conjugal love is a value in itself.⁸⁵

Article 49 ends with the idea of bearing witness, a critical element in the communion of conjugal life:

84. Cf. B. HARING, "Pastoral Constitution on the Church in the Modern World", op. cit., p. 236; also P. RIGA, op. cit., p. 175.

85. Cf. B. HARING, "Pastoral Constitution on the Church in the Modern World", op. cit., p. 237.

Authentic conjugal love will be more highly prized, and wholesome public opinion created regarding it, if Christian couples give outstanding witness to faithfulness and harmony in that same love, and to their concern for educating their children; also, if they do their part in bringing about the needed cultural, psychological, and social renewal on behalf of marriage and the family.⁸⁶

The family has the lofty task of showing the world what true love is. Conjugal love not only contributes to the fidelity and harmony of the marriage bond, but also has an influence and bearing on the careful rearing of children. The effect and influence of conjugal love on family life promotes and expedites the labour of parents in educating their children. Because of the atmosphere of love, trust, and concern, the family is the most natural, suitable, and conducive locus for education, and the place where children assimilate and grow in the values that contribute to the well-being of society.⁸⁷

86. GS, n. 49, p. 253. "This specific mission of conjugal love with its psychological, cultural and social impact presupposes all the different dimensions of communio [...]. In a special way this may be considered as the 'social dimension of conjugal love'." C. VAN DER POEL, "Marriage and Family as Expressions of Communio in the Church", in The Jurist, 36(1976), p. 66.

87. Cf. A. PREW-WINTERS, op. cit., p. 13.

3. Article 52: The goal of education by parents

Article 52 determines to what end children are to be educated: parents are to educate their offspring toward responsible adulthood.

The family is a kind of school of deeper humanity. But if it is to achieve the full flowering of its life and mission, it needs the kindly communion of minds and the joint deliberation of spouses, as well as the painstaking cooperation of parents in the education of their children.⁸⁸

The emphasis is on an education to a "deeper humanity" in order that persons may be able to choose their state of life, assume their responsibilities, and take their place in society. Since the "family is a kind of school of deeper humanity", deliberation and cooperation between spouses is particularly important. It is the deep interpersonal relationship of the spouses that has brought forth life in the child, and it is in and through this life-giving communion that the profoundest human values are simultaneously preserved and transmitted. The dialogue and collaboration of the partners, therefore, lies at the heart of the education of children.⁸⁹

88. GS, n. 52, p. 257.

89. Cf. C. VAN DER POEL, loc. cit., p. 66.

The family has social responsibilities of which it is to be cognizant, not least of which is the social obligation of parents to educate their children in the essentials of social, moral, and economic conditions, so that these in turn may establish a family. Article 52 lists parental obligations from both a negative and positive vantage point, that is to say, what they should not do and what they are duty bound to do. Since education is intended for the free choice of a vocation, parents are not to apply pressure or to coerce their children in their selection of a state of life. On the other hand, the parental attitude in educating their children is to be one of giving loving advice.⁹⁰ Love and respect are the hallmarks of the education carried out in the family.⁹¹

The concluding paragraph of article 52 summarizes the discussion from the framework of the mystery of love. The family proclaims to humanity the living and loving God by its life of joys and sacrifices and by what it reveals through its faithful love.⁹² Within the family,

90. Cf. GS, n. 52, p. 257.

91. Cf. A. PREW-WINTERS, op. cit., p. 15.

92. Cf. B. HARING, "Pastoral Constitution on the Church in the Modern World", op. cit., p. 245.

in the exercise of their proper function, Christian parents can be and are to be the first heralds of the Paschal Mystery to their children. This is their unique grace as parents and the foundation of their specific participation in the apostolate of the people of God.⁹³

D. The Declaration on Christian Education - Gravissimum Educationis

The Declaration on Christian Education, Gravissimum Educationis, promulgated on October 28, 1965, provides the central source for the Council's teaching on Christian education, and offers ~~within~~ its ambit a further and fuller statement on the rights and duties of parents in the education of their children. In the course of this rather brief document, the implications of these prerogatives and responsibilities are detailed and outlined.⁹⁴

In comparison to the larger, weightier, and more influential constitutions on the Church, the Declaration might be termed a "minor" document. Its designation,

93. Cf. D. BOUREAU, op. cit., p. 336.

94. Cf. A. PREW-WINTERS, op. cit., p. 15. D. BOUREAU is of the opinion that there is no intention in the Declaration to consider directly the educational function of parents; see D. BOUREAU, op. cit., p. 318.

"declaration", underlines well that it does not attempt to be a full or complete treatise on education. The document simply intends to draw out the broad principles which ought to govern education, in general, and Christian education in particular, within the context of the needs of modern society.⁹⁵

1. Article 3: The role of parents as first educators

The main focus of article 3 is on the three chief educational agencies - parents, the State, and the Church - who, in virtue of their nature, have an obligation to educate children, and consequently the right to do so. As such, these three have an interdependent relationship based on coordination and collaboration.⁹⁶

Since parents have conferred life on their children, they have a most solemn obligation to educate their offspring. Hence, parents must be acknowledged as the first and foremost educators of their children. Their role

95. Cf. ANONYMOUS, "Le mariage et la famille dans les documents conciliaires", loc. cit., p. 105. See also G. CARTER, "Education. Introduction to the 'Declaration on Christian Education'", in W. ABBOTT, gen. ed., The Documents of Vatican II, J. GALLAGHER, translation ed., Piscataway, New Jersey, Association Press, New Century Publishers, Inc., 1966, pp. 634-635.

96. Cf. J. POHLSCHNEIDER, "Declaration on Christian Education", translated by R. WALLS, in H. VORGRIMLER, gen. ed., op. cit., vol. 4, p. 22.

as educators is so decisive that scarcely anything can compensate for their failure in it. For it devolves on parents to create a family atmosphere so animated with love and reverence for God and men that a well-rounded personal and social development will be fostered among the children. Hence, the family is the first school of those social virtues which every society needs.⁹⁷

The rights of parents are described very much as they were in the encyclical of Pope Pius XI on Christian education, Divini Illius Magistri: parents are recognized as the primary educators of their children.⁹⁸ They have a further title to the educational function as a result of their own special sacramental relationship.⁹⁹ Given this primacy, parents enjoy a precedence of importance and influence among the agents of education.¹⁰⁰

97. GE, n. 3, p. 641.

98. See the intervention of Bishop Léon Elchinger of Strasbourg, France to the Council on the education schema in AS, 3-3-8, n. 1, p. 227. See also A. ANCEL, "L'éducation chrétienne dans la lumière du Concile", in La Documentation catholique, 66(1969), p. 979.

99. Cf. J. POHLSCHNEIDER, op. cit., p. 22.

100. "The characteristic Roman Catholic emphasis on the rights and responsibility of parents for the education of their children is present throughout the document" J. BENNETT, "A Response. 'The Declaration on Christian Education'", in W. ABBOTT, gen. ed., The Documents of Vatican II, J. GALLAGHER, translation ed., Piscataway, New Jersey, Association Press, New Century Publishers, Inc., 1966, p. 652.

The article goes on to declare in the second paragraph that, blessed and enriched by the grace and office of the sacrament of marriage, the Christian family is capable of accomplishing its catechetical mission, according to which children from their tenderest years are instructed and trained, according to their baptismal faith, to know and worship God and to love their neighbour.¹⁰¹ Within the family, children acquire their first experience of wholesome human companionship and of the ecclesial community, the Church.¹⁰² By means of the family, they are initiated to civic partnership with their fellow citizens.¹⁰³

The educational efficacy of parents and the family rests on the fact that the child spends the first formative years of its life with the family, and is therein shaped and formed to a degree that endures for the remainder of its life. As Paul VI said:

101. "Tout homme ayant droit à l'éducation, et tout chrétien, à l'éducation chrétienne ... , les parents sont responsables à un double titre de l'éducation des enfants qu'ils ont fait baptiser" D. BOUREAU, op. cit., p. 318. See also A. ANCEL, loc. cit., p. 980.

102. See further D. BOUREAU, op. cit., p. 319.

103. Cf. GE, n. 3, p. 641; also W. TOBIN, loc. cit., p. 273.

... every child is a human person and has the right to the integral development of his or her personality. The role of the family is irreplaceable in attaining this end, since the child cannot be understood and assisted apart from the family, which is the first educator toward physical, psychological, intellectual, moral and religious development.¹⁰⁴

Although the Declaration clearly and firmly emphasizes the educational rights and duties of parents, it nevertheless also expressly acknowledges the prerogatives of other agencies in this field. Parents may well have the primary right and responsibility in the education of their children from the natural law, but there is similarly a coresponsibility with the State and the Church in the educational task.¹⁰⁵

This partnership is grounded upon the fact that parents assign a portion of their educational rights and obligations to other educational institutions, that is

104. PAUL VI, Allocution, "With the approach", to the Executive Director of UNICEF, June 28, 1978, in TPS, 23(1978), p. 235.

105. See further D. BOUREAU, op. cit., pp. 319-320; J. BENNETT, loc. cit., pp. 652-653.

the school and the State.¹⁰⁶ The recognition of these interrelated and interconnected rights and duties is an intrinsic feature of the Christian view of education. Each of these agents participate, according to the principle of subsidiarity, in the management of the child's essential right to a complete human and Christian education; a right founded both in nature and in the child's baptism.¹⁰⁷

The legitimate educational rights and duties of the State are recognized and detailed in the third paragraph of the article, for in serving the common good the civil authority performs a function of supervision and vigilance. Civil society has the obligation of safeguarding the basic educational rights of parents, of

106. "La liberté nécessaire pour donner une éducation chrétienne n'apparaît plus comme une indépendance absolue à l'égard de la société civile. Le rôle des parents se révèle primordial, mais en même temps leur action à l'école s'inscrit dans une trilogie de forces où ils sont les partenaires de l'éducateur et de l'enfant." J. SAINCLAIR, "L'éducation chrétienne au Concile", in Etudes, 324(1966), p. 396.

107. Cf. J. POHLSCHNEIDER, op. cit., p. 23; also W. TOBIN, loc. cit., p. 273.

rendering them assistance in this task, and fostering their initiatives.¹⁰⁸

This authentic role of the State in education does not, however, connote any monopoly in education. The State is to assume to itself only those educational functions that others cannot fulfil adequately by themselves. In no case are the claims and policies of the State ever to pursue a course contrary to the educational prerogatives of parents.¹⁰⁹ The Declaration, therefore, attaches grave importance to harmony and unanimity between the rights of parents and the rights and actions of the State in the education of children.¹¹⁰

In the final part of article 3, the Council asserts and narrates the educational rights,

108. Cf. W. TOBIN, loc. cit., p. 274. J. BIZIER believes Gravissimum Educationis, with regard to its teachings on the role of the State in education, is virtually identical to Divini Illius Magistri; see J. BIZIER, L'éducation chrétienne et le rapport Parent, Ottawa, Fides, 1969, pp. 102-105.

109. See further A. ANCEL, loc. cit., p. 980.

110. Cf. J. POHLSCHNEIDER, op. cit., p. 23.

responsibilities, and task of the Church.¹¹¹ This task is perceived fundamentally in terms of effecting and realizing its salvific work, and as such this viewpoint is in accord with the basic theological notions of the other conciliar documents. The endeavors of the Church to make redemption an actuality are oriented not only toward the incorporated members of the community, but also toward all of humankind and all of society. The ultimate aim of the Church's educational labour is to fashion a more human world.¹¹²

In the matter of the Christian education of children, it is above all through parents that the Church accomplishes its educational formation, for they are for

111. The right and duty of the Church flows from its supernatural commission to "teach all nations", and its mandate from natural law. [...] as a human society capable of educating." Later in the text, this claim will be added to and enhanced by reason of the expressed authorization and desires of parents. Cf. M. HURLEY, De Educatione Christiana: The Declaration on Christian Education of Vatican Council II. Commentary, Glen Rock, New Jersey, Paulist Press, 1966, pp. 85-86. D. BOUREAU notes that in pointing out the Church's place in education, the Declaration fails to recall that Christian family life offers to children their first ecclesial experience. The document further fails to relate the educational mission of the Church to its primary function of announcing the word of salvation; see D. BOUREAU, op. cit., p. 320.

112. Cf. J. POHLSCHNEIDER, op. cit., p. 23. See further J. SAINCLAIR, loc. cit., pp. 393-394.

their children, in effect, the presence of the Church. The Church seeks to support families in their educational role in order that they may better fulfill their function.¹¹³

2. Article 6: The right of parents in regard to schools

Parents, who have the first and the inalienable duty and right to educate their children, should enjoy true freedom in their choice of schools. Consequently, public authority, which has the obligation to oversee and defend the liberties of citizens, ought to see to it, out of a concern for distributive justice, that public subsidies are allocated in such a way that, when selecting schools for their children, parents are genuinely free to follow their consciences.¹¹⁴

In article 6, the Declaration again emphasizes the primary and inalienable rights of parents in education. As a result, parents are to enjoy true and not simply theoretical freedom in their selection of schools for their children.¹¹⁵ The declaration situates the protection of this right squarely within the express

113. Cf. A. ANCEL, loc. cit., p. 980.

114. GE, n. 6, p. 644.

115. See also the intervention of Bishop Elchinger in AS, 3-3-8, n. 1, p. 227.

competency of the State. The basic demand of democracy requires that this parental freedom not simply be accorded official recognition pro forma by civil authority, but that it be given legal foundation by inclusion in the positive law of the State. The acknowledgement of the right of parents to choose schools entails that civil society enact no practical administrative measures that would undermine this right, for example, by establishing an uneven disbursement of public funds, or by sanctioning deliberate measures that would hinder the full exercise of parental rights. The Declaration urges vigilance towards any who would seek to restrict the right of parents.¹¹⁶

There is no attempt in the article to enumerate the practical consequences of this proposition or to discuss how the State is to subsidize Christian education. This article does not demand aid for schools as such, much less for Catholic schools. The passage

116. See A. ANCEL, loc. cit., p. 980. "The right of parents to exercise genuine freedom of choice in education in ways consistent with the principles of justice and equality must be recognized and made operative." NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, "To Teach As Jesus Did: A Pastoral Message on Catholic Education", November, 1972, in PLUS, vol. 3, n. 148, p. 337. See also Bishop Elchinger in AS, 3-3-8, n. 1, p. 227.

stipulates that assistance be given parents on an equitable basis so as not to place unfair and difficult financial burdens on families, whatever and regardless of their religious creed.¹¹⁷

3. Article 7: The religious and moral education of children

Article 7 is noteworthy in that, unlike earlier ecclesiastical statements, there is a sympathetic concern for Catholic students in non-Catholic schools.

The Church is keenly aware of her very grave obligation to give zealous attention to the moral and religious education of all her children. To those large numbers of them who are being trained in schools which are not Catholic, she needs to be present with her special affection and helpfulness.¹¹⁸

The Church, conscious of its grave responsibility, intends to help Catholic pupils in non-Catholic schools, but in a subsidiary sense; that is, to give additional support to what is furnished by the families or by the

117. See Bishop Elchinger in AS, 3-3-8, n. 2, p. 227. See also the interventions of Bishop Hugh Donohue, AS, 3-3-8, pp. 507-509; English translation in M. HURLEY, op. cit., pp. 156-158; Cardinal Francis Spellman, AS, 3-3-8, pp. 222-223; English translation in M. HURLEY, op. cit., pp. 151-153; Archbishop George Beck, AS, 3-3-8, pp. 380-382.

118. GE, n. 7, p. 645.

schools by way of the education of children. In all schools, the moral and religious convictions of each family is to be the standard measurement of the education that is given to Catholic children.¹¹⁹

The Church reminds parents of the serious duty which is theirs of taking every opportunity - or of making the opportunity - for their children to be able to enjoy these helps and to pace their development as Christians with their growth as citizens of the world. For this reason, the Church gives high praise to those civil authorities and civil societies that show regard for the pluralistic character of modern society, and take into account the right of religious liberty, by helping families in such a way that in all schools the education of their children can be carried out according to the moral and religious convictions of each family.¹²⁰

This article is directed especially toward those Christian parents who have committed their children to the care of non-Catholic schools. Such parents have a "serious duty" as concerns education because they need to make a singular effort to have their children avail themselves of the aids in religious and moral education that are supplied by the Church. By the fact that their

119. Cf. J. POHLSCHNEIDER, op. cit., p. 28.

120. GE, n. 7, p. 645.

children attend non-Catholic schools, parents have the additional responsibility to ensure that the Christian formation of their offspring parallels their secular education.¹²¹

Civil authorities and educational institutions that respect pluralism and the right of religious liberty are praised, because they assist families in educating their children according to the family's religious convictions.¹²² Note is to be made of the fact that in this passage, the Church is maintaining the right of all families to their individual religious and moral beliefs, and not just those of Catholic families.¹²³

4. Article 8: Parents and the Catholic school

Article 8, the longest article in the Declaration, concentrates on the subject of the Catholic school,¹²⁴ which alone had been the topic of six earlier versions of the document.

121. See A. ANCEL, loc. cit., p. 984.

122. Cf. W. TOBIN, loc. cit., pp. 275-276. See also intervention of Bishop Elchinger, in AS, 3-3-8, n. 5, p. 228.

123. Cf. M. HURLEY, op. cit., p. 79.

124. See J. POHLSCHNEIDER, op. cit., pp. 30-31 for a fuller description of the characteristic essence of a Catholic school as understood by the Declaration.

The last section of Article 8 deals with the importance of the teacher, and it is in this connection that the text refers to parents. Catholic schools, and their teachers in particular, are to act as partners with parents¹²⁵ in the full, human-sexual and Christian formation of children.¹²⁶

Finally, the document declares:

As for Catholic parents, the Council calls to mind their duty to entrust their children to Catholic schools, when and where this is possible, to support such schools to the extent of their ability, and to work along with them for the welfare of their children.¹²⁷

Since article 8 is primarily concerned with the lawful claim of the Church to found and maintain schools of its own, and with the significance of these for the building up of both the people of God and earthly society, as well as for the growth of the kingdom of God,

125. See A. ANCEL, loc. cit., p. 981 for further reflections on the necessary collaboration between parents and teachers; also Bishop Elchinger's intervention to the Council, in AS, 3-3-8, n. 3, p. 227.

126. Cf. W. TOBIN, loc. cit., p. 276. See also J. POHLSCHNEIDER, op. cit., p. 33 for an interpretation of the Declaration's admonition on education respecting sexual differences.

127. GE, n. 8, p. 647.

it is understandable that the role of Christian parents is relegated to the background. Nevertheless, there are close ties between Catholic schools and parents. The importance of the Catholic school is complemented by the corresponding duty of Catholic parents to send their children to Catholic schools "when and where this is possible",¹²⁸ and by so doing extend and preserve the instruction and training begun within the circle of the Catholic family.¹²⁹ Parents are to support such schools according to their ability and to take an active part in their work for the welfare of children.¹³⁰

128. Ibid. "Au sujet de ce texte, nous devons noter tout d'abord que le devoir de confier ses enfants à une école catholique n'est pas du même ordre que celui de leur assurer une éducation chrétienne. Quand il s'agit de l'éducation chrétienne, la formule est strictement impérative. Le Concile parle d'une 'très grave obligation' aussi bien quand il s'agit des pasteurs d'âmes que lorsqu'il s'agit des parents. Aucun motif ne peut en dispenser. L'obligation est à la fois très grave et absolue." A. ANCEL, loc. cit., p. 985.

129. O. HENRIVAUX observes that the family is not, according to the document, offered any other assistance than the school; see O. HENRIVAUX, "Famille et éducation chrétienne"; in Lumen vitae - Edition française, 35(1980), pp. 226-227.

130. Cf. J. POHLSCHNEIDER, op. cit., p. 34; also W. TOBIN, loc. cit., p. 276. Bishop Hugh Donohue in his intervention to the Council said: "If we are to speak of parental rights and lay participation in schools, then we must be prepared to accept the role of parents in the determination of policy in Catholic schools" AS, 3-3-8, n. 3, p. 508; English translation in M. HURLEY, op. cit., p. 157; emphasis in English original.

Certainly, there is a great difference between the formulation of the Council and that of canon 1374 of the 1917 Code. The passage maintains the traditional discipline of the Church, for the Catholic school remains the privileged means of education in the faith.¹³¹ Nevertheless, the Declaration is more reserved than the canonical texts that preceded it. The qualification "when and where this is possible" is important. It is necessary neither to exaggerate nor to minimize it.¹³²

The article insists that parents have the right to critical discretion in the matter of choosing schools for their children. Parents are not expected to enroll their children in Catholic schools without giving attention to the educational excellence of these schools. The conciliar text allows that there are reasons that can cause parents to choose other than Catholic schools, although these are not enumerated and the parents are not

131. Enrollment of their children in a Catholic school does not relieve parents of all responsibility in the education of their children. They are to 1) sustain and complete the education their children receive; 2) they are to support the school; and 3) they are to help the teachers. Cf. A. ANCEL, loc. cit., p. 985.

132. Cf. M. HURLEY, op. cit., pp. 83-84.

obliged to present them to the bishop.¹³³ In spite of this, the general orientation holds.¹³⁴

E. The Declaration on Religious Liberty - Dignitatis Humanae

The concept of parents as the primary educators of their children as set down in several documents of the Second Vatican Council, finds its logical conclusion in the assertions of article 5 of the Declaration on Religious Liberty, Dignitatis Humanae regarding the religious freedom of the family. In this brief passage, the Declaration implicitly asserts the prerogative parents¹³⁵ possess to exercise responsibility in the education of their children. More importantly, the Council affirms that this right is to be exercised in complete religious freedom; that is, by the parents fully determining the type of religious education to be given their children.¹³⁶

133. Cf. ibid., p. 84.

134. See also A. ANCEL, loc. cit., p. 985.

135. As with the Declaration on Christian Education, this document concerns itself not only with Christian parents, but all with parents regardless of their religious convictions.

136. Cf. A. PREW-WINTERS, op. cit., p. 32.

- Article 5: The religious liberty of parents

Since the family is a society in its own original right, it has the right freely to live its own domestic religious life under the guidance of parents. Parents, moreover, have the right to determine, in accordance with their own religious beliefs, the kind of religious education that their children are to receive.¹³⁷

In addition to human persons and religious bodies, individual families, too, are to be regarded as subjects of the right to religious freedom. Families as societies in their own right have the right to live out their own domestic religious lives. The religious freedom that is intrinsically theirs is grounded in the dignity of the human person. By reason of their dignity as human beings, all parents have a prerogative to exercise responsibility in caring for the families over which they have charge, including the duty to order the religious life of the familial community. From this basis, article 5 evolves a further principle, namely that parents have the right to decide what kind of religious education their children will receive in conformity with their own religious

137. DH, n. 5, p. 683.

beliefs. Hence they have the right to choose schools to accomplish this religious education.¹³⁸

Consequently, as the second paragraph of the article states, governments are to acknowledge and respect this right of parents to make a truly free choice of schools and of other means of education.¹³⁹ This duty on the part of the civil authority pertains to situations where a government prescribed form of education excludes religious instruction, or where children are compelled to attend religious instruction not in conformity with the religious beliefs of parents.¹⁴⁰ These rights of parents, founded in humanity's right to religious freedom, are also transgressed if they are nominally recognized in the positive law but are nullified in practice. Such is the case where all citizens are required to contribute to an

138. Cf. A. PREW-WINTERS, op. cit., pp. 31-32; also P. PAVAN, "Declaration on Religious Freedom", translated by H. GRAEF, in H. VORGRIMLER, gen. ed., op. cit., vol. 4, p. 71.

139. "It is to be noted here that the theme of freedom of choice for parents and of assistance for them and not for schools per se is consonant with the Declaration on Christian Education." M. HURLEY, op. cit., p. 75.

140. "... the structures on 'forced attendance' extend to ideological indoctrination as well as to religious indoctrination contrary to parental choice." Ibid.

educational system intended for all, without being given the possibility of educating their children according to their personal religious convictions.¹⁴¹

Summary

A careful study of the various documents of Vatican II reveals that the Council Fathers made frequent reference to the role of parents in the course of their teachings. Taken together these statements not only contribute to the development of a more dynamic and less juridical understanding of that role, but they also constitute a clear and vibrant theology of parenthood.

The principal teachings of the Second Vatican Council could be summarized in the following manner:

- since all Christians share in the priesthood of Jesus Christ through baptism, parents participate in a special way in the priesthood of the people of God (LG, n. 11);
- the family is the "domestic Church" (LG, n. 11);
- the baptized also share in the prophetic function of Christ by the example of their lives, and parents in a particular way participate in this function by the instruction they give their children (LG, n. 35);

141. Cf. P. PAVAN, op. cit., p. 71.

- the education of children is a central feature of the apostolate of the family (AA, n. 11);
- parents who have the obligation to provide for Christian education also have the duty to assure formation in the apostolate (AA, n. 30);
- parents educate in the faith by word and example from the child's earliest years (AA, nn. 11 and 30);
- with parents leading the way by example, children find a readier path to human maturity, salvation and holiness (GS, n. 48);
- the family is a kind of school of deeper humanity (GS, n. 52);
- parents have the obligation to educate their offspring and are to be acknowledged as the first educators of their children (GE, n. 3);
- parents are to enjoy freedom in their choice of schools (GE, n. 6);
- Catholic parents have the duty to entrust their children to Catholic schools where possible (GE, n. 8);
- civil society has the duty to promote the education of the young by: 1) securing the rights and duties of parents and of others with a role in education; 2) providing them with the assistance they need; 3) completing the task whenever their efforts are insufficient; and 4) providing schools (GE, n. 3);

- the office of education belongs to the Church also because it has the responsibility of announcing the way to salvation (GE, n. 3);
- parents have the right to determine, in accordance with their own religious beliefs, the kind of religious education that their children are to receive (DH, n. 5).

This revised appreciation of the parental task by the Council colours all subsequent post-conciliar legislation whenever parents are directly concerned. What is more, these conciliar insights on the rights and duties of parents in the education of their children provide the foundation for the new canons on parents and education in the revised Code of Canon Law.

THE EDUCATION OF CHILDREN
ACCORDING TO POST-CONCILIAR DOCUMENTS

With the conclusion of the Second Vatican Council, the Church initiated the task of implementing the numerous directives of the Council. For the most part, the renewal was guided by the various departments of the Roman Curia, acting in the name of the Supreme Legislator. Generally, they did this through diverse documents that either set forth the new legislation and practice, or elaborated on the changes established by the Council.

Throughout this vast collection of post-conciliar texts there are frequent references to the family, and especially to parents. Repeatedly, parents as the first teachers of their children, are singled out for special mention. They are recognized either because of their educative function, or because of their special responsibility for the application of the principles presented in a given document. For the most part, these texts build on the proposals presented in the conciliar documents, giving substance to the ministry of parents described there, and elaborating a number of practical consequences of the parental vocation.

A further feature of the Church in the post-conciliar years has been the regular meetings of the Synod of Bishops. Once again, in the consideration of pastoral questions and themes and in the resulting documentation, the role of parents has often been referred to and underscored.

This documentation has significance in that with the documents of Vatican II, it is an important, and in some cases, a primary source in the formulation of the new canons in the Revised Code. This is especially evident in the precepts governing the office of parents and their rights and duties in the education of their children.

A. The Roman Ritual

One of the immediate and most visible consequences of the Second Vatican Council was the revision of the liturgical rites of the Latin Church. This revision was undertaken to bring these rites into harmony with the theological perspectives of the Council. Not surprisingly, the revised Roman Ritual reflects the conciliar interpretation of the rights and obligations of parents in the education of their children; this is the

case particularly in the new rites of marriage, baptism and confirmation.

1. The Rite of Marriage - Ordo celebrandi matrimonium
(March 19, 1969)

Within the framework of the liturgical celebration of the covenant of Christian marriage, the revised Rite of Marriage makes frequent reference to the rights and duties of parents. In the praenotanda, the new rite builds directly on Lumen Gentium, article 11,¹ when it states:

Married Christians, in virtue of the sacrament of matrimony, signify and share in the mystery of that unity and fruitful love which exists between Christ and his Church; they help each other to attain to holiness in their married life and in the rearing and education of their children; and they have their own special gift among the people of God.²

1. Cf. W. TOBIN, "The Rights and Obligations of Parents With Reference to the Religious Formation of their Children", in Ius Populi Dei, Roma, Università Gregoriana Editrice, 1972, 3 vols., vol. 3, p. 277.

2. RM, n. 1, p. 534; emphasis added. All quotations from the revised Roman Ritual are taken from The Rites of the Catholic Church, translation prepared by The International Commission on English in the Liturgy, New York, Pueblo Publishing Company, 1976-1980, 2 vols.; hereafter simply The Rites.

This description of marriage accentuates the familial orientation of the sacrament, repeating the conciliar teaching that marriage and conjugal love are by their very nature ordered to the generation and education of children and find in them their ultimate crown.³ The introduction also advises that the responsibilities of the spouses in nurturing the holiness of their children are among the elements to be emphasized in the celebration of Christian marriage.⁴

The rite also highlights the role of spouses as parents in the exhortations and prayers for the celebration of marriage. At the beginning of the rite itself, the priest questions the couple. Among the questions prescribed, the third one centres on the couple's willingness to assume the duties of parenthood: "Will you accept children lovingly from God, and bring them up according to the law of Christ and his Church?"⁵ Later, among the several optional forms for the nuptial

3. Cf. RM, n. 6, in The Rites, vol. 1, p. 534.

4. Cf. ibid., n. 6, in The Rites, vol. 1, p. 535.

5. Ibid., n. 24, in The Rites, vol. 1, p. 540.

blessing, the parental role of the newly united spouses is once again stressed:

Give them the strength which comes from the gospel so that they may be witnesses of Christ to others. Bless them with children and help them to be good parents.⁶

And again:

Help them to create a home together and give them children to be formed by the gospel and to have a place in your family.⁷

2. The Rite of Baptism of Infants - Ordo baptismi parvulorum (May 15, 1969)

The revised Rite of Baptism of Infants also makes frequent reference to the fundamental position of Christian parents in the religious upbringing of their children. The obligation of parents to form and educate their children in the faith is noted and stressed repeatedly throughout the revised ritual, beginning with the general introduction to Christian initiation, continuing through the specific praenotanda to the Rite of Baptism of Infants, and culminating in the norms, admonitions and prayers of the rite itself.

6. Ibid., n. 33, in The Rites, vol. 1, p. 544.

7. Ibid., n. 120, in The Rites, vol. 1, p. 567.

In the introduction to the Rite of Baptism of Infants, the place and importance of parents in the process of Christian initiation and faith development is clearly demonstrated. The faith required for baptism is proclaimed by the parents and godparents who represent the local Church.⁸

Paragraph 5 of the praenotanda acknowledges the key position of parents in the celebration of the sacrament. It asserts: "Because of the natural relationships, parents have a more important ministry and role in the baptism of infants than godparents."⁹ The praenotanda further insists that "it is very important that the parents should be present in the celebration in which their child is reborn in water and the Holy Spirit."¹⁰ Consequently, parents are involved in virtually every part of the revised rite. They listen to the words addressed to them by the celebrant, they join in prayer together with the assembly, and they exercise a

8. RB, n. 2, in The Rites, vol. 1, p. 188. See also J. CHALLACIN, "Infant Baptism: More Difficult Requirements?", in Homiletic and Pastoral Review, 77:5(1976-1977), p. 67; CHALLACIN situates this fact in the sacramental theology espoused by Vatican II.

9. RB, n. 5, in The Rites, vol. 1, p. 189.

10. Ibid.

special function when they 1) publicly request that the child be baptized;¹¹ 2) trace the sign of the cross on the forehead of their child after the celebrant;¹² 3) renounce Satan and make their profession of faith;¹³ 4) carry the child to the font;¹⁴ 5) hold the lighted candle;¹⁵ 6) are blessed with the special prayers for mothers and fathers.¹⁶

The introduction observes that:

After baptism, it is the responsibility of the parents, in their gratitude to God and in fidelity to the duty they have undertaken, to enable the child to know God, whose adopted child it has become, to receive confirmation and to participate in the holy eucharist.¹⁷

11. See ibid., n. 76, in The Rites, vol. 1, pp. 214-215.

12. See ibid., n. 79, in The Rites, vol. 1, p. 215.

13. See ibid., n. 94, in The Rites, vol. 1, pp. 221-222.

14. See ibid., n. 97, in The Rites, vol. 1, pp. 222-223.

15. See ibid., n. 100, in The Rites, vol. 1, p. 224.

16. See ibid., n. 105, in The Rites, vol. 1, pp. 225-226.

17. Ibid., n. 5, in The Rites, vol. 1, p. 189-190.

For this reason, throughout the rite, the exhortations and prayers continually accent the obligations that flow from the baptism of their child. For example, after having asked for baptism for their child, they are addressed by the celebrant:

You have asked to have your child baptized. In doing so, you are accepting the responsibility of training him (her) in the practice of the faith. It will be your duty to bring him (her) up to keep God's commandments as Christ taught us, by loving God and our neighbor.¹⁸

Among the suggested prayers of the faithful, the ritual includes: "Make the lives of his (her) parents and godparents examples of faith to inspire this child."¹⁹ "Teach them by the words and example of their parents and godparents, and help them to grow strong as living members of the Church."²⁰ "Help their parents and godparents to lead them to know and love God."²¹ Later, in preparation for the profession of faith, the celebrant speaks to the parents and godparents in these words:

18. *Ibid.*, n. 77, in *The Rites*, vol. 1, p. 215.

19. *Ibid.*, n. 84, in *The Rites*, vol. 1, p. 217.

20. *Ibid.*, n. 217, in *The Rites*, vol. 1, p. 265.

21. *Ibid.*, n. 218, in *The Rites*, vol. 1, p. 266.

Dear parents and godparents: You have come here to present this child for baptism. By water and the Holy Spirit, he (she) is to receive the gift of new life from God, who is love. On your part, you must make it your constant care to bring him (her) up in the practice of the faith. See that the divine life which God gives him (her) is kept safe from the poison of sin, to grow always stronger in his (her) heart. If your faith makes you ready to accept this responsibility, renew now the vows of your own baptism.²²

As the child is clothed in the white baptismal garment, the celebrant says:

See in this white garment the outward sign of your Christian dignity. With your family and friends to help you by word and example, bring that dignity unstained into the everlasting life of heaven.²³

In presenting the lighted baptismal candle, the celebrant admonishes: "Parents and godparents, this light is entrusted to you to be kept burning brightly."²⁴

Finally, the celebrant blesses the father:

22. Ibid., n. 93, in The Rites, vol. 1, pp. 220-221.

23. Ibid., n. 93, in The Rites, vol. 1, p. 224.

24. Ibid., n. 100, in The Rites, vol. 1, p. 224.

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God is the giver of all life, human and divine. May he bless the father of this child. He and his wife will be the first teachers of their child in the ways of faith. May they be also the best of teachers, bearing witness to the faith by what they say and do, in Christ Jesus our Lord.²⁵

3. The Rite of Confirmation - Ordo confirmationis
(August 22, 1971)

The revision of the ritual of Christian initiation was continued by the promulgation of the revised Rite of Confirmation in August 1971. Once again, the responsibilities of parents are noted.

The new rite, unlike the Rite of Baptism of Infants, does not concentrate extensively on the parental role in the preparation for and celebration of the sacrament of confirmation. Nevertheless, it recognizes the significant place parents have in their children's reception of the sacraments of initiation, as well as their substantial contribution to the faith development of their children.

Their duty with regard to confirmation is considered principally in the introduction to the rite,

25. Ibid., n. 105, in The Rites, vol. 1, p. 226. See also n. 70B, in The Rites, vol. 1, p. 212, and n. 70C, in The Rites, vol. 1, p. 212-213.

under the category of those responsible for the reception of the sacrament. In the final section of paragraph 3, the themes sounded in the Rite of Baptism of Infants are restated and reemphasized.²⁶

The initiation of children into the sacramental life is for the most part the responsibility and concern of Christian parents. They are to form and gradually increase a spirit of faith in the children and, with the help of catechetical institutions, prepare them for the fruitful reception of the sacraments of confirmation and the eucharist. The role of the parents is also expressed by their active participation in the celebration of the sacraments.²⁷

The new rite clearly manifests its connection with baptism and its position within the process of Christian initiation. There are consequently many links with the sacrament of baptism. Since it was the parents who presented their children for baptism, the introduction directs that they themselves "may present their children for confirmation".²⁸

26. See ibid., n. 5, in The Rites, vol. 1, pp. 189-190.

27. RC, n. 3, in The Rites, vol. 1, p. 298.

28. Ibid., n. 5, in The Rites, vol. 2, p. 299.

The exhortations and prayers focus on the candidates for the sacrament rather than on their parents. The past and continuing formative role of parents is however briefly acknowledged by one of the recommended petitions in the general intercessions: "For their parents and godparents, who led them in faith, that by word and example they may always encourage them to follow the way of Jesus Christ [...]."29

The duties of parents are clearly indicated in a large part of the revised Roman Ritual, and especially in the Rite of Baptism of Infants. Along with the Rite of Marriage and the Rite of Confirmation, it concretizes within the structure of the liturgical celebration of these three sacraments the emphasis found in the Vatican II documents on the responsibility of parents for the religious education of their children.

B. The Legislation on Mixed Marriages

1. The Instruction Matrimonii Sacramentum (March 18, 1966)

The Second Vatican Council addressed the problem of mixed marriages on November 20, 1964, the last day of the third session, by debating a vetum which was to be

29. Ibid., n. 30, in The Rites, vol. 2, p. 310.

passed on to the Commission for the Revision of the Code of Canon Law for incorporation into the new Code.³⁰ This votum asked for several changes in the law, among them that the promise be removed for the non-Catholic, that the promise of the Catholic be "as far as possible" (pro posse), and that marriage in a non-Roman Catholic Church be permitted.³¹ The Council Fathers were unable to reach a consensus on the question, deciding instead to defer the issue to the Pope for his personal consideration.

The Instruction³² Matrimonii Sacramentum, issued on March 18, 1966 by the Sacred Congregation for the Doctrine of the Faith, was the first post-conciliar legislation on mixed marriage, superseding the canon law

30. For an outline of the discussion of the mixed marriage question at Vatican II, see C. CURRAN, "The Mixed Marriage Promises", in A New Look at Christian Morality, Notre Dame, Indiana, Fides Publishers, Inc., 1968, pp. 178-180. See also B. HARING, "Mariage mixte et Concile", in Nouvelle revue théologique, 84(1962), pp. 699-708.

31. Cf. E. DE BHALDRAITHE, "The Mixed Marriage Promise", in Doctrine and Life, 32(1982), p. 170.

32. See further J. BERNHARD, H. LEGRAND, "L'instruction 'Matrimonii Sacramentum' sur les mariages mixtes", in Revue de droit canonique, 16:1(March 1966), p. 60; T. DAVEY, "Mixed Marriages: A Note on the 'Promises'", in The Clergy Review, 54(1969), pp. 560-561, for an interpretation of the juridical status of this "Instruction".

that treated of the same subject matter. The objectives of the Instruction were limited: "to provide better for the needs of the faithful;³³ and

... that the rigor of the present law on mixed marriages be mitigated, not, of course, in anything touching the divine law, but in certain regulations that have come through ecclesiastical law and which our separated brethren often consider offensive.³⁴

The changes initiated by Matrimonii Sacramentum concerning the promises were of themselves provisional and fragmentary. They were intended as an experiment which, if confirmed by experience, would later be incorporated into the new Code of Canon Law.³⁵ The modifications introduced by the Instruction concerned four main areas.

First, the Catholic party alone was to make the explicit promise to see the Catholic baptism and education of all the children. In this way, it was the Catholic party who would fulfil the serious obligation of

33. MS, n. VII, p. 596. All page numbers given for this document refer to the English translation in CLD, vol. 6, pp. 592-597.

34. Ibid., p. 594.

35. Cf. MS, p. 594.

of providing for the Catholic baptism and upbringing of children to be born of the marriage.³⁶

Second, the non-Catholic partner was to be informed of the obligation of the Catholic party to have any children born of the union baptized and educated in the Catholic religion. The non-Catholic partner was to be invited to promise sincerely and openly not to impede the obligation of the Catholic party.³⁷ If the non-Catholic was unable to make this promise without violating his or her conscience, the Ordinary was to refer the case to the Holy Sec.³⁸

The third innovative feature concerned the format of the promises. Usually, they were to be made in writing, but the Ordinary could decide either in all

36. Cf. Ibid., n. I, 2, p. 594.

37. "This promise which the non-Catholic is 'invited' to make, is not the cautiones in the formal sense of the term; indeed it would seem that all the non-Catholic party is required to do is to recognize the gravity of the obligations of the Catholic party and not to oppose them." T. DAVEY, loc. cit., p. 562. Likewise, the Catholic baptism and education of children was no longer, legally, the responsibility of the non-Catholic party in exceptional circumstances, such as the failure of the marriage.

38. Cf. MS, n. I, 3, pp. 594-595. See further CLD, vol. 6, pp. 597-604 for sample cases.

cases or in a particular case that the promise could be made orally.³⁹

Finally, if Catholic education was prevented by the customs and laws of a people, the local Ordinary could dispense from the impediment provided that the Catholic party was prepared, "to the best of his knowledge and power, to make every effort to have all future children baptized and educated as Catholics",⁴⁰ and that there was certainty of the good will of the non-Catholic partner.

Regarding the obligation to rear children in the Catholic faith, the tone of Matrimonii Sacramentum was markedly different from that of the 1917 Code of Canon Law. Whereas canon 1060 seemed to put the Catholic's obligation to safeguard his or her faith, and the obligation to raise all children of the marriage in the Catholic Church on the same level, the Instruction employed different terms to express the two obligations of the Catholic party. The obligation to maintain faith was affirmed in an absolute manner, whereas the

39. Cf. MS, n. I, 4, p. 595. See also T. DAVEY, loc. cit., p. 562.

40. Ibid., n. II, p. 595.

obligation to educate children was expressed in a more contingent form. The fundamental point was the necessity of protecting with the greatest possible efficacy and diligence the Catholic education of children. In comparison to the Code, however, the Instruction incorporated into the basic principle a new element: the phrase "as far as possible" (pro posse). It seemed to admit that in certain cases, the Catholic party could not accomplish the obligation of Catholic baptism and education for reasons beyond his or her control. In the abstract, the document welcomed the principle enunciated by the conciliar schema: the Catholic is bound to seek as far as possible the Catholic education of all the children.⁴¹ The next piece of ecclesiastical legislation on mixed marriages, Matrimonia Mixta, eliminated any doubt and accepted the principle categorically.

2. The Apostolic Letter Matrimonia Mixta
(March 31, 1970)

A year and a half after the issuance of Matrimonii Sacramentum, the question of mixed marriages received further attention at the First General Assembly of the

41. See further J. BERNHARD, H. LEGRAND, loc. cit., pp. 64-65.

Synod of Bishops in 1967. In general, the assembled bishops expressed a desire for an even greater flexibility in the legislation, voting in favour of a less precise and less juridical means for assuring the fulfilment of the Catholic party's obligations.⁴²

The changes incorporated in the Apostolic Letter (given Motu proprio), Matrimonia Mixta, were not, however, as extensive as might have been expected in the light of synodal discussions and recommendations. The Motu proprio nevertheless represents a significant step in the post-conciliar evolution of the legislation, especially as concerns the Catholic party's obligations.

Matrimonia Mixta notes two principles that the legislation seeks to balance or harmonize: the natural right of a person to contract marriage and to beget children; and the obligation of the Church to ensure that

42. Cf. B. O'HIGGINS, "Mixed Marriages: The 'Cautiones'", in Irish Theological Quarterly, 41(1974), pp. 219-220. See also R. BEAUPERE, "Mixed Marriages at the Synod of Bishops", in One in Christ, 4(1968), pp. 170-186.

the prescriptions of the divine law are faithfully and carefully observed.⁴³

Consequently, the faithful are to be taught that the Church, even if she partially relaxes the bond of ecclesiastical discipline in particular cases, can never, however, remove the obligation of the Catholic party which, in accord with the varying circumstances of cases, is imposed by divine law; that is, by the very plan of salvation instituted by Christ.⁴⁴

According to the Motu proprio,

[...] the Catholic party in a mixed marriage is obliged not only to stand firm in the faith but also, in as far as possible, to take care that children be baptized and educated in that same faith and receive all the helps to eternal salvation which the Catholic Church supplies to her children.⁴⁵

The guarantee sought by the Church has still to be provided by the Catholic party by means of a juridical act similar to that required by the 1917 Code from both partners. Whether it is to be made in writing, or before

43. Cf. MM, p. 713. All page numbers given for this document refer to the English translation in CLD, vol. 7, pp. 711-718.

44. Ibid.

45. Ibid. See also n. 4, p. 715.

or orally is not determined by the document, but is left to the Episcopal Conferences to establish;⁴⁶ nonetheless some form of promise is still required.⁴⁷

The phrasing of the Catholic's promise to "do all he can in his power"⁴⁸ does not seem to demand moral certitude that the children will in fact be reared as Catholics. As a result, the text appears to evidence a development on the question of the Catholic baptism and education of the children. It further indicates that any moral certitude required by the cautiones concerns the issue of safeguarding the faith of the Catholic partner.⁴⁹

The Motu proprio stipulates that the non-Catholic partner is simply to be informed of the obligations and promises binding on the Catholic party. There is no longer any requirement, as there was in Matrimonii Sacramentum, for the non-Catholic partner to pledge not

46. See ibid., n. 7, p. 716.

47. Cf. B. O'HIGGINS, loc. cit., p. 220.

48. MM, n. 4, p. 715.

49. Cf. B. O'HIGGINS, loc. cit., p. 221.

to impede the Catholic party in the performance of these duties.⁵⁰

In setting out the Catholic partner's obligations regarding the religious upbringing of children, Matrimonia Mixta does not suggest that the non-Catholic party has no responsibility in the education of children. Rather the text contains an express acknowledgement that, notwithstanding the Catholic spouse's promise, education remains the duty of both parents:

With reference to the education of children, however, since both spouses are obligated to this duty and since they have no right to ignore it or any of the other obligations connected with it, the matter is not without difficulty.⁵¹

This is a basic difference between these norms and those of the 1917 Code. Whereas previously the non-Catholic party in making the promises was implicitly required to surrender, or to place in abeyance, his or her right with regard to the religious education of the children, the new legislation explicitly affirms the right. Matrimonia Mixta recognizes the equal natural rights of the non-

50. Cf. MM, n. 5, p. 715.

51. Ibid., pp. 713-714.

Catholic parent in a mixed marriage to guide the religious upbringing of the children, and accepts that they are under the same duty before God to do so in accord with their conscience.⁵² The document accepts the essential equality of right and duty of both parents.⁵³

The rules on mixed marriage are intended to substantiate the teachings of the Second Vatican Council on ecumenism and religious liberty. In particular, they confirm its accent on the rights of persons to follow their religious conscience and the rights of parents in the religious education of their children. The document endorses the responsibility of both parents in this regard, and is exact in portraying the promises and obligations of the Catholic partner as a willingness and duty "to do all in his power".⁵⁴ The spirit of the text understands that the promise to rear the children in the

52. See H. ST. JOHN, "The Problem of Mixed Marriages", in The Eastern Churches Quarterly, 16(1964), pp. 155-163.

53. Cf. W. DANIEL, "Mixed Marriages - The New Promises", in The Australasian Catholic Record, 48 (1971), p. 196. See also NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, "Mixed Marriages: Particular Norms for the United States", November 16, 1970, in CLD, vol. 7, pp. 734-735.

54. Cf. W. DANIEL, loc. cit., pp. 197-198.

Catholic Church is not one the Catholic party can always make unconditionally. It is not therefore an absolute obligation to which the Catholic is bound; rather, the law only asks that the Catholic party promise and be obliged "to do all in his power."⁵⁵

Nevertheless, Matrimonia Mixta in conceding the limitations of the Catholic's promise, does not thereby negate the duty of communicating the faith to the children. As the Irish bishops declared in their statement on the Motu proprio:

A Catholic can never be dispensed from the duty of handing on to his children the faith that is in him. Nor can he be authorized to withhold from his children the full riches of Catholic devotional and sacramental life. The Church's position in this matter flows from the very nature of Catholic faith. It constitutes no reflection on the sincerely held beliefs of others.⁵⁶

55. Cf. ibid.

56. IRISH EPISCOPAL CONFERENCE, Statement, "Mixed Marriages: Particular Norms for Ireland", October, 1970, in CLD, vol. 7, p. 729.

C. The Instruction on Social Communications - Communio et Progressio (May 23, 1971)

At the end of its second session, the Second Vatican Council promulgated the Decree on Social Communications, Inter Mirifica. The educative function of parents, as might be expected, does not figure prominently in the document. However, they are referred to once in the text, in article 10, regarding their duty to be vigilant in the supervision of the films, publications and other media that enter the home.

Parents should be mindful of their duty to guard against shows, publications, and the like which would jeopardize faith or good morals. Let them see that such things never cross the thresholds of their homes and that their children do not encounter them elsewhere.⁵⁷

The article, heavily protectionist in tone, does not give any basis for the responsibility of parents to supervise this aspect of their children's education. Several post-conciliar documents, particularly the Instruction on the Pastoral Implementation of the Decree on Social Communications, Communio et Progressio, filled this lacuna.⁵⁸

57. Inter Mirifica, n. 10, p. 324 (W. ABBOTT edition as noted in Chapter III).

58. Cf. D. BOUREAU, La mission des parents. Perspectives conciliaires, Paris, Les Editions du Cerf, 1970, p. 310.

Article 10 of Inter Mirifica is composed of two paragraphs. The first concerns the development, especially by the young, of restraint and discernment in the use of the instruments of social communication. The second has to do with the regulation of these instruments by parents. The connection between these two ideas is more clearly established in article 67 of Communio et Progressio.

Article 67 directs that children are to be encouraged in their acquisition of artistic taste, critical judgment, and sense of personal responsibility based on sound morality. Such qualities are necessary if children are to be discriminating in choosing from the various media they have before them.

It is in this connection that parents fulfil the guiding function assigned to them in article 10 of Inter Mirifica. They are to urge their children to make their own selection, supervising the choice and reserving the final decision to themselves.⁵⁹

59. Cf. PONTIFICAL COMMISSION FOR SOCIAL COMMUNICATIONS, Instruction, "Communio et Progressio", May 23, 1971; English translation in TPS, 16(1971), n. 67, p. 267.

Since concern for the formation of children in the correct use of the instruments of communication is a priority in their education,⁶⁰ parents as the first educators have a role to play in this regard.

The initial education in this area must be given within the family. Development of the ability to understand, choose and judge the social communications media must be part of the overall preparation for life. Parents, therefore, have the task of helping their children to make choices, develop their powers of judging and carry on a dialogue with the communicator.⁶¹

In order to accomplish their task of guidance, parents are to become familiar with the films, broadcasts and publications that interest their children. They can thus assist them in the maturation of their critical faculties by their ability to discuss the items involved. This aspect of screening, stated more positively here than in article 10 of Inter Mirifica, is therefore the second

60. PAUL VI, Written Message, "Constituisce un appuntamento", April 23, 1978; English translation in TPS, 23(1978), p. 261.

61. Ibid., See also John Paul II, Written Message, "Con sincera", May 23, 1979; English translation in TPS, 24(1979), p. 274.

main area of parental responsibility with regards to the instruments of social communication:⁶²

D. The Directory on Masses With Children - Pueros Baptizatos (November 1, 1973)

In November 1973, the Sacred Congregation for Divine Worship, in the process of continuing the liturgical reform ordered by the Second Vatican Council, issued the Directory on Masses With Children, Pueros Baptizatos. Within this document, which sets out the principles to be applied in celebrations with children, their liturgical and eucharistic education is underlined as a necessary element in their overall formation. Consequently, parents are declared to have a major part to play in this particular catechesis.

By baptism, children are initiated into a worshipping community wherein the faithful join together to celebrate the Paschal Mystery. It is the duty of the

62. The positive benefits of the media for the family are given in JOHN PAUL II, Written Message, "La Chiesa", May 1, 1980; English translation in TPS, 25(1980), p. 373; and IDEM, Apostolic Exhortation, "Familiaris Consortio", November 22, 1981; English translation in The Role of the Christian Family in the Modern World, Ottawa, Canadian Conference of Catholic Bishops, 1982, n. 76, pp. 142-143.

Church, which baptizes infants and entrusts them with the gifts conferred by this sacrament, to ensure that they develop in communion with Christ and the Christian community. The sign and promise of this communion is the sharing by the Church in the Eucharist, and children are either being prepared for this, or are being led to an even fuller understanding and appreciation of what it signifies.⁶³ "Such liturgical and eucharistic formation must not be divorced from the child's general education as a human being and as a Christian."⁶⁴ The Christian family makes the largest contribution to this teaching, and the Christian education provided by parents necessarily includes the liturgical and eucharistic formation of children.⁶⁵

In virtue of the obligation in conscience which they freely accepted at the baptism of their children, parents are bound to teach them step by step how to pray, by praying with them every day and encouraging them to pray

63. SACRED CONGREGATION FOR DIVINE WORSHIP, Directory, "Pueros Baptizatos", November 1, 1973; English translation in TPS, 18(1973), n. 8, p. 319.

64. Ibid.

65. See also P. DUFRESNE, "La liturgie dans la famille", in Bulletin national de liturgie, 15(1981), pp. 241-255; J. GURRIERI, "Domestic Sanctuary: The Family and Worship", in The Priest, 37:2(February 1981), pp. 39-42; A. HYNES, E. HYNES, "Children and Worship in the Home", in Religious Education, 51(1956), pp. 338-343.

by themselves. Children who have been prepared in this way from their earliest years and who have had the opportunity of going to Mass with the family when they so wish, will readily begin to sing and pray in the liturgical assembly, and indeed will already be experiencing something of the meaning of the Eucharistic mystery.⁶⁶

E. The Third (1974) and Fourth (1977) General Assemblies of the Synod of Bishops

1. The Apostolic Exhortation Evangelii Nuntiandi (December 8, 1975)

At the conclusion of the Third General Assembly of the Synod of Bishops, the members submitted the results of their deliberations to Pope Paul VI and asked that he formulate the document that would give concrete expression to the overall conclusions of the Synod on the theme of evangelization. Accordingly, in December 1975, the Pope published his Apostolic Exhortation on Evangelization in the Modern World, Evangelii Nuntiandi. Within this thorough examination of the evangelizing mission of the Church, the role of the family in the proclamation of the gospel is considered, and the work of parents in educating their children is listed as one of

66. SACRED CONGREGATION FOR DIVINE WORSHIP, Directory, November 1, 1973, op. cit., n. 10, p. 320.

means whereby the family accomplishes its evangelizing function.

In article 70, the Apostolic Exhortation states that lay people exercise a very special form of evangelization within the diverse spheres and activities of the secular world with which they are involved. Among the realities that are open to evangelization, the Apostolic Exhortation lists, "human love, the family, the education of children and adolescents" ⁶⁷ The utilization of such everyday actualities in the service of the gospel elevates their human content and indicates the supernatural dimension that is inherent within them. ⁶⁸

In the evangelizing mission of the laity, the activity of the family has a particular place. The Christian family, as a "domestic Church", contains within

67. EN, n. 70, p. 46. All references are from the English translation in On Evangelization, Boston, Daughters of St. Paul, 1975, 62 p.

68. Cf. ibid., n. 70, pp. 46-47. The Second Vatican Council's Decree on the Missionary Activity of the Church, Ad Gentes, in article 41 speaks at length of the missionary responsibility of the laity, and the duty of the family to cooperate in the evangelizing endeavor of the Church; cf. S. LOURDUSAMY, "The Family, the Starting Point of Evangelization and of Catechesis", in Omnis Terra - English Edition, 14(1980), p. 443.

it the various aspects of the entire Church, and thus is to be a place where the gospel is transmitted.⁶⁹

In a family which is conscious of this mission, all the members evangelize and are evangelized. The parents not only communicate the Gospel to their children but from their children they can themselves receive the same Gospel as deeply lived by them.⁷⁰

The family not only evangelizes itself, but by its words, works and testimony of life becomes the evangelizer of other families and of the society of which it is a part.⁷¹ The document further notes that the parents in mixed marriages have a particular obligation of announcing Christ in total fidelity to the obligations of a common baptism.⁷²

69. Cf. EN, n. 71, p. 47. See further S. LOURDUSAMY, loc. cit., p. 445, who draws the connection between the Church's and the family's exercise of the triple mission through evangelization.

70. EN, n. 71, p. 47.

71. Cf. NATIONAL CONFERENCE OF CATHOLIC BISHOPS, "The Family's Role in Catechesis. Synod '77", in Origins, 7(1977-1978), p. 334.

72. Cf. EN, n. 71, p. 47.

Parents have a unique place in the evangelizing enterprise of the family: "... your task ... is to help your children ... to discover truth, including religious and spiritual truth."⁷³ Thus parents are servants of the truth, evangelizers, and their efforts on behalf of their offspring form an integral part of the larger evangelizing mission of the entire people of God.

Evangelii Nuntiandi clearly reflects its conciliar origins. Articles 70 and 71 reiterate the teaching presented in Lumen Gentium, especially in articles 12 and 35, on the participation of parents in the prophetic office shared by all the people of God. Furthermore, the Apostolic Exhortation demonstrates its fidelity to the Council by ascribing to the family, the "domestic Church", a share in the evangelizing mission as something intrinsic to it. This too is in harmony with the perspective set forth in the Dogmatic Constitution on the Church.

2. The Apostolic Exhortation Catechesi Tradendae
(October 16, 1979)

A little over a year after his election to the papacy, Pope John Paul II issued the Apostolic

73. Ibid., n. 78, p. 56.

Exhortation on Catechesis in Our Time, Catechesi Tradendae, which set forth the reflections and conclusions of the Fourth General Assembly of the Synod of Bishops in 1977 on the topic of catechetics. The education of children by and within the family was not part of the formal theme of the Synod as such, but no discussion of catechesis could avoid considering the importance of the family, and especially of parents, within that field.⁷⁴ Consequently, the papal document makes several references to parents and their educational role within the context of a comprehensive study of catechesis.

As a form of education, catechesis has both rights and duties connected with it: the right of every baptized person "to receive from the Church instruction and education enabling him or her to enter on a truly Christian life";⁷⁵ and the corresponding duty which the Church has "springing from a command given by the Lord"⁷⁶

74. See D. MARTIN, "The Family in the Synod of Bishops 1977", in OR (Eng.), n. 31 540, August 3, 1978, pp. 3, 6, for a full analysis of the Bishops' considerations of the family's role in catechesis.

75. CT, n. 14, p. 20. All references are from the English translation in Catechesis In Our Time, Ottawa, Canadian Conference of Catholic Bishops, 1979, 100 p.

76. Ibid.

to impart that instruction and education in the faith.⁷⁷

Both aspects have significance for parents.

As those possessing the fundamental rights in the education of their children, Christian parents have the prerogative to select the type of religious education that their children are to receive. This principle was explicitly enunciated by the Fathers of the Second Vatican Council, particularly in the Declaration on Religious Liberty, Dignitatis Humanae.⁷⁸ Therefore, no civil authority is to interfere either through hindering the exercise of this right, or through making its exercise intolerably difficult, as by refusing certain other rights to those who choose to give their children a religious education or to ask for their children's admission to the sacraments.⁷⁹ It is for this reason that the second paragraph of article 14 clearly declares: "... catechetical activity should be able to be carried out ... without discrimination against parents ..."⁸⁰ At the same time, as members of the people of

77. Cf. ANONYMOUS, John Paul II, Catechist, Chicago, Franciscan Herald Press, 1980, p. 76.

78. See further DH, n. 2, pp. 678-680; n. 5, p. 683 (W. ABBOTT edition as noted in Chapter III).

79. Cf. D. MARTIN, loc. cit., p. 6.

80. CT, n. 14, pp. 20-21.

God, parents share in the solemn responsibility to impart catechetical instruction that belongs to the entire Church.⁸¹

The core of the Apostolic Exhortation's teaching on the place of parents in catechesis lies in article 68. Here their catechetical activity is described as having a special character which is irreplaceable.⁸² Underlining the Second Vatican Council's repeated insistence on the fundamental right and duty of parents to educate their children, the article maintains that the vital component in this parental education is the Christian faith, which is conveyed both by witness and by actual instruction.

Education in the faith by parents, which should begin from the children's tenderest age, is already being given when the members of a family help each other to grow in faith through the witness of their Christian lives, a witness that is often without words but which perseveres throughout a day-to-day life lived in accordance with the Gospel.⁸³

81. See further ibid., n. 16, pp. 22-23.

82. Cf. CT, n. 68, p. 89.

83. Ibid., n. 68, pp. 89-90. See also D. MARTIN, loc. cit., p. 3; S. LOURDUSAMY, loc. cit., p. 446.

This catechesis of witness is all the more efficacious when, in the course of family events such as birth, the reception of the sacraments, and death, care is taken to explain in the home the Christian or religious significance of these events.⁸⁴

However, this in itself is not enough. Witness to the faith is to be accompanied by an actual instruction.

... Christian parents must strive to follow and repeat, within the setting of family life, the more methodical teaching received elsewhere. The fact that these truths about the main questions of faith and Christian living are thus repeated within a family setting impregnated with love and respect will often make it possible to influence the children in a decisive way of life.⁸⁵

The axiom of parents as the first teachers of their children is to be understood therefore in a strict and literal sense.⁸⁶

84. Cf. CT, n. 68, p. 90. See also S. LOURDUSAMY, loc. cit., pp. 446-447; JOHN PAUL II, Allocution, "Doy gracias", to the bishops of Argentina on their visit ad limina Apostolorum, October 28, 1979; English translation in OR (Eng.), n. 49 610, December 3, 1979, p. 12.

85. CT, n. 68, p. 90. See also S. LOURDUSAMY, loc. cit., p. 447; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, "The Family's Role in Catechesis", op. cit., p. 335.

86. See further. FOURTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS 1977, Written Message, "Cum Iam Ad Exitum", October 28, 1977; English translation in TPS, 23(1978), p. 24.

"Family catechesis [...] precedes, accompanies and enriches all other forms of catechesis."⁸⁷ Indeed, because of anti-religious legislation, or as a result of widespread unbelief and invasive secularism which impedes religious formation, "'the Church of the home' remains the one place where children and young people can receive authentic catechesis."⁸⁸

The article concludes that Christian parents need to prepare carefully for this ministry of being catechists to their own children, in order to be effective in the discharge of this binding obligation. They do not, however, act alone in this work. As is the case in all their educational endeavours, parents are to seek outside assistance, particularly helps which the Church can and should offer in the area of religious education.⁸⁹ Among these helps the Catholic school has a conspicuous and paramount place, and parents are to prefer it precisely for the quality of the religious instruction integrated into the education of the

87. CT, n. 68, p. 91. See also D. MARTIN, loc. cit., p. 6; JOHN PAUL II, Allocation, October 28, 1979, loc. cit., p. 12.

88. CT, n. 68, p. 91.

89. Cf. CT, n. 69, pp. 91-92. See also D. MARTIN, loc. cit., p. 6; S. LOURDUSAMY, loc. cit., p. 448.

pupils.⁹⁰ Where no Catholic schools are available, parents nevertheless have the right to religious instruction for their children, under the guidance of the Church, either by or within the non-confessional school, or in an allotted period within the school timetable outside the school precincts.⁹¹

F. The Instruction on Infant Baptism - Pastoralis Actio
(October 20, 1980)

A growing trend of denying parents the baptism of their children and numerous inquiries concerning such practices resulted in the Sacred Congregation for the Doctrine of the Faith's issuing in the autumn of 1980, the Instruction on Infant Baptism, Pastoralis Actio. In addition to restating the Church's traditional teaching on infant baptism and providing guidelines for use in various pastoral situations, the Instruction reaffirms the fundamental position of parents in the religious formation of the child. This is evidenced by the essential nature of their involvement in its baptism, and their subsequent responsibility for its growth in faith.

90. Cf. CT, n. 69, pp. 91-92.

91. Cf. ibid., n. 69, pp. 92-93.

In outlining the theological foundations for infant baptism, the Instruction notes that the faith necessary for the reception of the sacrament is supplied to the child through the Church's faith communicated to it, chiefly through its parents. Although the faith of the Church expressed by the parents and operating in the baptism of children is efficacious, and the sacrament conferred is valid, the practice of infant baptism is also, to a certain degree, limited by parents. It is limited both by their natural right to consent to the baptism of their child, and by the faithful performance of the duties that arise from their profession of faith on behalf of their child.⁹² This latter factor underscores the critical character of the educative function of parents in the integral sacramental initiation of children. For this reason, the faithful performance of these duties is mentioned directly by the document as one of the two principles governing the pastoral practice regarding infant baptism, subordinate only to the necessity of baptism and its conferral without undue delay.⁹³

92. PA, n. 15, p. 9. All references are from the English translation in Instruction on Infant Baptism, Boston, Daughters of St. Paul, 1980, 22 p.

93. Cf. ibid., n. 28, p. 15.

Pastoralis Actio clearly establishes that parents have the right⁹⁴ and the duty⁹⁵ to choose baptism for their child. The Church, however, can only accede to the desire of parents if there is a certainty with regard to the child's Christian upbringing.

Assurances must be given that the gift thus granted can grow by an authentic education in the faith and Christian life, in order to fulfil the true meaning of the sacrament. As a rule, these assurances are to be given by the parents or close relatives, although various substitutions are possible within the Christian community. But if these assurances are not really serious there can be grounds for delaying the sacrament; and if they are certainly non-existent the sacrament should even be refused.⁹⁶

This directive is not innovative; it simply repeats the rule given earlier in the Rite of Baptism of Infants.⁹⁷ It reinforces with a prescription the constant

94. Cf. ibid., n. 22, pp. 11-12.

95. Cf. ibid., n. 28, p. 15.

96. Ibid. See also n. 30, p. 17.

97. See RB, n. 8, 4, in The Rites, vol. 1, pp. 190-191; n. 25, in The Rites, vol. 1, p. 194. This policy is even more clearly stated in SACRED CONGREGATION FOR THE SACRAMENTS IN DIVINE WORSHIP, Norms, Variationes in libros liturgicos ad normam Codicis Iuris Canonici promulgati introducendae, September 12, 1983; English translation in Emendations in the Liturgical Books following upon the New Code of Canon Law, translation prepared by The International Commission on English in the Liturgy, Washington, D.C., United States Catholic Conference, 1984, n. 8, 3, p. 14.

teaching of the Church that parents have a basic responsibility to awaken their child's faith and educate it. The document requires nothing more of parents than that they carry out their proper obligations. As the text states in its final paragraphs: "It is in fact for parents to begin the religious initiation of the child, to teach it to love Christ as a close friend and to form its conscience."⁹⁸

G. The Guidelines for Sex Education - Educational Guidance in Human Love (November 1, 1983)

Even though it was issued after the 1980 Synod on the Family, the document entitled Educational Guidance in Human Love, Outlines for Sex Education, published November 1, 1983 by the Sacred Congregation for Catholic Education, can be considered here for purposes of continuity. The text was designed and prepared to serve as an outline for sex education, describing its necessity, its object, its general content and direction.

From the viewpoint of the educational rights and duties of parents, the Outlines for Sex Education declare that the responsibility for sex education belongs in the first place to parents, who, as partners in the conjugal

98. PA, n. 32, p. 19.

covenant lived in the sacrament of marriage, are the natural teachers of the sexual dimension of human love. Furthermore, these guidelines acknowledge that parents have a primacy of place in this area because the moral values, which are at the heart of sex education, are seen and experienced directly in the family and more easily transmitted to children within the family environment through individual parental instruction.⁹⁹

Since education in human sexuality is of necessity a constituent element of Christian education and because Christian education is first and foremost the province of the family, the second chapter of the Outlines for Sex Education affirms that the delicate responsibility for sex education falls principally to the family. Underlying this principle is the conviction that it is within the family that an atmosphere conducive to a fully human and Christian understanding of the meaning of life and love is found.¹⁰⁰ The family is "the best environment to

99. Cf. EG, n. 52, p. 18; n. 58, p. 14. All references are from Educational Guidance in Human Love, Outlines for Sex Education, Ottawa, Canadian Conference of Catholic Bishops, 1983, 36 p. See also ANONYMOUS, "Vatican Documents Defend Rights of the Family", in Our Sunday Visitor, 72 (December 18, 1983), p. 8.

100. Cf. JOHN PAUL II, Homily, "Finding myself", at a Mass in Cebu, February 19, 1981, in Origins, 10(1980-1981), n. 19, p. 637.

accomplish the obligation of securing a gradual education in sexual life."¹⁰¹

As the chief and most influential teachers in their children's lives, parents quite naturally have a major and formative part to play in their sexual instruction. Paragraph 50 maintains that in order to be able to render efficacious guidance, prior to any theoretical or abstract knowledge, parents are to be exemplary in their conduct. "Christian parents must know that their example represents the most valid contribution in the education of their children."¹⁰² Children thus acquire a direct knowledge of the Christian ideal as a reality experienced within the family itself.¹⁰³

101. EG, n. 48, p. 17.

102. EG, n. 50, p. 17. See also JOHN PAUL II, Homily, February 19, 1981, loc. cit., n. 8, p. 637.

103. See also "The Christian Home and Education for Human Sexuality", in NATIONAL COMMITTEE ON HUMAN SEXUALITY, DEPARTMENT OF EDUCATION, UNITED STATES CATHOLIC CONFERENCE, Education in Human Sexuality for Christians, Washington, D.C., United States Catholic Conference, 1981, pp. 19-35; S. CALLAHAN, "Human Sexuality III. Parents and Sex Education", in Marriage, 59(November 1977), pp. 8-12; M. WRENN, ed., Pope John Paul II and the Family. The Text with Discussion Questions on the Apostolic Exhortation of Pope John Paul II on "The Role of the Christian Family in the Modern World", Chicago, Franciscan Herald Press, 1983, pp. 116; 125-126.

Parents have the further obligation, according to paragraph 51, of being open and cooperating with other educators who are equally responsible for such formation, and in so doing positively and genuinely to influence the process of maturation in young people. This cooperation on the part of parents entails their working closely with other educational agencies such as the Church and the school to plan, to strengthen and to evaluate existing programmes and to effect their continuous improvement.¹⁰⁴ Parents are to be involved in developing or assessing the philosophy and objectives of such courses and have the right to examine proposed curricula and materials before they are introduced into the classroom.¹⁰⁵ Also, when possible, parents themselves are to participate in the instruction, either regularly or occasionally.¹⁰⁶ In whatever circumstance, the contribution of parents to

104. Cf. BISHOPS OF NEW JERSEY, Pastoral Statement, "Education in Human Sexuality", in Origins, 10(1980-1981), n. 10, p. 670.

105. Cf. SLF, n. 191, p. 115. All references are from Sharing the Light of Faith. National Catechetical Directory for Catholics of the United States, Washington, D.C., United States Catholic Conference, 1979, vii-182 p. See also NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, "To Teach As Jesus Did: A Pastoral Message on Catholic Education", November 1972, in PLUS, vol. 3, n. 57, pp. 317-318.

106. Cf. SLF, n. 191, p. 115.

this vital instruction remains unique, for by their theoretical preparation and experience, they help their children to understand the value and specific role of the reality of man and woman.¹⁰⁷

Although the school shares in a significant way in the sexual education of children, the personal responsibility of parents does not cease as a result. Parents are bound to cooperate with the school and teachers in conveying to their children a wholesome and fully Christian education in human sexuality. "Only a strict collaboration between the school and the family will be able to guarantee an advantageous exchange of experience between parents and teachers for the good of the pupils."¹⁰⁸ In all facets of education, and especially in these matters which are so delicate, the contribution of the school is to be carried out in agreement with the family.¹⁰⁹

107. Cf. EG, n. 51, p. 17.

108. EG, n. 72, p. 24. See also NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, "Human Life in Our Day", November 15, 1968, in PLUS, vol. 3, n. 61, pp. 175-176.

109. Cf. EG, n. 108, p. 35. See also BISHOPS OF NEW JERSEY, op. cit., n. 20, p. 672.

When parents utilize the school to impart sex education, they do not thereby lose the primary rights which are theirs in regard to this instruction. For this reason, the teacher, who acts as a delegate of the parents in providing this education, is to remember the influence of parents, "their preoccupation with this dimension of education, their concept of life, and their degree of openness to other educational spheres".¹¹⁰ Moreover, parents, in virtue of their elementary right to direct their children's formal sexual education, have the corresponding right and duty to protest and even withdraw their children from programmes which violate their moral and religious convictions.¹¹¹

The place of parents in this sensitive area of education is indispensable because it falls to them, as paragraph 107 concludes, to assure and safeguard the all-around and healthy growth of their children as persons.

The defence of the fundamental rights of the child and the adolescent for the harmonious and complete development of the personality conforms to the dignity of the children of God, and belongs in the first place to parents. Personal maturation requires,

110. EG, n. 87, p. 28.

111. Cf. SLF, n. 191, p. 115.

in fact, a continuity in the educative process, protected by love and trust, proper to the family environment.¹¹²

Summary

The contents of a number of post-conciliar documents reaffirm the priority parents enjoy in the education of their children, and offer a variety of insights and expansions on the nature of that singular and critical role. The revised Roman Ritual in a particular way underscores the conciliar teaching and the jurisprudence established under the 1917 Code of Canon Law, and gives prominence to the essential link between procreation and education. Through the norms, exhortations and prayers of the revised rites, the necessity for the full participation of parents in the children's complete human and Christian development is accentuated and reinforced.

Other documents highlight more individual aspects of the parental office in education: their responsibility with regard to evangelization and catechesis; their obligations in the liturgical formation of their children; their duties in guiding their children's training in the use of the mass media, and in directing

112. EG, n. 107, p. 35.

their education in human sexuality. Repeatedly, the legislation of the post-Vatican II era emphasizes the vital and indispensable quality of parental involvement in the instruction and training of their children, always upholding the primacy of their right and the seriousness of their duty.

Significant among the documents that appeared in the decade after the close of the Second Vatican Council are those concerning mixed marriage. These are significant not only because they concede that the Catholic party is bound to do only what is within his or her power to assure the Catholic baptism and education of the children born of the marriage, but also because the post-conciliar legislation explicitly recognizes the rights and duties of the non-Catholic parent in the religious formation of the children.

In general, the post-conciliar documentation is faithful to the interpretation of the parental role given in the teachings of the Second Vatican Council. We have not referred to every mention of education, such as those found in various papal allocutions or in the General Catechetical Directory because the same principles are simply repeated in other words. In many instances, the

principles enunciated by the Council are applied to the area being examined in the particular document.

With the celebration of the 1980 Synod on the theme of the family, much of this large body of legislation and the principles which it encompasses would be used by the synodal members as a basis for their deliberations and recommendations on the role of the Christian family in the modern world, especially with reference to parental prerogatives in education. What is more, these documents constitute the fundamental background to the comprehensive presentation of the Church's teaching on marriage and family life found in Familiaris Consortio.

These texts have even further importance by the fact that many of them would be used directly in the formulation of the canons of the new Code. As a result they are, in several cases at least, not merely the sources of the new law but also the primary interpretative material for the revised canons in the 1983 Code.

CHAPTER V

THE 1980 SYNOD OF BISHOPS ON THE FAMILY

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One of the major events in the life of the post-conciliar Church as regards Catholic teaching on marriage, parents, and family life was the Fifth General Assembly of the Synod of Bishops in 1980 on "The Role of the Christian Family in the Modern World." Although the Synod did not occupy itself exclusively with a consideration of the rights and duties of parents in the education of their children, it nevertheless addressed this question, both directly and indirectly, in the examination of the circumstances and needs of the Christian family. Indeed, in the years between the end of the Second Vatican Council and the promulgation of the revised Code of Canon Law, the 1980 Synod offers the most complete exposition of the rights and responsibilities of parents in the instruction and training of their offspring and the best commentary on them. As a result, it figures prominently in the study of the educational role of parents as interpreted and presented by the Church, and its preliminary documents, deliberations, propositions, and especially its synthesis in the Apostolic Exhortation Familiaris Consortio, contribute significantly to the corpus of Catholic teaching on this subject.

A. The Lineamenta of the Fifth General Assembly of the Synod of Bishops (1980)

The 1980 Synod on the Family was the culmination of a process that took place over a year and a half prior to the actual meeting of the bishops. The first step in that preparatory process was the drafting by the General Secretariate of the Synod, in early 1979, of the Lineamenta, which was sent to all the bishops on May 14, 1979 for their study and comment.

Entitled De muneribus Familiae Christianae in mundo hodierno (ad usum conferentiarum episcopaliu), The Role of the Christian Family in the Modern World (for the use of the Episcopal Conferences), the document is neither a complete examination nor a thorough presentation of the Church's doctrine on marriage and family life. Rather, intended as a tool to stimulate discussion and reflection on the subject in anticipation of its fuller consideration by the synodal assembly, the text treats of many interrelated areas in Christian family life in a brief and somewhat sketchy way. Not surprisingly then, in attempting to touch on all facets of the question, the Lineamenta also offer some limited reflections on the educational mission of parents.

The greater part of the Lineamenta's review of the educational role of the family is contained in Part Three. The function of education is situated within the larger responsibility of the Christian family to evangelize and thus substantiates its designation as the "domestic Church".¹ This educational work is the concrete fulfilment of the prophetic mission which it shares with the whole people of God.²

Reasserting the essential connection between procreation and education, the document states that it belongs to parents who gave life to their children, to teach them "what is necessary in order to live a fully human life."³ It echoes the Second Vatican Council's assertion that parents are the first and foremost educators of their children:

The family surroundings must be recognized as the place that in itself is the most favourable for genuine education, because in it are found

1. Cf. LIN, Part Three, Preamble, n. 2, p. 28. All references are to the English translation in The Role of the Christian Family in the Modern World, Ottawa, Canadian Conference of Catholic Bishops, 1979, 52 p.

2. Cf. ibid., Part Three, Preamble, nn. 3-4, p. 29.

3. Ibid., Part Three, Chapter One, n. I, 2, p. 30.

understanding and love by the parents for their children, which give rise naturally to care for everything that is truly good and beneficial for the children.⁴

Parallel to previous ecclesial statements, there is a recognition of the place of the school in assisting parents in the accomplishment of their educational duties; of the inalienable parental right to choose schools for their children that meet their own aspirations and those of their children; and of the need for them to collaborate with the school and to support its initiatives.⁵

Parents are not only to supply their children with a secular education but also a Christian one. Born into a Christian family and sealed with baptism, children "have the right to acquire the thought patterns and to see the examples that will open to them the way to holiness on earth and everlasting happiness in heaven".⁶ Parents are therefore to be heralds of and educators in the faith for their offspring, bringing their children "to participate

4. Ibid., Part Three, Chapter One, n. I, 3, pp. 30-31.

5. Cf. ibid., Part Three, Chapter One, n. I, n. 4, p. 31.

6. Ibid., Part Three, Chapter One, n. II, 1, p. 31.

in the life of the parish and of the other communities and associations that are necessary and useful for their education and confirmation in the faith".⁷

In concluding its brief overview of the educational obligations of the family, the document acknowledges that certain situations of modern social life make it more difficult for the family to fulfill its educational tasks. Consequently, new forms of activity and new forms of intervening in the process of education need to be sought by parents. This applies particularly with regard to educational institutions that are often incapable of furnishing a truly personal and human formation to children; to the social communications media, so that these powerful instruments of education will contribute positively to the spread of the whole truth; and to the work of catechesis in order that this vital element in Christian education will be completely effective.⁸

B. The Instrumentum laboris

The second stage of the preparation process consisted of the General Secretariate of the Synod

7. Ibid., Part Three, Chapter One, n. II, 1, p. 32.

8. Cf. ibid., Part Three, Chapter One, n. III, ns. 1-3, pp. 32-34.

receiving, considering, and analyzing the remarks and reactions of the bishops to the Lineamenta. The Instrumentum laboris, incorporating the reactions to the first working paper, was prepared by an international group of experts and forwarded to the delegates to the Synod on June 6, 1980.

This second study text, entitled De muneribus Familiae Christianae in mundo hodierno: Instrumentum laboris ad usum sodalium Quinti Coetus Generalis, The Role of the Christian Family in the World Today: Working document for use of members of the Fifth General Assembly, is almost double the length of the Lineamenta comprising 88 pages in the original Latin edition and 95 sequentially numbered sections.⁹ Once again, as in the Lineamenta, the substance of the document's presentation on parents and education is located in Part Three.

The general principles in article 68 state that parents play the key role in education because they bear the primary responsibility for education because they have cooperated freely with God, in the generation of new

9. See further J. TOMKO, "Synod's Secretary General presents Theme, spirit and nature of the Working Document. Press Conference by the Most Rev. Jozef Tomko", in OR (Eng.), n. 39 651, September 29, 1980, pp. 1, 7, 12.

living beings. "Since they gave their children the gift of life, it devolves on them to teach ~~their children~~ what is necessary in order to live a fully human life."¹⁰ Parents are to hand on what children need to know for a harmonious development of their physical and intellectual life, as well as prepare them by the example of their own behaviour for the various duties they will assume in human society. The family environment, with the presence of parents to guide and direct, remains the preferred milieu for training children in a certain universal education for life, including religious formation. The work of the family is complemented and completed by the Church and the State. The parents in employing these agencies retain the inalienable right to select for their children the school they believe to be most suitable.¹¹

Article 69 reaffirms that parents are the first proclaimers of the gospel to their children and their first teachers in the ways of the faith:

10. II, n. 68, p. 86. All references are from the English translation in The Role of the Christian Family in the World Today (Working document for use of members of the Fifth General Assembly), Ottawa, Canadian Conference of Catholic Bishops, 1980, 118 p.

11. Cf. ibid., n. 68, pp. 86-87.

[...] parents from the days of the infancy of their children, by the witness of their lives and gradual teaching of the Word, ought to be the first educators of the faith of their children, the first announcers of the Gospel.¹²

As such, they have a serious obligation in the catechesis of their children.

A new component in the parental role, not listed in the first study document, is their duty to provide their children with an appropriate sex education. Such an education in sexuality is to follow the Christian anthropology outlined in Part Two, but 1) adapted to the children's cultural background; 2) with the purpose of strengthening personal responsibility; 3) fostering a climate conducive to education in chastity; and 4) supplying suitable biological information.¹³

The last seven articles of this section of the working document concentrate on the special contemporary problems regarding education, which although present new difficulties, also furnish new opportunities for the

12. Ibid., n. 69, p. 37.

13. Cf. ibid., n. 72, pp. 89-90. See also B. HEARNE, "Synod 1980 on Family Life. Selected Points and Some Introductory Comments on the Instrumentum Laboris", in African Ecclesial Review, 22(1980), p. 271.

family to fulfil its educational role.¹⁴ The first of these problems results from educational institutions often being unable to serve their purpose for political or ideological reasons. "Hence the duty of providing what the school cannot provide falls back on the family."¹⁵ Secondly, the religious pluralism of modern society is a further new situation, creating both difficulties and possibilities for the education of the faith.¹⁶ Thirdly, the separation of the generations has decreased the effectiveness of family education. This is countered by the acknowledgment that, "education in the family is never one-way: parents, children and other members educate one another through mutual interaction involving open and fruitful dialogue."¹⁷ A fourth concern is the urgent need for continuing education so that education might be capable of adapting to cultural change.¹⁸ The pervasiveness of the social communications media cause them to be powerful sources of education and an important concern. It is incumbent on the family, therefore, to

14. Cf. IL, n. 73, p. 90.

15. Ibid., n. 74, p. 91.

16. Cf. ibid., n. 75, p. 91.

17. Ibid., n. 76, p. 92.

18. Cf. ibid., n. 77, p. 92.

educate its members in the critical use of these instruments.¹⁹ The final paragraphs of section IV of Part Three note that the family imparts culture to its members. In so doing, it needs to bridge the gap that sometimes exists between culture and the gospel:

The family ought to give its members an education according to the Gospel so that by its light they may perceive the true values which are proven to make a valid way of life and separate them from what is contrary.²⁰

In general, the Instrumentum laboris does not include anything innovative on parents and the education of their children that was not touched on or at least alluded to in the earlier Lineamenta. Indeed, in a number of articles the material is lifted directly from that prior text. Although a great deal of material is covered and a broad range of questions are considered, the document does not examine any of these thoroughly and remains little more than an outline.²¹

19. Cf. ibid., n. 78, pp. 92-93; also B. HEARNE, loc. cit., p. 271.

20. IL, n. 79, p. 94.

21. Cf. J. GROOTAERS, J. SELLING, The 1980 Synod of Bishops "On the Role of the Family". An Exposition of the Event and an Analysis of Its Texts, Louvain, Leuven University Press, 1983, p. 248.

C. The Deliberations of the Synod

The Fifth General Assembly of the Synod of Bishops convened on September 26, 1980 and was officially closed on October 25, 1980. During the month-long meeting, the assembled delegates spoke about, discussed and drafted interventions on a great number of issues and subjects relating to marriage and the family. Although the rights and duties of parents in the education of their children were not the dominant theme in the synodal deliberations, this question nevertheless figured in a significant way in several interventions and presentations made at different stages of the gathering.

The first address given at the First General Congregation was by the relator, Cardinal Joseph Ratzinger of Munich. This talk, or relatio, was an exposition on the Instrumentum laboris, highlighting the main points in the three sections of the working document. Commenting on the Part Three that treats of education, the Cardinal stated that the crisis of values and the ends of man in contemporary times influence the crisis in education.²²

22. See further FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS 1980, "Solemn Inauguration of the Fifth General Assembly. Report of the Secretary General. Cardinal Ratzinger's Introductory Report", in OR (Eng.), n. 40 [652], October 6, 1980, p. 5. See also J. POTIN, ed., Aujourd'hui la famille. Principaux documents du Synode des évêques 1980, Paris, Le Centurion, 1981, pp. 37-38.

Further, he went on to declare that the primordial right of education belongs before all others to the family. This fundamental right is not conferred by the State nor may the State deprive families of it. Rather, it is the role of the State to protect and promote the family prerogative in education, and to complete familial education by dispensing to the family the means of assistance at the State's disposal.²³

During the interventions, which lasted one week, many delegates spoke on one or another aspect of family life indicated in the working document.²⁴ In the course of these interventions, some of the Synod members touched on the question of parents and their rights and duties in education.

Of particular note among these, Cardinal James Freeman of Sydney undertook to discuss the necessary connection between procreation and education, seeking however to develop and clarify the relation between the two aspects of marriage: the mutual assistance of

23. Cf. J. POTIN, op. cit., p. 38.

24. A synthesis of the individual interventions may be found in OR (Eng.), n. 40 [652], October 6, 1980, pp. 4-8; n. 41 [653], October 13, 1980, pp. 12-20; n. 42 [654], October 20, 1980, pp. 12-18; n. 43 [655], October 27, 1980, pp. 13-17.

spouses, and the procreation of offspring. Beginning with the 1917 Code of Canon Law which held that the primary purpose of marriage was not procreation alone, but rather procreation and education, he concludes, "marriage has its reason for being in this education of offspring, taken in the broadest sense as preparation of full human and Christian maturity."²⁵ There is, as a result, a correlation between these two elements of marriage:

... the good of the spouses and the good of offspring is nothing other than the complementary parts of one and the same good. If the good of spouses is destroyed, the good of offspring is endangered because their education is affected.²⁶

The most substantial intervention on the subject of education was by Reverend Stephen Tutas, Superior General of the Society of Mary. Building on articles 68 to 79 of the Instrumentum laboris which consider education, he made four recommendations:

1. That the Synod emphasize the primary responsibility of parents for the total education, including the religious education, of their children.

25. FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1980), "Syntheses of the Written Interventions", in L'Osservatore Romano - English Weekly Edition, n. 42 654, October 20, 1980, p. 17.

26. Ibid.

2. That the Synod point out that this renewed emphasis on the primary responsibility of parents for the education of their children in many cases calls for a change of attitude in both the Christian family and the Catholic school.

3. That the Synod suggest ways of assuring a more realistic collaboration between the Christian family and the Catholic school.

4. That the Synod encourage the Christian family to help the Catholic school develop a true Christian educational community.²⁷

At the end of the first week, the relator Cardinal Ratzinger gave a relatio altera summarizing and putting in order the contents of the one hundred and eighty-two oral and written interventions delivered by the delegates. He divided his synthesis into six headings; education was located under the fifth category, "The Spirituality of Family Life". With respect to this area, the relator declared that the task of Christian education is founded on the dynamic of love whereby the members of the family learn to care for each other in the spirit of the Beatitudes.²⁸ He also reaffirmed the inalienable

27. FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1980), "Eleventh Congregation of the Synod", in OR (Enq.), n. 42 [654], October 20, 1980, p. 13.

28. Cf. J. GROOTAERS, J. SELLING, op. cit., p. 110.

rights of the family as regards the education of children, in the school-family relationship, and further stated that a danger is represented by the intrusion of the State in the educational area, not to assist the family but to expropriate its rights and to contaminate the culture with ideological hegemony.²⁹

Following Cardinal Ratzinger's second relatio, the Synod divided into 11 language groups to discuss the subject of marriage and the family, utilizing the relator's summary as a guideline in their deliberations. At the beginning of the third week, the secretaries of the various groups made their reports to the whole Synod on the content of the discussions in their particular language group.

Spanish Language Group A complained in the summary of its deliberations of a lack of outstanding Christian witness on the part of parents for the education of the children in the faith. Additionally, this statement perceived that unjust socio-economic structures and situations, and the persistent harmful action of the mass

29. Cf. FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1980), "Thirteenth Congregation of the Synod", in OR (Eng.), n. 42 [654], October 20, 1980, p. 15; also J. POTIN, op. cit., p. 231.

media limited the exercise of parental rights and hindered parental educational efforts; these, it concluded, need to be countered. "Parents cannot renounce any of their primary duties and rights of education to their children and they must defend this right before laws which would limit the freedom to teach."³⁰

The third Spanish Language Group affirmed that parents are the first teachers of their children, adding that "Christian education is a process which begins in the family but which also needs the structure of pastoral care".³¹ The small Latin Language Group, for its part, asserted in its reflections that modern individualism can be overcome with a Christian education which is principally to be given by parents. In calling for a charter on family rights, this group highlighted among other concerns to be defended the freedom of the family before the State, which is to help, and not substitute

30. Cf. FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1980), "Fourteenth General Congregation", in OR (Eng.), n. 43 655, October 27, 1980, p. 14; also ANONYMOUS, Synode des évêques 1980, 26 septembre - 25 octobre, Paris, Editions du Cerf et la Vie, 1980, p. 169.

31. FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1980), "Fifteenth General Congregation", in OR (Eng.), n. 43 655, October 27, 1980, p. 14; also ANONYMOUS, Synode des évêques 1980, 26 septembre - 25 octobre, op. cit., p. 175.

for parents in the educational area. Finally, this language group's report emphasized the need for religious education to begin at an early age in the family.³²

D. The Propositions of the Synod

With the presentation of the reports by the eleven language groups and a further fifty-three interventions, a clear consensus began to emerge in the Synod, and the assembly agreed to concretize its conclusions and recommendations with reference to the Christian family in the modern world. They elected to do this in the form of propositions that were to be submitted to Pope John Paul II for his own use and with the hope that he would produce from them an Apostolic Exhortation or similar papal document on the family.

The final amended draft of the synodal text, printed under the title Synodus Episcoporum: De muneribus Familiae Christianae in mundo hodierno. Elenchus Propositionum (sub secreto). The rights and duties of parents in the education of their children are given

32. Cf. FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1980), "Fifteenth General Congregation", loc. cit., p. 15; also [ANONYMOUS], Synode des évêques 1980, 26 septembre - 25 octobre, op. cit., pp. 180-181.

ample and thorough treatment in propositions 26, 27, 28 and 29.

Proposition 26 determines the origins of the parental obligation to educate and details the diverse ways in which their responsibility is to be realized. The participation of the family in the work of creation and redemption that belongs in a unique manner to the vocation of married couples is the root of the family's duty of education.³³

Therefore, since the family made up of baptized persons is the domestic Church called together by the word of God, faith and the sacrament of baptism, that family is also, in a way, mother and teacher.³⁴

The duty to educate children belongs to parents and proceeds from the fact that the end of procreation is "a human person who comes to full maturity only through proper education".³⁵ The responsibility for raising

33. Cf. J. GROOTAERS, J. SELLING, op. cit., p. 147.

34. PROP, n. 26, a, p. 164. All references are from the English translation in The Tablet, 235(1981), pp. 164-167.

35. Ibid., n. 26, b, p. 164.

children belongs first and foremost to parents, and forms the cardinal duty of their "ministry" in marriage.³⁶

Paragraph "c" of the proposition recalls the influence of the school, the media, and society on children's formation. Consequently, parents are to have as extensively as possible a role in the use of these elements. The final paragraph enumerates the various ways parents educate their children. Their task is accomplished in seven ways, by: 1) witnessing to the faith in their own lives; 2) creating a Christian atmosphere in the home; 3) transmitting the Christian faith in an appropriate and simple manner from the children's earliest years; 4) fostering relationships of trust and respect among family members; 5) introducing the children into the Church and civil society and guiding the gradual development of their participation in both; 6) educating the children's conscience; and 7) prudently assisting the children in the choice of their vocation.³⁷

36. Cf. J. GROOTAERS, J. SELLING, op. cit., p. 147.

37. Cf. PROP, n. 26, d, p. 164; also J. GROOTAERS, J. SELLING, op. cit., p. 147.

The ministerial dimensions of the educative function are the main concern of proposition 27. The educative mission of the family is raised by the sacrament of marriage to a genuine ministry by which the Gospel is testified to and communicated to others. The family is thus both the object and subject of evangelization, and each member of the "Church of the home" evangelizes and in turn is evangelized.³⁸

The couple's ministry of education is rooted in the sacrament and in their parenting. From their children's infancy, their way of life makes them the first heralds of the Gospel. By praying with their children, reading the scriptures with them, leading them through the stages of Christian initiation into the body of Christ - both eucharistic and ecclesial - parents become generators not only of the life of the flesh, but also of that other life that comes through the renewal of the Holy Spirit, rooted in Christ's death and resurrection.³⁹

Proposition 28 concerns true education involving the whole of life.⁴⁰ It begins by identifying education in the faith with education in love. Since the family is

38. Cf. J. GROOTAERS, J. SELLING, op. cit., p. 147.

39. PROP, n. 27, b, p. 164.

40. Cf. J. GROOTAERS, J. SELLING, op. cit., p. 286.

a community of life and love, it is the preeminent place for children to learn how to give of themselves. For this education to be authentic and truly human, it needs to take place in the context of the unifying bond of body and spirit in which human sexuality finds its profoundest significance, namely its aptness as a symbol of self-giving which mirrors the plan of the Creator. Thus, education in sexuality is to take place in the atmosphere of family life, wherein it may be presented in the framework of the whole person. Formal sex education in schools is not opposed in principle, and as long as it respects the principle of subsidiarity and cooperation with parents.⁴¹

The final proposition under the heading of the educational office of the family, proposition 29, is about Catholic schools and the freedom to an "education that matches ... religious belief".⁴² It is the only

41. Cf. PROP, n. 28, p. 164; also J. GROOTAERS, J. SELLING, op. cit., pp. 136; 286.

42. PROP, n. 29, a, p. 164.

one of the four education propositions that directly mentions the rights of parents.⁴³

The revitalization of Catholic schools is to receive particular attention from the parents, as well as the establishment of an integrated programme of education in society. Parents have an elemental right to choose not only the school but also the type of education that conforms to their faith, and this prerogative is to be safeguarded in every way. It is the obligation of the Church and the State to create and support facilities and programmes that serve the educational needs of the family.⁴⁴ "Those in charge of schools must remember that God made parents the first educators of their children and this right cannot be taken from them."⁴⁵

In schools, where ideologies opposed to the Christian faith are taught, parents are not to attack the

43. Cf. A. PREW-WINTERS, The Role of Christian Parents in the Church's Teaching Mission According to the 1980 "Schema" in Light of Vatican II and Post-Conciliar Teachings, Washington, D.C., The Catholic University of America, 1983, ms., p. 48.

44. Cf. J. GROOTAERS, J. SELLING, op. cit., p. 148.

45. Cf. PROP, n. 29, a, p. 164.

school system or the government, but to use their initiative and join together with other families in order to stand by their children, and to "preserve the young people's faith".⁴⁶ Moreover, parents have the inviolable right in such circumstances to entrust their children's welfare to the ecclesial community.⁴⁷

E. The Written Message of the Synod - Nos Patres Synodales (October 25, 1980)

As well as elaborating the draft propositions that would encompass their conclusions and recommendations, the Synod also voted to prepare a Written Message to Christian Families in the Modern World. This Written Message was not intended to summarize completely the discussions that had taken place, or for that matter, to be a full treatment of the nature of the Christian family. Rather, its purpose was to be exhortative, offering encouragement to Christian families in contemporary society, specifying concerns which had been addressed in the synodal deliberations, and outlining issues to which the pastoral policy of the Church ought to give careful attention.

46. Ibid., n. 29, b, p. 164. See also J. BROOTAERS, J. SELLING, op. cit., pp. 148; 287.

47. Cf. PROP., n. 29, b, p. 164; also A. PREW-WINTERS, op. cit., p. 49.

Given the character of the statement, it is not surprising that it does not contain an actual list of parental rights and duties. Nevertheless in describing the situation of the contemporary family, it alludes to several tasks of parents in reference to their educational function.

For instance, speaking of the infringement of family rights, it declares that certain governments and international organizations violate family prerogatives and do not respect the family's inherent right in the matter of education.⁴⁸ The text goes on to state that the family in seeking to discover its duties in the modern world is to realize that one of the most important of these is education:

In looking at the world, we see facing you certain important tasks of education. You have the tasks of forming free persons with a keen moral sense and a discerning conscience, together with a perception of their duty to work for the betterment of the human condition and the sanctification of the world.⁴⁹

48. Cf. FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1980), Written Message, "Nos Patres Synodales", October 25, 1980; English translation in Origins, 10 (1980-1981), n. 5, p. 323.

49. Ibid., n. 12, p. 324.

The document specifies that evangelization and catechesis begin in the family. The work of the Christian family is therefore directed toward "formation in faith, chastity and other Christian virtues, as well as education in human sexuality [...]".⁵⁰ At the same time, parents are to inculcate sound human and Christian values, and to teach a sense of justice and concern for others as well as a consciousness of responsibility toward the whole of society.⁵¹ Thus the family's educative office as presented in the Synod's closing message includes formation for the Christian life and apostolate, catechesis, sex education, and education for social justice.⁵²

F. The Apostolic Exhortation on the Role of the Christian Family in the Modern World - Familiaris Consortio (November 22, 1981)

In accordance with the wishes of the delegates to the 1980 Synod on the family, Pope John Paul II, employing the synodal working documents, interventions and propositions, as well as various other sources, undertook to prepare a comprehensive document on the

50. Ibid., n. 14, p. 324.

51. Cf. ibid., nn. 12 and 14, pp. 3; 4.

52. Cf. A. PREW-WINTERS, op. cit., p. 46.

subject of the Christian family, which would serve to represent the results and conclusions of the Fifth General Assembly of the Synod of Bishops. The resulting text was the Apostolic Exhortation on the Role of the Christian Family in the Modern World, Familiaris Consortio.

For the most part, the Apostolic Exhortation is best characterized as a compendium of conciliar and post-conciliar teaching in the area of marriage and the family, assimilating and developing that doctrine in reference to the issues examined by the Synod.⁵³ Its focal point of the document is the active ministry of the family to the world as distinct from the family's being merely a passive recipient of the pastoral action of the Church.⁵⁴ As a result, Familiaris Consortio places great emphasis on the evangelizing role of the family in education, evangelization, and catechesis within the prophetic office of the Church.

The specific articles that discuss the rights and duties of parents in education are taken virtually

53. Cf. A. PREW-WINTERS, op. cit., p. 49; also C. GALLAGHER, "Marriage and the Family in the Revised Code", in Studia Canonica, 17(1983), p. 163.

54. Cf. A. PREW-WINTERS, op. cit., p. 50.

verbatim from the synodal propositions 26, 27, 28, and 29.⁵⁵ In the area of education then, there is a close continuity with the mind of the Synod, making Familiaris Consortio's presentation of the parental role in education a product of both the Petrine office and the collegiality of the bishops of the world.⁵⁶

- Part III: The Role of the Christian Family

The lengthiest and most original section of the text is Part III, on the mission of the Christian family. It is also the part that contains the highest number of references to parents and the education of children.

According to the introductory article to this part, article 17, the family has four complementary tasks to perform to effect its basic mission of communicating love: forming a community of persons, serving life, participating in the development of society, and sharing in the life and mission of the Church. Among these, the service of life is effected through the procreation and education of children.

55. Cf. J. GROOTAERS, J. SELLING, op. cit., pp. 303-304.

56. Cf. A. PREW-WINTERS, op. cit., p. 49; also E. O'CONNOR, "The Catholic Vision of the Family", in Homiletic and Pastoral Review, 84:3(1983-1984), p. 10.

The tasks chart the means whereby the Christian family participates in the triple mission of the people of God.⁵⁷ These duties manifest the interrelationship of the three ecclesial functions and the roles of education, spiritual formation and social animation which are proper to the family.⁵⁸ The exercise of the parental role in the education of children expresses the participation of the "domestic Church" in the prophetic function, while the familial sharing in the sanctifying mission as presented by Familiaris Consortio, also has an educational dimension involving parents.

a. Serving life - education (nn. 36-41)

The second task designated as belonging to the family is the service of life, and this is actualized in the generation and education of children.

The Synod in considering the theme of serving life had followed the classical scheme, situating its

57. "Since the family, the domestic Church [...], has received from God the mission of being 'the primary vital cell of society' [...] it, the nucleus of the People of God, participates in the triple task of the priesthood of the faithful." W. RUBIN, "A Synod for the Family", in OR (Eng.), n. 35 [596], August 27, 1979, p. 5; emphasis added.

58. Cf. E. GAGNON, "The Church Places Her Hope in the Christian Family", in OR (Eng.), n. 29 [743], July 19, 1982, p. 4.

propositions on education immediately after those on procreation. Familiaris Consortio faithfully adopts the synodal propositions on education; articles 36 to 41 become a sort of commentary on propositions 26 through 29, interspersed with quotations from Gravissimum Educationis. The Apostolic Exhortation does not, however, follow the same order as the Synod. The propositions are used in a fragmentary way and sometimes sections are treated elsewhere or simply omitted. This is not critical as most of the basic ideas as proposed by the Synod are retained.⁵⁹

Article 36 begins by declaring: "The task of giving education is rooted in the primary vocation of married couples to participate in God's creative activity."⁶⁰ The love that opens the partners to becoming one, opens them to the consequences of their procreating and to whatever might be needed to aid any resultant child in achieving its full potential as a person, i.e., education. Reflecting the creative love of God, marital

59. Cf. J. GROOTAERS, J. SELLING, op. cit., p. 318; also A. PREW-WINTERS, op. cit., p. 51.

60. FC, n. 36, p. 70. All references are from the English translation in The Role of the Christian Family in the Modern World, Ottawa, Canadian Conference of Catholic Bishops, 1982, 175 p.

fecundity has the mission to preserve, sustain, and shape the life it has helped to fashion.⁶¹ There is then, as Pope John Paul II later said, an " ... inseparable relationship between service to life and the mission to educate,"⁶² because the "service to life is not limited to its physical transmission."⁶³

Paragraph 2 of article 36 recognizes that this right and duty of parents to give education is essential; it is constitutive of parenthood since it is inseparably bound up with the transmission of human life.⁶⁴ As a result of its intimate link with generation, this right and duty is anterior to that of all other educational agencies. As well, it is unique and original to parents,

61. See also P. DELHAYE, "La pastorale familiale dans l'optique de 'Familiaris Consortio'", in Esprit et vie, 92(1982), p. 563; and W. RUBIN, loc. cit., p. 5.

62. JOHN PAUL II, Allocution, "Je remercie", to the participants in the First Plenary Assembly of the Pontifical Council for the Family, May 30, 1983; English translation in TPS, 28(1983), p. 276; emphasis in the original.

63. JOHN PAUL II, Homily, "Queridos hermanos y hermanas!", at a Mass for families, November 2, 1982; English translation in OR (Eng.), n. 5 769, January 31, 1983, n. 3, p. 9.

64. See also L. LEFEVRE, "Familiaris Consortio. Exhortation Apostolique", in La pensée catholique, 197(1982) p. 15.

"owing to the absolutely original character of parent-child relations, and to the atmosphere of affection and security that parents can create in the radiance of their love".⁶⁵ Engendered by such deep personal bonds, the educational role of parents is irreplaceable and inalienable, incapable of being wholly delegated to any other person or group or usurped by it.⁶⁶ "In this function, there can be no substitute for the family."⁶⁷

In addition to possessing these traits, paragraph 3 of article 36 affirms that the most basic element in the education right and duty of parents is parental love. It is this component which qualifies their educational role and establishes the boundaries of their prerogatives

65. JOHN PAUL II, Allocution, "C'est toujours", to the participants in the Third International Congress on the Family, October 30, 1978; English translation in OR (Eng.), n. 45 554, November 9, 1978, p. 2.

66. Cf. FC, n. 36, p. 71; also M. WRENN, op. cit., p. 110.

67. JOHN PAUL II, Allocution, "Come nelle", to the faithful, January 3, 1979; English translation in TPS, 24(1979), p. 177. See also IDEM, Homily, "Cosi dice", at a Mass at San Bonaventura, April 1, 1979; English translation in OR (Eng.), n. 15 576, April 9, 1979, p. 3; IDEM, Homily, "Queridos hermanos y hermanas!", November 2, 1982, loc. cit., n. 3, p. 9.

and obligations in the education of their children.⁶⁸

Parents [...] if they are educators by nature are not really so unless their teachings are the gift of themselves rather than the affirmation of a kind of right over their child and his destiny.⁶⁹

Article 37 focuses on some of the critical elements that comprise the instruction parents are to provide their children in fidelity to their educational responsibilities. The core of this training is not intellectual knowledge, professional competence, or working skills, but rather formation in essential values of human living.⁷⁰

68. Cf. FC, n. 36, p. 71; also M. WRENN, ed. Pope John Paul II and the Family. The Text with a Theological and Catechetical Commentary with Discussion Questions on the Apostolic Exhortation of Pope John Paul II on "The Role of the Christian Family in the Modern World", Chicago, Franciscan Herald Press, 1983, pp. 112-113.

69. E. GAGNON, loc. cit., n. 2, p. 5. See also JOHN PAUL II, Allocation, "Je suis heureux", to a group of journalists, January 13, 1979; English translation in Servant of Truth. Messages of John Paul II. Volume 2, December 1978 - March 1979, compiled and indexed by the Daughters of St. Paul, Boston, St. Paul Editions, 1979, pp. 143-144; IDEM, Allocation, "Vous aviez", to the participants in a convention sponsored by the International Office of Catholic Education to mark the Twentieth Anniversary of the Declaration on Christian Education, Gravissimum Educationis, November 5, 1985; English translation in TPS, 31(1986), pp. 26-27.

70. Cf. FC, n. 37, p. 72; also M. WRENN, op. cit., p. 113. See further JOHN PAUL II, Homily, "Amaravilhosa Historia", at a Mass for the family in the Sanctuary of Mount Sameiro, Braga, Portugal, May 15, 1982; English translation in OR (Eng.) n. 27 [741], July 5, 1982, p. 5.

Paragraph 2 of article 37 goes on to state that in a society split by conflict over individualism and selfishness, children are to be enriched with a sense of true justice, which leads to respect for the personal dignity of each person. What is more, they are to be inspired even more powerfully by a sense of true love, understood as a genuine concern and disinterested service with regard to others, especially the poorest and those in greatest need.⁷¹

The education in love as self-giving that parents are required to provide their children also entails, according to paragraph 3 of article 37, that they give their children a clear and delicate sex education. Since spouses are called to surrender themselves to each other entirely and completely and to signify this symbolically and sacramentally by becoming two in one flesh and thus opening themselves to the possible gift of children, it is only from them that children can be properly and

71. Cf. *ibid.*; also T. LYNCH, gen. ed., V. DILLON, ed., A Positive Vision for Family Life. A Resource Guide for Pope John Paul II's Apostolic Exhortation "Familiaris Consortio", Washington, D.C., United States Catholic Conference, Inc., 1985, p. 12.

correctly formed concerning sexual values, which is the essence of sex education.⁷²

Sex education, which is a basic right and duty of parents, must always be carried out under their attentive guidance, whether at home or in educational centres chosen and controlled by them. In this regard, the Church reaffirms the law of subsidiarity, which the school is bound to observe when it cooperates in sex education, by entering into the same spirit that animates the parents.⁷³

So critical is the place of parents in their children's education that Familiaris Consortio in article 38 unequivocally recognizes that the educational role has "the dignity and vocation of being really and truly a 'ministry' of the Church at the service of building up of her members".⁷⁴

The right and duty of parents to educate their children is founded not only in their sharing in God's creative activity but even more has a new specific source

72. Cf. M. WRENN, op. cit., p. 116. The parental role in sex education is examined in SACRED CONGREGATION FOR CATHOLIC EDUCATION, Guidelines, Educational Guidance in Human Love, Outlines for Sex Education, November 1, 1983, Ottawa, Canadian Conference of Catholic Bishops, 1983, 36 p.

73. FC, n. 37, p. 73. See also NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, "To Teach As Jesus Did: A Pastoral Message on Catholic Education", in PLUS, vol. 3, n. 57, pp. 317-318; M. WRENN, op. cit., p. 127.

74. FC, n. 38 p. 75. See also JOHN PAUL II, Written Message, "Io sono venuto", February 2, 1982; English translation in TPS, 27(1982), p. 163.

in the sacrament of marriage.⁷⁵

The mission to educate demands, according to article 39, that parents present to their children all the topics that are necessary for them to mature from a Christian and ecclesial point of view.⁷⁶ Parents are not simply to beget physically children, begin their intellectual and moral education, and then confide them to the school and its teachers, as well as the diocesan catechetical office to complete their educational development. Rather, they are also to be involved in the total process of forming their children as Christians, enabling them to take their proper place in the Church and civil community.⁷⁷

The article goes on to say, repeating Gravissimum Educationis, that in educating their children parents are to aim at: 1) gradually teaching them about the mystery of salvation and the role of faith in that event; 2) helping them learn to adore God the Father in spirit and in truth, especially through the liturgy; and 3) training

75. See also L. LEFEVRE, loc. cit., p. 15.

76. Cf. FC, n. 39, p. 76.

77. Cf. M. WRENN, op. cit., p. 132.

them to be righteous and holy in daily life.⁷⁸ The educational mission of the Christian family is a true ministry, in virtue of which parents, through the witness of their lives, are for their children the first heralds of the gospel.⁷⁹ In praying with their children, in reading God's word with them, and by introducing them into the body of Christ through the Eucharist and the Church, they "become fully parents, in that they are begetters not only of bodily life but also of the life that through the Spirit's renewal flows from the Cross and Resurrection of Christ".⁸⁰

Article 40 indicates that although the family is the original educator and the origin of all other educational responsibilities, it is not the only and exclusive educating community, because it is not self-sufficient. Parents require the help of others to accomplish faithfully their educational ministry.⁸¹ The

78. Cf. FC, n. 39, pp. 76-77; D. LYNCH, V. DILLON, op. cit., p. 12.

79. See further A. RENARD, "La famille dans l'église", in Esprit et vie, 92(1982), p. 340.

80. FC, n. 39, p. 77.

81. See JOHN PAUL II, Homily, "Amaravilhosa Historia", May 15, 1982, loc. cit., p. 4; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, November 1972, op. cit., n. 52, p. 316; R. MORNEAU, "Familiaris Consortio: Themes and Theses", in Review for Religious, 41(1982), p. 489.

communal dimension of human living necessitates a larger and more pronounced activity resulting from the well-ordered collaboration between the various agents of education, with each playing its part in the educational scheme in accordance with the special competence and contribution proper to itself.⁸²

The place and the role of parents and of the Christian family in this overall organic endeavour, necessitates their cooperation with Christian communities, educational institutions and parish personnel.⁸³ In this spirit, the article goes on, the renewal of the Catholic school is to give particular attention to informed parental input.⁸⁴

Paragraph 3 reasserts the right of parents to choose an education for their children that conforms to their religious convictions,⁸⁵ while paragraph 4 details the obligation of the Church and the State to supply

82. Cf. FC, n. 40, p. 78.

83. See PAUL VI, Allocation, "Membres et Consultants", to the Committee on the Family, March 13, 1974; English translation in TPS, 19(1974), p. 17.

84. Cf. M. WRENN, op. cit., p. 133.

85. See also JOHN PAUL II, Homily, "Amaravilhosa Historia", May 15, 1982, loc. cit., p. 4; IDEM, Homily, "Queridos hermanos y hermanas!", November 2, 1982, loc. cit., IDEM, Allocation, "Je remercie", May 30, 1983, loc. cit., p. 276.

parents with all possible aid to enable them to perform their educational role properly.⁸⁶ While serving the family by creating and fostering the educational aids they justly request, the State and those in charge of schools are never to forget that parents are the first and principal educators of their children and that their right is inalienable. Parents for their part are to cooperate closely in the work of the educational agencies they delegate to assist them in the education of their children. In confiding the formal instruction and training of their children to teachers, schools and the Church, parents do not thereby surrender their fundamental authority and responsibility in the matter.⁸⁷

With the synodal propositions serving as a basis, article 40 ends by noting that if ideologies contrary or opposed to the Christian faith are taught in the schools, the family is to join with other families to help the young hold on to their faith. In such a case, parents

86. Cf. FC, n. 40, p. 79. See also JOHN PAUL II, Homily, "Queridos hermanos y hermanas!", November 2, 1982, loc. cit., IDEM, Allocution, "Je remercie", May 30, 1983, loc. cit., p. 276.

87. See also R. MORNEAU, loc. cit., p. 489.

have the inviolable right to entrust their children to the ecclesial community.⁸⁸

b. Sharing in the life and mission of the Church

The fourth requisite of the Christian family listed by Familiaris Consortio is an ecclesial one: to build up the kingdom of God by participating in the Church's own life and mission. In carrying out this task with all its related endeavours and responsibilities, the Christian family as the "Church in miniature" shares in a way that is original and specific to itself, namely according to a community pattern, in the triple mission of the Church. The educational ministry of parents is a distinct and important component in this activity.

i) The Christian family as a believing and evangelizing community (nn. 51-54)

The place of the educational office of Christian parents within the scheme of the life and mission of the Church is accented in a unique way in the first sub-category highlighting their involvement in the prophetic work of Jesus Christ and of the Church. As

88. Cf. FC, n. 40, p. 79. See also P. DELHAYE, "La pastorale familiale dans l'optique de 'Familiaris Consortio'", loc. cit., p. 568.

described in article 51, " [...] the Christian family fulfils its prophetic role by welcoming and announcing the word of God: it thus becomes more and more each day a believing and evangelizing community."⁸⁹

Article 52, drawing upon the teaching of Pope Paul VI, declares that to the extent in which the Christian family accepts the Gospel and lives it, it becomes an evangelizing community. Parents not only communicate the faith to their children, but from them they can themselves receive it. As such, the family becomes an evangelizer of other families beyond the home, as it lives the gospel among them.⁹⁰

Continuing the theme of the evangelizing service of parents, article 53 states: "The ministry of evangelization carried out by Christian parents is original and irreplaceable."⁹¹ Christian parents are to carry out this responsibility "with love, simplicity,

89. FC, n. 51, p. 95; emphasis in the original.

90. Cf. FC, n. 52, p. 97.

91. Ibid., n. 53, p. 99.

practicality and daily witness."⁹² The family is to educate the children for life in such a way that each one is able to accomplish his or her role according to the vocation received from God.

- ii) The Christian family as a community dialogue with God (nn. 55-62)

The sanctifying mission of the Christian family as described in articles 55 to 62 has in certain areas a definite educative aspect. These articles require that Christian parents fulfil their ministry of instructing and training their children in what is necessary for their complete Christian development. Most notably, articles 59, 60 and 61 which deal with both personal and liturgical prayer outline a role for parents in educating their children in these practices.⁹³

The baptismal priesthood of the faithful, exercised in the sacrament of marriage, establishes the ground for the priestly calling and mission for the

92. Ibid. See also JOHN PAUL II, Homily, "On this last day", at a Mass at Greenpark Raceway, Limerick, Ireland, October 1, 1979, in AAS, 71(1979), pp. 1133-1134; IDEM, Homily, "There is one mediator", at a Mass in the square of Agaña, Guam, February 23, 1981, in AAS, 73(1981), pp. 403-404.

93. See D. Martin, "The Family in the Synod of Bishops 1977", in OR (Eng.), n. 31 [540], August 3, 1978, p. 3.

spouses and family by which their everyday lives are transformed into "spiritual sacrifices". This transformation is achieved not only by celebrating the Eucharist and the other sacraments, but also through a life of prayer.⁹⁴

Article 60 affirms that Christian parents, by reason of their dignity and mission have the specific obligation to educate their children in prayer, initiating them to a measured discovery of the mystery of God and to personal dialogue with him.⁹⁵

Only by praying together with their children can a father and mother - exercising their royal priesthood - penetrate the innermost depths of their children's hearts and leave an impression that future events in their lives will not be able to efface.⁹⁶

As well as educating their children in private, individual prayer, article 61 underlines that it is also the duty of parents to introduce their children into the Church's liturgical life, including celebration of the Eucharist, especially on Sundays and feast days.

94. Cf. FC, n. 59, p. 108.

95. Cf. ibid., n. 60, pp. 109-110.

96. Ibid. See also JOHN RAUL II, Written Message, "La Giornata", June 7, 1981; English translation in TPS, 26(1981), p. 345; D. MARTIN, loc. cit., p. 3.

G. The Charter of the Rights of the Family
(October 22, 1983)

Although it was issued after the promulgation of the 1983 Code of Canon Law, one of the more concrete results of the Fifth General Assembly of the Synod of Bishops in 1980 was the issuance by the Holy See, three years later, of the Charter of the Rights of the Family. This concise document intended to correspond with and to complement international charters of human rights. It affirms the priority of the family over "the State or any other community"⁹⁷ as a "natural society" that has "inherent rights which are inalienable".⁹⁸ Among the rights defined by the Charter as belonging inalienably to the family is the original and primary right of parents to educate their children, and to be recognized as their first teachers.

97. CRF, Preamble, D, p. 6. All references are from Charter of the Rights of the Family. Presented by the Holy See to all Persons, Institutions and Authorities Concerned with the Mission of the Family in Today's World, Ottawa, Canadian Conference of Catholic Bishops - Vatican Polyglot Press, 1983, 17 p.

98. Ibid. See also [ANONYMOUS], "Holy See Issues New Family Rights Charter", in Our Sunday Visitor, 72(December 11, 1983), p. 8.

In drafting this document, the Holy See⁹⁹ did not intend it to be simply an exposition of the dogmatic or moral theology of marriage and the family. Nor was it designed to be a code of conduct for persons or institutions concerned with the question. Moreover, the Charter was meant to be more than a brief declaration of the theoretical principles concerning the family.¹⁰⁰ Rather, as it says, the Charter aims at

[...] presenting to all our contemporaries, be they Christian or not, a formulation [...] of the fundamental rights that are inherent in that natural and universal society which is the family.¹⁰¹

The rights enunciated in the Charter arise from the natural law and are expressed in the conscience and common values of all humanity. They are here further

99. The authorship of the document is not clearly determined; the source given is the collective person "The Holy See". In fact, it was worked on by Archbishop Jozef Tomko, then General Secretary of the Synod of Bishops, and the Pontifical Council of the Family. Cf. P. HEBBLETHWAITE, "Vatican Family Rights Charter: No Surprises", in National Catholic Reporter, 20(December 16, 1983), p. 8.

100. Cf. CRF, Introduction, p. 3.

101. Ibid. See also J. O'NEILL, "Sex Education. The Right of the Family, the Duty of the School. An interview with James T. McHUGH", in Our Sunday Visitor Magazine, 72(January 29, 1984), p. 3.

illuminated by the light of divine revelation which clarifies the natural reality of the family. Society is called to safeguard these rights against all violations and to respect and promote them in the entirety of their content.¹⁰² In some cases, the rights suggested recall genuine and proper juridically binding norms. In other instances, they declare basic postulates and principles for legislation to be implemented for the development of family policy.¹⁰³ All of the rights listed are to be found in other documents of the Church¹⁰⁴ and of the international community.¹⁰⁵ It is the purpose of the Charter of the Rights of the Family: 1) to elaborate them further; 2) to define them with greater clarity; and 3) to bring them together under one cover in an ordered and systematic presentation.¹⁰⁶ The Charter is offered by the Holy See, the central and supreme organ of government of

102. Cf. CRF, Introduction, pp. 3-4.

103. Cf. ibid., Introduction, p. 4. See also D. MARTIN, "Restore Confidence in the Family", in OR (Eng.), n. 52-53 [866], December 24, 1984, p. 9.

104. For example the documents of the Second Vatican Council or the Apostolic Exhortation, Familiaris Consortio.

105. For example the United Nations' Universal Declaration of Human Rights. See also P. HEBBLETHWAITE, loc. cit., p. 8.

106. Cf. CRF, Introduction, p. 4.

the Catholic Church,¹⁰⁷ first and foremost to civil governments, not as a legal code, but as a model and a point of reference for drawing up of family legislation, and as a guide in programmes. It is in this context that the educational prerogatives listed in Article 5 of the Charter are to be situated and understood.¹⁰⁸

This article deals exclusively with the rights of parents with regard to the education of their children. The underlying principle throughout this and all the articles in the document is that the indispensable condition for the family to accomplish its mission is that it enjoy adequate autonomy within society as well as support from the State. The purpose of such support is to be that of ensuring and promoting the independence of the

107. The issuance of the Charter in the name of "The Holy See" is not in accordance with the usual procedure with regard to ecclesial documents. Generally, documents are released under the name of the Pope, a Council or Synod of Bishops, or one of the dicasteries of the Roman Curia. That the Charter of the Rights of the Family was intended primarily for the international community may explain in part why it was presented as coming from "The Holy See": this is the officially recognized title for the government of the Church in international law and as such would be used on a text that is addressed to civil governments and public authorities.

108. See Appendix for the full text of this article.

family and never replacing it, either with regard to its function (e.g., child rearing and education), or the decisions that properly belong to the family (e.g., type of education or schooling).¹⁰⁹

Article 5 begins by asserting that the source of parents' rights in education lies in the fact that they have given life to the child.

Since they have conferred life on their children, parents have the original, primary and inalienable right to educate them; hence they must be acknowledged as the first and foremost educators of their children.¹¹⁰

Building from this fundamental principle, the article in its several sub-sections details the various elements of the parental right in the education of children. Sub-section "a" maintains the right of parents to educate their children in accordance with their moral and religious beliefs. It is likewise the prerogative of parents to rear their child in the cultural traditions of the family which favour the good and the dignity of the child. In order to perform their educational role

109. Cf. D. MARTIN, "Restore Confidence in the Family", loc. cit., p. 12.

110. CRF, Article 5, p. 10.

properly, parents have the right to expect and to receive assistance from society, particularly since it benefits from the faithful accomplishment of these responsibilities.¹¹¹

Reiterating Gravissimum Educationis¹¹² and the 1983 Code of Canon Law,¹¹³ sub-section "b" insists on the right parents have to choose freely schools and other means necessary to educate their children, again in conformity with their convictions. This right creates the duty on the part of civil authorities to ensure that public subsidies are allocated so that parents are actually free to exercise their right of choice without incurring unjust burdens. The Charter underlines that the maintenance of extra charges, whether directly or indirectly, in order to exercise their freedom of selection is a violation of parental rights.¹¹⁴

Returning to the principle of parental control in religious and moral formation, the next sub-section asserts the right of parents to certify that their

111. Cf. CRF, article 5, a, pp. 10-11.

112. See article 7 of this Declaration.

113. CIC 1983, c. 797.

114. Cf. CRF, article 5, b, p. 11.

children are not forced to attend classes that are not in accord with their creedal and ethical convictions. In connection with this, parents have a basic right in regard to the sex education of their children, which is to be carried out under their close supervision.¹¹⁵

The next part of article 5 is taken from the conciliar Declaration Dignitatis Humanae.¹¹⁶ "The rights of parents are violated when a compulsory system of education is imposed by the State from which all religious formation is excluded."¹¹⁷ This sub-section of article 5 is based on an elementary tenet of religious liberty and is in harmony with the broader principle stated in the United Nations' Universal Declaration of Human Rights: "Parents have a prior right to choose the kind of education that shall be given to their children."¹¹⁸

115. Cf. ibid. See also SACRED CONGREGATION FOR CATHOLIC EDUCATION, Guidelines, November 1, 1983, op. cit., ns. 15-18, pp. 6-8; ns. 48-52, pp. 17-18.

116. Specifically, article 5 of this Declaration.

117. CRF, article 5, d, p. 11.

118. UNITED NATIONS ORGANIZATION, "Universal Declaration of Human Rights", December 10, 1948, in The New Encyclopaedia Britannica, 15th edition, Chicago, Encyclopaedia Britannica, Inc., 1984, 30 vols., Micropaedia, vol. x, article 26, 3, p. 1050.

Having clearly established the right of parents to select the type of education their children are to receive, the next sub-section of article 5 declares that this primary right is to be sustained and fostered in the systems of cooperation between parents and the school, in the public forums provided for discussion of school operations, and in the formulation of educational policy.¹¹⁹ This principle shows that teachers, schools, and all other educational authorities have their jurisdiction primarily in virtue of being delegated by the parents who have the anterior right to educate their children.¹²⁰

The final sub-section of this article refers to the means of social communication. Parents have the right to expect that the mass media will reinforce the fundamental values of the family. At the same time, they have the right to have their children protected from the negative effects and misuse of the mass media.¹²¹

— There is nothing radically new in the Charter of the Rights of the Family, especially as concerns the rights of parents in the education of their children.

119. Cf. CRF, article 5, e, p. 11.

120. Cf. M. WRENN, op. cit., p. 153.

121. Cf. CRF, article 5, f, p. 11.

Article 5 restates principles enunciated in other ecclesial documents, particularly those of the Second Vatican Council. The significance of the text lies in the fact that it is offered as the standard for the formulation of civil and international law on the family, which standard includes the Christian perspective on the inalienable rights of parents in the education of their children. While the Charter has no legal status, it nevertheless has moral weight both by its contents and by its authorship, allowing its standards, not least of all those pertaining to parental educational rights, a position of importance and influence in the public arena.

Summary

In the final analysis, the entire process of the Fifth General Assembly of the Synod of Bishops (1980) and the documents that resulted from it, did not propose or teach a great deal that was new with regard to the rights and duties of parents in the education of their children. The subject necessarily finds a place in a consideration of the role of the Christian family in the modern world, but on the whole the Synod and its texts simply reformulate conciliar doctrines. An overview of the synodal propositions, the Apostolic Exhortation Familiaris Consortio, and the Charter of the Rights of

the Family reveals the following principal points, although many others could be listed:

- the right and duty of parents to educate is founded on the fact that parents have conferred life on their children (PROP, n. 26; FC, n. 36; CRF, article 5);
- the responsibility of raising children belongs first and foremost to parents and forms the cardinal duty of their "ministry" in marriage (PROP, n. 26; FC, n. 36);
- as a result of its intimate link to generation, the right of parents in education is anterior to all other educational agencies (FC, n. 36);
- parents have the right to provide their children with a suitable education in human sexuality (PROP, n. 28; FC, n. 37);
- parents are the first heralds of the gospel for their children, and as such have the primary responsibility in their evangelization (PROP, n. 27, FC, n. 52);
- parents have an obligation of educating their children in prayer (FC, n. 60);
- parents have a right to select schools for their children (PROP, n. 29; CRF, article 5, b);

- parents should not have to bear any unjust burdens as a consequence of their selection of a school for their children; any extra charges are a violation of parental rights (CRF, article 5, b);
- parents have a right to an education for their children in conformity with their religious beliefs (PROP, n. 29; FC, n. 40; CRF, article 5, a);
- parents are to join with other families to preserve the children's faith where the system of education teaches contrary ideologies (PROP, n. 29; FC, n. 40).

Although the various documents that resulted from or are a direct consequence of the 1980 Synod on the Family mention the rights and duties of parents in education in a number of places, these principles are basically pastoral in their orientation. They are not juridical in character and, therefore, do not formulate new legislation. Nevertheless, these principles can be used to interpret and give fuller meaning to the positive law of the Church in this regard.

THE LEGISLATION OF THE CODE OF CANON LAW OF 1983
REGARDING PARENTS AND EDUCATION

On January 25, 1983, Pope John Paul II promulgated the revised Code of Canon Law for the Latin Church, that strives to incorporate within the main body of ecclesial laws the doctrines of the Second Vatican Council.¹ Given its background and its sources, it is not surprising, therefore, that the revised canonical legislation gives attention and prominence to the work of parents in the education of their children. The canons of the 1983 Codex Iuris Canonici repeatedly stress the primacy of parents in education and the essential nature of their obligation. Indeed, of the 33 canons of the new Code in which parents are directly mentioned, 17 refer in some way to their rights and duties in the instruction and training of their offspring. So critical is this task to the overall life of the Church, that some reference to the educational responsibilities of parents may be found in five of the 1983 Code's seven books.

1. See further JOHN PAUL II, Apostolic Constitution, "Sacrae Disciplinae Leges", January 25, 1983; English translation in The Code of Canon Law in English translation, prepared by The Canon Law Society of Great Britain and Ireland, in association with The Canon Law Society of Australia and New Zealand and The Canadian Canon Law Society, London, Collins Liturgical Publications, 1983, p. xiv.

These canons are noteworthy because of their integration into the entire ecclesiological perspective of the revised law. In fidelity to the image of the Church presented in the documents of Vatican II, the revised Code expresses the teaching whereby "all members of the People of God share, each in their own measure, in the threefold priestly, prophetic and kingly office of Christ ...".²

It is within this context that the precepts of the new canonical legislation on parents and their place in the education of their children are to be understood and interpreted. Not only do the norms of the 1983 Code reiterate the natural and divine positive law prescriptions, but they also situate the performance of the educational function within the broader mission of the Church.

The teaching on the triple office of Christ shared by all the baptized, leads to and is linked with that which looks to the duties and rights of Christ's faithful and specifically the laity.³ Here too, in the general list of the rights and obligations of the laity in Part I

2. Ibid.

3. Cf. ibid.

of Book II, the educational prerogatives and responsibilities of parents are highlighted and accented, summarizing in principle all that is contained and elaborated upon in the specific canons in the subsequent books.

A. The Rights and Duties of Parents in the Education According to Canon 226

Book II begins with two sets of canons listing the obligations and rights, first of all Christ's faithful, and then of the lay members of the Church. Significantly, within these 24 new canons, the question of education, and of its associated prerogatives and responsibilities is touched upon twice: once in canon 217 which professes that all the baptized have the right to a Christian education; and again in canon 226,2 which affirms the duty and right of parents to educate their children. These two canons are interrelated to some degree in that by establishing the right to a Christian education, canon 217 occasions consequent duties, not least among which is the serious obligation of parents to ensure that their children enjoy this education, as specified in canon 226,2.

Centering on the framework wherein lay membership in the Church is generally lived out, marriage and family

life, canon 226 is composed of two paragraphs. The first states that those lay persons who live in the married state participate in a unique vocation, which gives rise to the particular obligation of building up the people of God through the testimony of Christian married life and the nurturing of a Christian family.⁴ Moving to the more specific, paragraph 2 declares:

Because they gave life to their children, parents have the most serious obligation and the right to educate them. It is therefore primarily the responsibility of christian parents to ensure the christian education of their children in accordance with the teaching of the Church.⁵

This second paragraph is taken from canon 17,2 of the Lex Ecclesiae Fundamentalis canons⁶ that were

4. Cf. J. PROVOST, "Book II. The People of God. Part I. The Christian Faithful (cc. 204-239)", in J. CORIDEN, T. GREEN, D. HEINTSCHEL, eds., The Code of Canon Law. A Text and Commentary, New York, Paulist Press, 1985, p. 162.

5. CIC 1983, c. 226, s2. All references are from the English translation in The Code of Canon Law in English translation, prepared by The Canon Law Society of Great Britain and Ireland, in association with The Canon Law Society of Australia and New Zealand and The Canadian Canon Law Society, London, Collins Liturgical Publications, 1983, xv - 319 p.

6. See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, Relatio complectens sythesim animadversionum ab Em.mis atque Exc.mis Patribus Commissionis ad novissimum schema codicis iuris canonici exhibitarum, cum responsionibus a secretaria et consultoribus datis, (hereafter Relatio), Città del Vaticano, Typis Polyglottis Vaticanis, 1981, p. 351.

retained for inclusion in the final version of the Code, after the Code Commission decided not to publish a fundamental law for the Church. The text as it is presently promulgated leaves out a phrase, taken directly from article 3 of Gravissimum Educationis, qualifying parents as the first and principal educators⁷ and which was found in earlier versions of the Lex Ecclesiae Fundamentalis.⁸

Canon 226,2 clearly states that parents are, before all others, the first educators of their children and have as a consequence the fundamental right and the grave duty to determine how that education will be conducted. More than merely giving juridical expression to this important tenet, the inclusion of this new norm within the revised Code determines how the parental role is to be interpreted in the Church's legal system. Although this obligation and right is fundamental and indispensable, it is not absolute and requires further specification in the law.

7. "[...] primi et praecipui eorum sunt educatores [...]"; see PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, Schema legis ecclesiae fundamentalis: textus emendatus cum relatione de ipso schemate deque emendationibus receptis, (hereafter LEF 1971), Roma, Typis Polyglottis Vaticanis, 1971, pp. 19-20.

8. Cf. J. PROVOST, op. cit., p. 162.

The second part of canon 226,2 decrees that it is principally the duty of Christian parents to secure the Christian education of their children. The use of the term "Christian education" is noteworthy since the rights and obligations enumerated in Book III concern "Catholic education". The distinction arises from the context of the different canons. Canon 226,2, situated in a list of general obligations and rights of lay members of Christ's faithful, encompasses a broader right, entailing the deepening of any Christian's association with the faith or dedication to it. Based in baptism, Christian education is a right possessed by all of Christ's faithful or all Christians; however, those in full communion with the Catholic Church are able to establish and to defend this right canonically. On the other hand, the canons in Book III are more exact or precise in detailing the requisite elements of an expressly Catholic education.⁹

9. Cf. ibid., p. 151.

B. The Participation of Parents in the Teaching Office of the Church

The greatest portion of the canons on the educational role of parents are to be found in Book III on the Teaching Office of the Church. Of the 86 canons which comprise this book, 7 make explicit reference to this role of parents. Indeed, the strong emphasis on parental rights and responsibilities for the education of their offspring is among the most significant changes which Book III introduces in comparison to its counterpart in the 1917 Code of Canon Law.¹⁰

For the most part, the parent-education canons are located under Title III, "Catholic Education", where the various roles are outlined. Although some of these have parallels in the 1917 Code, many of these precepts are entirely new and without counterpart in the previous law, derived as they are from the documents of the Second Vatican Council, especially Gravissimum Educationis.

10. Cf. J. CORIDEN, "Book III. The Teaching Office of the Church (cc. 747-833)", in J. CORIDEN, T. GREEN, D. HEINTSCHEL, eds., op. cit., p. 545.

1. Canon 774,2: The Responsibilities of Parents in the Catechesis of Their Children

The first canon in Book III to make reference to parents and their educational role is canon 774,2. Having established in canon 773 the serious duty which belongs to pastors of attending to the catechesis of the Christian people, canon 774,2 goes one step further and extends that responsibility for the catechetical effort to every member of the Church. Paragraph 2 of this canon focuses on the place of parents in catechesis:

Before all others, parents are bound to form their children, by word and example, in faith and in christian living. The same obligation binds god-parents and those who take the place of parents.¹¹

Although canon 774 is new, the substance of paragraph 2 was contained in canon 1335 of the 1917 Code, where the catechetical duty of parents was noted in a somewhat indirect way by the canon's centering on those who, in addition to parents, have responsibility for the

11. CIC 1983, c. 774,2.

catechetical formation of children. In the new Code, however, the obligations of parents in this regard are explicitly declared to be at the forefront of all others, and the primacy of their role in this area is clearly established. This is further accented by the canon's placement ahead of those which detail the duties of the bishop, pastor, religious, etc.¹²

In the 1977 draft of this book, the present norm appeared as canon 29.¹³ Although this proposed canon accented the preeminent position of parents in catechetical formation, it failed to specify the exact character of the parental contribution to this particular catechesis. Indeed, it seemed to suggest that parents were simply required, as in the former law, to confide their children to outside agencies to provide for their religious instruction and training, in order to fulfil their obligations. This omission was corrected in the 1980 Schema, where canon 29 was now numbered canon 729,2, and whose structure and content were identical to the present canon 774,2.

12. Cf. J. CORIDEN, op. cit., p. 556.

13. See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, Schema canonum libri III de Ecclesiae munere docendi, (hereafter 1977 Draft Book III), Romae, Typis Polyglottis Vaticanis, 1977, c. 29.

The principles enunciated in this statute are found in several conciliar and post-conciliar documents, most notably Lumen Gentium, nn. 11 and 35; Gravissimum Educationis, n. 3; Catechesi Tradendae, nn. 16 and 68; and Familiaris Consortio, nn. 36-39. Two of these sources in particular, Catechesi Tradendae in article 68, and Familiaris Consortio in article 39, offer an expanded treatment on the role of parents and the family in catechesis.¹⁴

The canon next stipulates how the parents are to carry this out fruitfully - by word and example. This dual dimension indicates that this effort is not an incidental or occasional concern, but one that demands their total engagement. That parents catechize informally but powerfully by example and instruction has been

14. Cf. J. CORIDEN, op. cit., p. 556. The important role of parents in catechesis is discussed in W. TOBIN, "The Rights and Obligations of Parents With Reference to the Religious Formation of Their Children", in Ius Populi Dei, Roma, Università Gregoriana Editrice, 1972, vol. 3, pp. 262-263; L. PARENT, N. PARENT, "Parents: First Preachers of the Word", in Spirituality Today, 36(1984), pp. 24-33; J. QUINDLEN, "Religious Education as a Family Affair", in Dimension, 9:2(1977), pp. 71-76; D. THOMAS, "Parents as Religious Educators", in Today's Catholic Teacher, 10(October 1976), pp. 48-49; M. WARREN, "Parental Duties and Rights in Catechetical Instruction", in The American Ecclesiastical Review, 167(1973), pp. 20-29.

emphasized repeatedly in ecclesial pronouncements.¹⁵ For this reason, canon 774,2 does not limit the catechetical duties of parents solely to enrolling the children in a Catholic school or ensuring their attendance at catechism classes, important as these are, because neither of these can adequately replace the care and training of the home, or substitute fully for the contribution of parents in the shaping and moulding of their children's growth in the Christian faith.¹⁶

In prescribing this participation by parents, the 1983 Code does not envision that they are to undertake and pursue this enterprise alone. The law recognizes that, in addition to advocating their place in catechetical instruction, the Church is also to see that parents are given needed assistance in accomplishing this essential facet of their children's education. Canon 776 declares: "The parish priest is also to promote and to

15. See LG, n. 11; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, "To Teach As Jesus Did: A Pastoral Message on Catholic Education", November 1972, in PLUS, vol. 3, n. 25, pp. 310-311; SLF, n. 25, p. 13; n. 177, pp. 102-103; n. 197, p. 119; n. 212, p. 128.

16. Cf. C. ONWULI, Catechetical Education of Youth in the New Code of Canon Law, Romae, Pontificia Universitas Urbaniana, 1985, p. 32.

foster the role of parents in the family catechesis mentioned in can. 774,2."¹⁷

2. Canon 793: The Basic Rights and Duties of Parents in Education

It is significant that the Code begins this title by having canon 793 assert the rights and duties of parents in the education of their children. The selection and placement of this key norm of Book III is no accident; rather, it is a clear statement of the general philosophy that underlies all the canons on Catholic education. The subsequent canonical legislation on education, schools, teachers, etc., hinges on the first principle of parents having a fundamental and pivotal role to play, both by prerogative and by obligation, in the apostolate of teaching children.

Canon 793 affirms:

1 Parents, and those who take their place, have both the obligation and the right to educate their children. Catholic parents have also the duty and the right to choose those means and institutes which, in their

17. See also NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, November 1972, *op. cit.*, n. 55, p. 317; *SLF*, n. 212, p. 128; n. 229, p. 142; C. BRUSSELMANS, "A Catechesis Adapted to the Present Age and the Liturgical Initiation of Children", translated by L. SHEPPARD, in *Concilium*, 6:1(1970), pp. 74-76; M. WARREN, *loc. cit.*, pp. 23-26.

local circumstances, can best promote the catholic education of their children.

2 Parents have moreover the right to avail themselves of that assistance from civil society which they need to provide a catholic education for their children.¹⁸

Although it repeats traditional doctrine, canon 793 is basically new to the Code. It has no exact parallel in the of 1917 Code. However, some of this material was included within canon 1372 on the requirement of a Catholic education, and on the right and obligation of parents and those who take their place of providing for the Christian education of the children.

In the first draft of Book III, the substance of canon 793 appeared in canon 43, where the matter was presented in a more extended fashion.¹⁹ The proposed canon then encompassed a wide range of considerations, some of which were distributed to other canons under the title "Catholic Education" in the next draft of this book in the 1980 Schema, where the core of canon 43 became the two paragraphs of canon 748, which are repeated in canon 793.

18. CIC 1983, c. 793.

19. See 1977 Draft Book III, c. 43.

Canon 793,1 entails two basic declarations of parental rights and duties: 1) their right and obligation to educate their offspring; and 2) their responsibility and right to select the most suitable means for their children's Catholic education. The first assertion is a straightforward statement of the natural law, based upon the fact that parents have bestowed life on their children. This right and obligation also falls upon those who lawfully act in the place of parents, as for example, adoptive or foster parents, guardians, etc.²⁰

The second principle maintained by paragraph 1 takes the matter one step further and calls attention to the serious duty Catholic parents have of assuring the formation of their children in the Catholic faith in the worthiest manner available to them, and the right to select, among the means or institutes at hand, those which are most appropriate for their children.

Canon 793,2 asserts that parents, in the realization of their educational responsibilities, have the right to make use of those aids from civil society which they require, not only to provide for the general education of their children, but also to obtain their

20. Cf. J. CORIDEN, op. cit., p. 564.

Catholic education. Civil society has the obligation to supply the assistance parents need in order to discharge their educational office. What this assistance entails, however, is not precisely determined; the language of the norm remains quite indefinite and unspecific. Beyond the statement that the civil society has duties even in the matter of religious education, there is no attempt in the canon to define exactly what are the responsibilities of civil society in this area.²¹

It could be noted that the rights and duties of parents in general have been differentiated from the specifically Catholic obligations and rights of Catholic parents. This distinction is in accord with a number of conciliar and post-conciliar documents.²²

Finally, it should be observed that although the canon directs Catholic parents to provide their children with a "Catholic education", it does not explain what is meant by that term. Indeed, although the revised Code employs the phrase in several canons, a precise explanation of this concept remains unformulated in the

21. Cf. ibid., p. 565.

22. See GE, nn. 3 and 6; GS, n. 48; DH, n. 5, p. 683.

new law. Nevertheless, some appreciation of the term may be arrived at by examining the Code's description of education in canons 795 and 1136, and of Christian education in canon 217, in conjunction with the phrase in canon 803,2 which states that, "education in a catholic school must be based on principles of catholic doctrine".²³ From this perspective, it may be concluded that parents are to offer a Catholic education which embraces the formation of the whole person, taking into account the physical, intellectual, social, religious and moral development, according to the principles of Catholic teaching.

3. Canon 796: The Interrelationship of Parents and the School

Canon 796 is the first of four canons that consider the role of parents in education as it relates to one of the fundamental educational institutions, the school. It is significant to note that the Code, as with the introductory canons on Catholic education, begins by reasserting the primary position of parents in the educational project. Although this precept declares that schools are of great value in fostering the education of

23. CIC 1983, c. 803,2; emphasis added.

children, it is at the same time unambiguous in stating that they are subordinate to parents.

1 Among the means of advancing education, Christ's faithful are to consider schools as of great importance, since they are the principal means of helping parents to fulfil their role in education.

2 There must be the closest cooperation between parents and the teachers to whom they entrust their children to be educated. In fulfilling their task, teachers are to collaborate closely with the parents and willingly listen to them; associations and meetings of parents are to be set up and held in high esteem.²⁴

Without parallel in the Code of 1917, canon 796 first appeared as canon 48 in the 1977 draft of Book III. Except for the inclusion of one clause describing teachers,²⁵ it was a very close rendering of the present norm. This canon was maintained in the next redaction of Book III in the 1980 Schema; there, with the deletion of the description of teachers, it was listed as canon 751. Between it and the final 1983 text of the canon, there is no distinguishable difference. As with the bulk of canons in this section, canon 796 has its foundations in the

24. CIC 1983, c. 796.

25. See 1977 Draft Book III, c. 48.

conciliar declaration Gravissimum Educationis, especially in the principles set forth in articles 3, 5, 6 7 and 8.

Building directly from the opening statements of article 5 of the Declaration on Christian Education, the first part of canon 796 recognizes the preeminence of schools among the many and varied forms or modes of education, and entreats the Christian faithful to value them highly. This primacy of schools is, however, carefully modified in relation to the parental rights and duties in education, explicitly affirmed in canon 793,1. For this reason, canon 796,1 speaks of schools as subordinate to parents.

Centering itself on the careful regulation of the parent-school relationship, the second paragraph of canon 796 exhorts both parents and teachers to cooperate closely in the educational process. As Pope John Paul II has said:

Parents cannot delegate all their educational functions to schools which, on their part, cannot separate themselves from the parents who have entrusted their children to them for a complete education. The school and

parents must help each other reciprocally in the task of educating the child and the adolescent.²⁶

For their part, teachers are also admonished to work closely with the home, making themselves available to parents whose delegates they are. They are to listen willingly and to be open to parents, especially to those who seek to be genuinely and significantly involved in their children's schooling.²⁷

The canon concludes by urging the formation of associations of parents to facilitate the partnership between the home and school. This form of mutual exchange

^{26.} JOHN PAUL II, Allocution, "Con particolare gioia", to the participants in the Plenary Assembly of the Pontifical Council for the Family, May 26, 1984; English translation in OR (Eng.), n. 25, 839, June 18, 1984, n. 5, p. 3. See further SACRED CONGREGATION FOR CATHOLIC EDUCATION, Declaration, The Catholic School, March 19, 1977, Ottawa, Publications Service, Canadian Conference of Catholic Bishops, 1977, n. 73, p. 25; FC, n. 40, p. 79; SACRED CONGREGATION FOR CATHOLIC EDUCATION, Declaration, Lay Catholics in Schools: Witnesses to Faith, October 15, 1982, Ottawa, Canadian Conference of Catholic Bishops - Vatican Polyglot Press, 1982, n. 34, p. 21; n. 80, p. 42; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, "Teach Them: Statement on Catholic Schools", May 4, 1976, in PLUS, vol. 4, n. 28, p. 153.

^{27.} See also NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, "On Catholic Schools", November 16, 1967, in The Catholic Mind, 66(January 1968), p. 5.

produces benefits not only for parents²⁸ and teachers, but more importantly, it contributes in an immeasurable manner to the enrichment of the children's education.²⁹

4. Canon 797: The Freedom of Parents in the Selection of Schools

The right of parents to select schools freely for their children is the main theme of canon 797, which is new to the Code. This prerogative of parents is an issue of significant weight and import to the Church. Hence, the Church has an obvious and understandable interest in the vindication and the recognition by civil authority of the complete freedom of parents in the selection of schools. For this reason, canon 797 enjoins Christ's faithful to press that civil governments recognize and safeguard this crucial liberty in its statutes and policies. The canon asserts:

28. See JOHN PAUL II, Allocation, "Vous aviez", to the participants in a convention sponsored by the International Office of Catholic Education to mark the twentieth anniversary of the declaration on Christian Education, Gravissimum Educationis, November 5, 1985; English translation in TPS, 31(1986), p. 36.

29. See G. SCHILLO, "The Parents' Organization and Catholic Schools", in Today's Catholic Teacher, 15(October 1981), p. 36 for an examination of what such parent-teacher associations should be and with what they should concern themselves.

Parents must have a real freedom in their choice of schools. For this reason Christ's faithful must be watchful that the civil society acknowledges this freedom of parents and, in accordance with the requirements of distributive justice, even provides them with assistance.³⁰

In examining the provisions of canon 797, it is evident that this norm assigns to each of the agencies concerned with and responsible for education - parents, the Church and civil society - the obligation to respect this freedom. The commission to secure civil protection rests fundamentally and ultimately with parents. Yet, the new law does not restrict this duty solely to them; it directs all of Christ's faithful to be attentive to the protection of this right. As a result, the Church as a whole is charged by this legislation to be actively involved in sustaining and defending this prerogative. Furthermore, canon 797 also outlines the obligations which adhere to civil society in this matter: it is to recognize and to safeguard the inherent right parents possess to exercise freedom in the selection of their children's schools, and to give substance to the prerogative by rendering them assistance.

30. CIC 1983, c. 797.

The intent of the statute is that public funds for education are not to be allocated in such a way as to penalize those who exercise their right to select appropriate schools for their children. Distributive justice, called for by canon 797, requires that parents not experience economic harm or disadvantages as a consequence of their legitimate decision to enroll their children in schools which are in conformity with their religious beliefs.³¹ As Pope John Paul II has said, with reference to this question:

The family must therefore be able to enjoy, without discrimination on the part of the public powers, the freedom to choose for their children the kind of school suited to their own convictions, nor must it be hindered by economic impositions that are too equal, above all in this field. [...] In exercising the right of choosing for their own children the kind of school suited to their own religious convictions, the family must not in any way be hindered, but helped, by the State, which not only has the duty not to infringe upon the rights of Christian parents, its citizens in every respect, but also has the duty to cooperate for the good of the family.³²

31. Cf. J. CORIDEN, op. cit., p. 566.

32. JOHN PAUL II, Allocution, "Le parole del Vangelo", to the cardinals and members of the Roman Curia, on the gospel as the soul of the Catholic school, June 28, 1984; English translation in OR (Eng.), n. 27 [841], July 2, 1984, n. 8, pp. 7, 12.

5. Canon 798: Parents and the Catholic Education of Their Children

The law now proceeds in canon 798 to assert a further obligation of parents with respect to Catholic education.

Parents are to send their children to those schools which will provide for their catholic education. If they cannot do this, they are bound to ensure the proper catholic education of their children outside the school.³³

Such a regulation is not entirely new to the Code. The Code of Canon Law of 1917 in canon 1374 prescribed that Catholic children were not to attend non-Catholic, neutral, or mixed schools because of the danger such schools were seen as presenting to the integrity of the children's faith.

The initial version of canon 798 in the 1977 draft, canon 50, was not a particularly notable improvement over canon 1374 of the 1917 Code.³⁴ This proposed norm retained much of the negative mind-set of the former law. It tended to minimize the responsibility of parents by emphasizing the authority of the bishops,

33. CIC 1983, c. 798.

34. See 1977 Draft Book III, c. 50.

either individually or in conferences. Moreover, as in the 1917 Code, canon 50 still regarded non-Catholic schools as a danger to the faith of the Catholic children, although it allowed that there might be occasions or circumstances when Catholic attendance of such institutions could be sanctioned.³⁵ Such a proposition was plainly incompatible with the ecumenical direction taken by the Second Vatican Council. Thus, the next redaction in canon 753 in the 1980 Schema saw a significant improvement in the phrasing of the text. It accented the primary duty of parents in educating, mitigating the role of ecclesiastical authority in determining which schools children attend.

In directing that parents send their offspring to schools that will provide Catholic education, the law is allowing for a number of possibilities. Parents are free to employ either Catholic schools as defined in canon 803,³⁶ or any other educational institution, public or

35. Cf. A PREW-WINTERS, The Role of Christian Parents in the Church's Teaching Mission According to the 1980 "Schema" in Light of Vatican II and Post-Conciliar Teachings, Washington, D.C., The Catholic University of America, 1983, ms., p. 75.

36. See also JOHN PAUL II, Allocution, June 28, 1984, loc. cit., n. 7, p. 7; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, November 1972, op. cit., nn. 101-103; 107; 118.

private, in which the principles of Catholic doctrine are taught and the elements of a Catholic life are evidenced. The canon is not restrictive in the sense that it stipulates only Catholic schools; many means exist for accomplishing Catholic education.³⁷

The canon also acknowledges that it is not always possible for parents to send their children to Catholic schools. In these circumstances, the legislation does not bind parents to carry out this directive, since they cannot be bound by the impossible. Nevertheless, their fundamental responsibility for their children's Catholic education remains. For this reason, the second part of the canon regulates that, where parents are unable to place their children in schools which will see to their Catholic education, they are to ensure their integral and full education in the faith outside the school.

The law does not specify the reasons that might prevent parents from enrolling their children in a suitable Catholic educational institution. These may be physical or moral, for example the lack of such schools, their distance or great cost, the existence of language,

37. Cf. J. CORIDEN, op. cit., p. 566. An example of such further means would be Confraternity of Christian Doctrine Programs.

ethnic or political impediments. Whatever the cause, the canon understands that parents are not exempted by the presence of such limitations and obstacles from seeking and giving their children suitable Catholic instruction and training.

6. Canon 799: The Right to Education in Conformity with Parental Religious and Moral Convictions

The final canon in Book III which refers to parents in conjunction with their rights and duties in education is canon 799. This canon is also new to the universal law, having no parallel in the Code of 1917.

Christ's faithful are to strive to secure that in the civil society the laws which regulate the formation of the young, also provide a religious and moral education in the schools that is in accord with the conscience of the parents.³⁸

The main source for the canon is article 7 of Gravissimum Educationis, which centres on education in public schools, and particularly on the religious and moral education of Catholic students in such schools. The article approves preserving the religious and moral elements of education in public schools, even in a

39. CIC 1983, c. 799.

pluralistic society, rather than renouncing the effort at moral and religious development in favour of a neutral posture.³⁹ In its second paragraph, which expresses best the true intent of canon 799, Gravissimum Educationis goes on to commend those civil governments and societies who evidence an awareness of the multiplicity of beliefs in modern society, and bear in mind the right of religious liberty, by assisting parents in such a way that in all schools the education of their children can be achieved in harmony with their religious and moral beliefs.⁴⁰

As well as Gravissimum Educationis, canon 799 has roots in several other conciliar texts. Article 11 of Apostolicam Actuositatem maintains that married couples, along with all the Christian faithful, are to labour to ensure that the right and duty of parents to educate their children in a Christian manner is protected in civil legislation. In conformity with this directive, canon 799 specifies one object of their efforts in guaranteeing that civil laws provide for a religious and

39. Cf. J. CORIDEN, op. cit., p. 567.

40. Cf. GE, n. 7, p. 645.

moral education in the schools that is in conformity with the conscience of the parents.

Canon 799 also has a basis in article 5 of Dignitatis Humanae, which declares that parents, in accordance with their own religious beliefs, are free to determine what type of religious education their children will receive. Accordingly, canon 799, assuming that some parents, following the dictates of their consciences, will enroll their children in schools with the intent that they will receive religious and moral education, entreats civil legislatures to acknowledge that the formation of the young by such an education is within the lawful province of schools.⁴¹

Canon 799 is another entreaty for action in the civil sphere in order to secure in public policy basic rights which belong to parents. In urging the faithful to seek for educational laws which will allow for the religious and moral development of children in the schools, the canon is limiting its perspective to those schools operated by the civil authority, that is public schools. Perhaps it does not pertain to the civil

41. Cf. A. PREW-WINTERS, op. cit., p. 78.

government to impart moral and religious instruction itself. But it has the obligation to safeguard this prerogative in its laws, and to provide the means, even extraordinary ones, whereby children may be educated according to the religious and moral convictions of the parents, irrespective of the school they attend.

C. The Sanctifying Office of Parents

1. Canon 835,4: The Sharing by Christian Spouses and Parents in the Sanctifying Office of the Church

Book IV of the 1983 Code of Canon Law opens with a series of 6 canons which describe the character and general structure of the sanctifying office of the Church. One of these introductory norms, canon 835, centres on the different roles performed by various members of the Church in the exercise of the priestly ministry of the people of God. Among those designated as having a unique part to play in the sanctifying office, canon 835,4 includes parents.

The other members of Christ's faithful have their own part in this sanctifying office, each in his or her own way actively sharing in liturgical celebrations, particularly in the Eucharist. Parents have a special share in this office when they live their married lives in a christian spirit and provide for the christian education of their children.⁴²

42. CIC 1983, c. 835,4.

The distinction of roles in the sanctifying mission, codified in canon 835 was a late addition to the revised law. The 1975 draft of the proposed canons on the sacraments did not contain a statute comparable to the present canon, much less to its fourth paragraph.⁴³ Nor was such a norm to be found in the 1980 Schema.⁴⁴ A similar canon was, however, a part of the latest draft of the Lex Ecclesiae Fundamental, and when it was decided not to publish that work, its statement on the differing functions within the sanctifying office was transferred to the opening canons of Book IV.⁴⁵ Significantly, the original version of the LEF canon did not include the clause referring to parents. This was appended to the text as an ex officio addition and was melded into the

43. See PONTIFICA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, Schema documenti pontificii quo disciplina canonica de sacramentis recognoscitur, (hereafter 1975 Draft on Sacraments), Romae, Typis Polyglottis Vaticanis, 1975, cc. 1-8.

44. See PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, Schema Codicis Iuris Canonici iuxta animadversiones S.R.E. Cardinalium, Episcoporum Conferentiarum, Discasteriorum Curiae Romanae, Universitatum Facultatumque ecclesiasticarum necnon Superiorum Institutorum vitae consecratae recognitum, (hereafter 1980 Schema), Civitate Vaticana, Libreria Editrice Vaticana, 1980, cc. 789-793.

45. See Relatio, c. 67, pp. 357-358.

fourth paragraph after the 1981 Plenary Assembly of the Code Commission.⁴⁶

More doctrinal in character than prescriptive, canon 835 is new to the Code and without parallel in the Code of 1917. It has its roots in the theology of the Second Vatican Council.⁴⁷

By ascribing to parents a share in the sanctifying office of the Church in virtue of the Christian style of their married life and by reason of the Christian education of their children which they assume, canon 835,⁴ widens the range of the priestly mission, not limiting it solely to the liturgical context. This function also encompasses every relationship within the larger Christian community and includes every dimension of Christian living, as all are called to sanctify and to be sanctified. Thus parents, in deepening their children's communion and commitment to Christ through Christian education, help to advance the holiness of the people of

46. See *ibid.*, p. 358; PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO, Codex Iuris Canonici: Schema novissimum iuxta placita patrum Commissionis emendatum atque summo Pontifici praesentatum, (hereafter 1982 Schema), In Civitate Vaticana, Typis Polyglottis Vaticanis, 1982, c. 835.

47. See further LG, nn. 11 and 35; GS, n. 48; AA, n. 11.

God and so participate in a genuine manner in its work of sanctification.⁴⁸

Situated as it is at the beginning of the canons regulating the sacraments, canon 835,4 calls attention to the fact that the educational role of parents is most often carried out in preparing their children to receive the sacraments, especially the sacraments of initiation.⁴⁹ Thus the various educational responsibilities assigned to parents in the norms on the sacraments become a concrete application of the general directives on Catholic education and an integral part of the overall scheme of parental rights and duties. Moreover, as religious education is to be a source of sanctification for the children, it is likewise to be so for the parents, enabling them to realize the holiness of their state.⁵⁰ In this regard, canon 835,4 reiterates the teaching of the Second Vatican Council, directly

48. Cf. E. McMANUS, "Book IV. The Sanctifying Office of the Church. Introduction. Part I. The Sacraments. Title I: Baptism (cc. 849-878). Title II: The Sacrament of Confirmation (cc. 879-896)", in J. CORIDEN, T. GREEN, D. HEINTSCHEL, eds., op. cit., p. 600.

49. See JOHN PAUL II, Allocution, "It is a real joy", to a group of bishops from the United States making their visit ad limina Apostolorum, September 24, 1983, in TPS, 28(1983), p. 363.

50. See further C. BRUSSELMANS, loc. cit., p. 76; NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Pastoral Letter, November 1972, op. cit., n. 25, pp. 310-311.

connecting the holiness of the "domestic Church" with the mission of education.

2. The Sacraments of Initiation

a. Canon 868,1,2^o: Baptism, parents and the certainty of a Catholic upbringing

The place of parents within the new law's norms on the sacrament of baptism is a prominent one, reflecting the increased emphasis given their role with respect to this sacrament in the revised Rite of Baptism of Infants.⁵¹ As concerns their educational function, however, the critical statute is canon 868,1,2^o. It states:

For an infant to be baptized lawfully, it is required:
2^o that there be a well-founded hope that the child will be brought up in the catholic religion. If such hope is truly lacking, the baptism is, in accordance with the provisions of particular law, to be deferred and the parents advised of the reason for this.⁵²

51. See CIC 1983, cc. 851,2^o; 855; 857,2; 867; 868,1,1^o; 868,2; 874,1; 872; 877,1.

This directive expresses in a more exacting manner the norms found in canons 750 and 751 of the Code of 1917, which regulated that if there was a guarantee from the parents as to the child's Catholic upbringing, then the infant could be licitly baptized. In the course of revising the Code, this accent was altered somewhat, according to which a child was lawfully baptized when the parents consented to it, and when there was a well-founded hope they would provide the necessary education in the Catholic faith.

Canon 868,1,2* gives juridical expression to the norms contained in the new Rite of Baptism of Infants, and the 1980 Instruction on Infant Baptism, Pastoralis Actio. Both of these sources emphasized the serious responsibility belonging to parents to nurture through an appropriate education the faith implanted in the child by its reception of baptism.⁵³

52. CIC 1983, c. 868,1,2*.

53. See RB, n. 8, 4, pp. 190-191; n. 25, p. 194; PA, n. 28, 2, p. 15; n. 30, p. 17; n. 31, pp. 17-18; n. 32, p. 19; see also SACRED CONGREGATION FOR THE SACRAMENTS AND DIVINE WORSHIP, Norms, Variationes in libros liturgicos ad normam Codicis Iuris Canonici promulgati introducendae, September 12, 1983; English translation in Emendations in the Liturgical Books following upon the New Code of Canon Law, translation prepared by The International Commission on English in the Liturgy, Washington, D.C., United States Catholic Conference, 1984, n. 8, 3, p. 14.

The requirements imposed by canon 858,1,2⁴ are of themselves, rather straightforward and uncomplicated. This section of the canon calls for some assessment to be made as to the sufficiency of the guarantees concerning the rearing of the children in the Catholic faith; there is to be a well-founded hope that the child will be brought up in the catholic religion. The law is not positing the need for an intensive scrutiny prior to infant baptism or the necessity of any extraordinary or solemn promise of Catholic education on the part of parents. As Pastoralis Actio states: "With regard to the assurances, any pledge giving a well-founded hope for Christian upbringing of the children deserves to be considered as sufficient."⁵⁴

Although the opening sentence in number 2 of paragraph 1 establishes the educational obligations of parents, it does not give any specific details as to the general character of this upbringing or what exactly is entailed. Some clarification is however available in the 1980 Instruction. It teaches: "It is in fact for parents to begin the religious initiation of the child, to teach

54. PA, n. 31, p. 17.

it to love Christ as a close friend and to form its conscience.⁵⁵

The second part of the paragraph underlines the concern the Church has that the children's Catholic upbringing be discharged. Where there is no certainty with regard to the performance of this duty, the canon directs that baptism is, in accordance with the regulations of particular law, to be deferred and the parents advised of the reason for this. Although seemingly severe, this precept is designed to bring parents to an awareness of their primary educational responsibilities and to allow time for their instruction so that they may give the needed assurance of a Catholic upbringing.

b. Canon 890: The duties of parents in connection with confirmation

Maintaining the 1983 Code's theme of the educational obligations of parents, canon 890 ascribes to them an instructional role with regard to the sacrament of confirmation.

The faithful are bound to receive this sacrament at the proper time. Parents and pastors of souls, especially

55. PA, n. 32, p. 19.

parish priests, are to see that the faithful are properly instructed to receive the sacrament and come to it at the opportune time.⁵⁶

Although not entirely new to Code, canon 890 constitutes a radical reworking of its counterpart, canon 787 in the 1917 Code. This earlier norm made no mention of the place of parents in instructing their children for the sacrament and in bringing them to it.⁵⁷ Nor was this omission corrected in the initial draft of the new law. The first rendering of the present statute (canon 49 of the 1975 draft), failed to specify a role for parents in regulating the necessity of the faithful receiving confirmation, charging pastors with seeing to it that the baptized were instructed and approached the sacrament at the opportune time.⁵⁸ This oversight was pointed out in the critiques on the canon⁵⁹ and rectified in the next version, canon 844 of the 1980 Schema.⁶⁰

56. CIC 1983, c. 890.

57. See CIC 1917, c. 787.

58. See 1975 Draft on Sacraments, c. 49.

59. For example, see T. GREEN, "The Revision of Sacramental Law: Perspectives on the Sacraments other than Marriage", in Studia Canonica, 11(1977), p. 280.

60. See 1980 Schema, c. 844.

In comparison to the parallel norm in the Code of 1917, the distinctive feature of canon 890 of the new law is the emphasis given to the participation of parents in the process of the children's education for the sacrament. Although the responsibility of pastors has expanded, it nevertheless remains secondary to that of parents, who as guardians of their children's Catholic formation, are charged to oversee their full initiation into the Church's sacramental life.⁶¹

The injunction to parents contained in canon 890 has its basis in the guidelines offered in the praenotanda to the post-conciliar Rite of Confirmation.⁶² Furthermore, the Rite of Confirmation is not only the source of the parental role given in this canon, it also offers some interpretation as to its accomplishment. While the Code does not specify the content of the instruction, this should, according to the revised ritual, be directed towards having the children live the witness of a genuine Christian life and undertaking the exercise of the Christian apostolate. In a particular manner, this preparation is to engender and nurture a

61. See F. McMANUS, op. cit., p. 639; RC, n. 3, p. 298.

62. See RC, n. 3, p. 298; also SLE, n. 119, p. 69.

deep desire to participate in the Eucharist as the full expression of Christian life.⁶³

c. Canon 914: The role of parents in the admission of children to first communion and first confession

Completing the Code's cycle of canons on catechetical instruction preceding admission to the sacraments of initiation, canon 914 fixes parental obligations with regard to first communion and first confession.

It is primarily the duty of parents and of those who take their place, as it is the duty of the parish priest, to ensure that children who have reached the use of reason are properly prepared and, having made their sacramental confession, are nourished by this divine food as soon as possible. It is also the duty of the parish priest to see that children who have not reached the use of reason, or whom he has judged to be insufficiently disposed, do not come to holy communion.⁶⁴

The general precepts encompassed in canon 914 are not entirely new, but have a foundation in canon 854,4 of the 1917 Code. The revised law, however, makes significant modifications in the overall tenor or sense of the original canon.

63. Cf. RC, n. 12, p. 302; N. HALLIGAN, The Sacraments and Their Celebration, New York, Alba House, 1986, p. 47.

64. CIC 1983, c. 914.

As with canon 890, canon 914 stipulates that the duty of preparing and bringing children to the Eucharist belongs to parents before all others.⁶⁵ Even pastors, although charged in this and other canons with serious obligations in this regard,⁶⁶ are subordinate to parents in providing eucharistic catechesis to children and in judging their readiness to receive communion.

It devolves upon parents, as those principally commissioned to oversee their children's adequate catechetical and spiritual preparation, to decide what constitutes "sufficient knowledge" and to determine the degree of faith expected of the child. Certainly, the "sufficient knowledge" mandated in canon 913,1 would include the minimum knowledge advanced in paragraph 2 in reference to reception of the Eucharist by children in danger of death; that is, children should be able to distinguish the Body of Christ from ordinary bread.⁶⁷ At the same time, the use of the phrase "sufficient knowledge" indicates that the thoughtful preparation of

65. See further SLF, n. 122, p. 71.

66. See CIC 1983, cc. 528; 777,2; 843,2; 898.

67. Cf. CIC 1983, c. 913,2. See also T. GREEN, loc. cit., pp. 291-292, who believes that nothing more than this minimum should be required even in ordinary circumstances.

children requires something more than just intellectual preparation. It also involves formative experiences in faith such as are fostered by the children's active participation in the Eucharist even before their own first reception of communion.⁶⁸

Once the children have reached the age of discretion and have been sufficiently prepared, parents and pastors are bound to ensure that they are admitted to the Eucharist as soon as possible so that they enjoy the benefits of the sacrament to which they have a right in law. Pastors have the further obligation to safeguard that children who have not attained the use of reason or who are not adequately disposed do not approach the eucharistic banquet. The parish priest cannot make participation in his parish preparation programmes mandatory. He has the right, however, to certify whether the child has sufficient knowledge to be admitted. In so regulating, canon 914 grants the pastors an ample discretionary freedom in assessing whether the child satisfies the canonical criterion. However, where a doubt exists as to the child's use of reason or proper

68. Cf. J. HUELS, "Book IV. The Sanctifying Office of the Church. Part I: The Sacraments. Title III: The Most Holy Eucharist (cc. 897-958)", in J. CORIDEN, T. GREEN, D. HEINTSCHEL, eds., op. cit., p. 652.

disposition, it is to be resolved in favour of the child's receiving communion, in light of the right of the baptized to receive the sacraments.⁶⁹ Furthermore, this latitude allowed to pastors does not negate the basic right which belongs to parents to judge their children's readiness for first communion since it is only intended as a precaution in those cases where parents do not fulfil their responsibilities.

Canon 914 ordains that children may be admitted to the Eucharist once they have made a sacramental confession. This directive was not a part of the drafts of this canon but was appended to the text in the last stages of the revision process. It is impossible to consider carefully the complex question of first confession before first communion at this juncture.⁷⁰ However, the inclusion of the phrase "having made their sacramental confession" suggests there should also be some preparation for the sacrament of penance before

69. Cf. ibid.

70. See further F. BUCKLEY, Children and God: Communion, Confession, Confirmation, New York, Corpus Books, 1970, pp. 11-38; F. BUCKLEY, "First Confession Before or After Communion", in Homiletic and Pastoral Review, 72:7(1971-1972), pp. 49-56; T. SULLIVAN, "The First Confession: Law and Catechesis", in America, 137(1977), pp. 128-131; J. WRIGHT, "The New Catechetical Directory and Initiation to the Sacraments of Penance and Eucharist", in Homiletic and Pastoral Review, 72:3(1971-1972), pp. 7-24.

first communion so that those children who require or want to share in the sacrament can make use of it. Therefore parents, as the primary religious educators of their children charged with effecting their sacramental preparation, need to provide not only eucharistic catechesis but instruction on the sacrament of penance as well. Moreover, the inclusion of the stipulation on sacramental confession within the canon outlining the parental prerogatives in the admission of children to the Eucharist not only engenders additional educational responsibilities for parents, but it also bestows on them comparable rights of priority in determining the children's readiness for the sacrament of penance.⁷¹

3. The Canons on Marriage

a. Canon 1055,1: The nature of marriage

The opening canon under Title VII on Marriage, canon 1055, attempts to provide a description of the institution of marriage. It states in paragraph 1:

The marriage covenant, by which a man and a woman establish between themselves a partnership of their whole life, and which of its own very nature is ordered to the well-being of the spouses and to the procreation and upbringing of children, has, between the

71. See M. WARREN, loc. cit., pp. 28-29.

baptised, been raised by Christ the Lord to the dignity of a sacrament.⁷²

Although this canon is radically different from its counterpart in the Code of 1917, canon 1013, it nonetheless maintains that marriage is ordered to the procreation and education of children, although it situates that purpose in a new personalist framework. The assertion of this end establishes that, in part, this is what marriage is about. What is more, the inclusion of this object in the canonical depiction of marriage furnishes a juridical basis for the specification of parental rights and duties in education in the various other canons of the 1983 Code.

The formulation of canon 1055 provoked much discussion in the course of the revision process,⁷³ mainly as a result of the attempt to embody within this ordinance the conciliar theology of marriage. Notwithstanding this effort to recast the juridical language describing the marital reality, the drafts of this canon each contained a statement of the principle that marriage was ordained to the procreation and

73. See further Communicationes, 3(1971), p. 70; 9(1977), pp. 120-123; 190; 10(1978), pp. 125-126; Relatio, pp. 242-245.

education of children.⁷⁴ This was in fidelity not only to the parallel canon in the old Code, but also to the new canon's main source, article 48, of the Pastoral Constitution, Gaudium et Spes. In that article, the Council declared:

By their very nature, the institution of matrimony itself and conjugal love are ordained for the procreation and education of children and in them find their ultimate crown.⁷⁵

Therefore, the promulgated version of the canon retained the formula, fixing it in the new law as being of the fundamental nature of marriage.

Unlike canon 1013 of the Code of 1917, canon 1055 does not establish a hierarchy of ends of marriage. This is not to say that such spouses are free to fix arbitrarily the purposes of marriage for themselves. In the natural order and by divine command marriage is ordered to the good of the spouses, and to the procreation and education of children. The two ends of marriage are closely connected and interrelated, as they

74. See further 1975 Draft on Sacraments, c. 243; 1980 Schema, c. 1008.

75. GS, n. 48.

serve or promote each other. The good of spouses is nourished in the generation and formation of children, and this education requires the atmosphere of unselfish love which is at the heart of the interpersonal covenant of husband and wife.⁷⁶

Of its very nature, the community of marriage is directed to sharing in God's work of creation through the physical generation of children. Yet the fulfilment of the procreative purpose of marriage is not realized simply in bringing children to birth. The spouses are also duty-bound to ensure that those to whom they have given life receive the human and Christian education to which they are entitled and which they require in order to complete their personal development and to achieve their full potential. For the most part, this education is carried out in the context of the marital community wherein children are inculcated into the meaning of the love of God and of neighbour through the lived example and instruction of their parents.⁷⁷

76. Cf. T. DOYLE, "Book IV. The Sanctifying Office of the Church. Part I. The Sacraments. Title VII: Marriage (cc. 1055-1165)", in J. CORIDEN, T. GREEN, D. HEINTSCHEL, eds., op. cit., p. 740. See also B. SIEGLE, Marriage According to the New Code of Canon Law, New York, Alba House, 1986, p. 166.

77. Cf. T. DOYLE, op. cit., p. 741. See also B. SIEGLE, op. cit., p. 166.

Consequently, the necessity of education is an integral part of the procreative dimension of Christian marriage and thus an essential element in the marital covenant.⁷⁸ Moreover, this aspect of the procreative purpose of marriage gives rise to a number of consequent parental rights and duties in education, which are noted and summarized in canon 1136.

b. Canon 1136: The effects of marriage

The canons on marriage include one norm among those describing the effects of marriage, which call attention to parental prerogatives and responsibilities. Canon 1136 establishes:

Parents have the most grave obligation and the primary right to do all in their power to ensure their children's physical, social, cultural, moral and religious upbringing.⁷⁹

This norm is not new to canonical legislation but was included in the former Code as canon 1113, where

78. This principle establishes the basis for a jurisprudence on the nullity of a marriage based on an intention against education or an incapacity to fulfil this function. See further Sacrae Romanae Rotae decisiones seu Sententiae, 66(1974), c. Lefebvre, March 2, 1974, p. 156; B. SIEGLE, op. cit., p. 11; L. ORSY, Marriage in Canon Law. Text and Comments. Reflections and Questions, Wilmington, Delaware, Michael Glazier, Inc., 1986, p. 53.

79. CIC 1983, c. 1136.

parents were directed to provide for the religious, moral and civil education of their children. Given that it was an important formulation of one of the main effects of marriage, this canon of the 1917 law was retained, with only minor modifications from the original, in the various drafts of this book.⁸⁰

Underlying canon 1136 is the principle that the educative function cannot be radically separated from procreation itself.⁸¹ Thus in bringing children to birth, parents assume educational responsibilities that are multi-faceted, embracing all the essential elements of human and Christian nurture.

Of especial significance in these is the religious-moral formation of their children, which begins with baptism, continues with sharing the practice of the faith, and providing for their Christian education. Although shared with other agencies, the fulfilment of this obligation appertains to parents in an indispensable manner and cannot be wholly surrendered by them.⁸² At

80. See 1975 Draft on Sacraments, c. 332; 1980 Schema, c. 1090.

81. T. DOYLE, op. cit., p. 809.

82. Cf. ibid., p. 810.

the same time, canon 1136 obliges parents to see to the physical, social and cultural instruction of their offspring. The physical education of children includes offering everything that is necessary for their healthy development, while their social and cultural formation entails that they be introduced to the society of which they are a part and trained to assume their place and duties as good citizens.⁸³

By reason of the fact that the procreative end of marriage is intrinsically linked to the education of children, canon 1136 professes that parents, in addition to their grave obligation, have a fundamental right to provide this all-around education. Based as it is on the nature of marriage, this prerogative of parents may not be encroached upon or unjustly restricted by any outside authority. Except in those cases where parents neglect their duty to the degree that the good of children is imperiled, and this educational responsibility is assumed by the agency charged with the public good, this elemental right of parents is inviolable.⁸⁴

83. Cf. ibid.

84. Cf. ibid.

c. Canon 1125: Mixed marriage

Although the educational rights and duties of parents that result from the sacrament of marriage are succinctly stated in canon 1136, the canons on marriage contain a further precept where the Catholic education of children, albeit not the main focus of the canon, is nevertheless a major component in the directives set down by that law. Canon 1125 which regulates the granting of permission for a mixed marriage decrees:

The local Ordinary can grant this permission if there is a just and reasonable cause. He is not to grant it unless the following conditions are fulfilled:

- 1^o the catholic party is to declare that he or she is prepared to remove dangers of defecting from the faith, and is to make a sincere promise to do all in his or her power in order that all the children be baptized and brought up in the catholic Church;
- 2^o the other party is to be informed in good time of these promises to be made by the catholic party, so that it is certain that he or she is truly aware of the promise and of the obligation of the catholic party.⁸⁵

Once again, rules governing mixed marriage are not new to the Church's universal law, since the Code of

85. CIC 1983, c. 1125, 1^o-2^o.

1917, in canon 1061, also fixed norms for the dispensation of what was under the old law, the impediment of mixed religion. Canon 1125 is however notably different from its parallel in the former law, reflecting the ecumenical awareness in conciliar theology, as well as the practical norms introduced by the documents Matrimonii Sacramentum and Matrimonia Mixta.

Canon 1125, 1° directs that the Catholic party to a proposed mixed marriage is to promise to do all in his or her power to ensure that any and all children born of the union are baptized and educated in the Catholic faith. By the fact that the Catholic baptism and formation of offspring is one of the declared ends of marriage, the presumption is that the Catholic fully intends to fulfil it in seeking a marriage endorsed by the Church. The promise before a mixed marriage guarantees the validity of this presumption, while at the same time making the Catholic conscious of the serious responsibilities he or she has for the children's Catholic initiation, instruction and training.⁸⁶

86. Cf. T. DOYLE, op. cit., p. 803.

The canon specifies that the Catholic is "to do all in his or her power" to secure that the children are given a Catholic baptism and upbringing. Such a stipulation, not found in the law of 1917, recognizes the right and duty of the Catholic party to provide a Catholic baptism and education, but at the same time respects the principles of religious liberty and the reciprocal rights of the non-Catholic partner to practice his or her faith and to communicate that faith to the children.⁸⁷

d. Canon 1154: The separation of spouses

Corresponding to canon 1132 of the 1917 Code, canon 1154 decrees:

When a separation of spouses has taken place, appropriate provision is always and in good time to be made for the due maintenance and upbringing of the children.⁸⁸

The revised canon greatly simplifies the provisions of the former Code, leaving the appropriate

87. See further W. DANIEL, "Mixed Marriages - The New Promises", in The Australasian Catholic Record, 48 (1971), pp. 199-210. For a further elaboration on the rights of parents in a mixed marriage in the religious upbringing of their children; also E. De BHALDRAITHE, "The Mixed Marriage Promise", in Doctrine and Life, 32 (1982), pp. 173-174.

88. CIC 1983, c. 1154.

decisions in this regard in the hands of the spouses themselves. However, since the children are rightfully entitled to this upbringing and depend on their parents to supply it, parents are required in conscience to take care that this fundamental need is looked after in whatever formal or legal arrangement they may conclude.

D. Other Canons Relating to the Educational Responsibilities of Parents

In addition to the many canons already studied, the 1983 Code of Canon Law contains several others that make reference to the educational function. Although these do not propose any further or new responsibilities for parents in this area, they do accentuate the importance and critical character of this office by providing for its observance in certain special circumstances.

1. Canon 1366: Canonical Penalties

So seriously does the law regard the solemn obligation binding upon Catholic parents to see to the Catholic baptism and education of their children, that it prescribes a penalty in canon 1366 for those who do otherwise.

Parents, and those taking the place of parents, who hand over their children to be baptised or brought up in a non-catholic religion, are to be punished with a censure or other just penalty.⁸⁹

This canon parallels canon 2319 of the 1917 Code, but is less complex and more straightforward than the 1917 norm. In brief, the revised law establishes a penalty where Catholic parents deliberately surrender their children to be baptized and instructed in a non-Catholic religious tradition. Although, this possibility is more apt to occur in mixed marriages, the likelihood of this offense is not restricted to such cases. Whatever the situation, for the penalty to be incurred it must be certain that the parents appreciate the duties that are theirs, recognize that they are handing over their children to a non-Catholic minister or community, and understand that this action is forbidden by the force of this law.

The penalty as set forth in the canon is not automatically imposed, nor is it precisely determined. The ordinance merely states that the offender is to be punished with a censure⁹⁰ or other just penalty. This is

89. CIC 1983, c. 1366.

90. See CIC 1983, cc. 1331-1335.

notably different from the parallel canon in the 1917 Code which established a latae sententiae excommunication for this offense. Furthermore, unlike canon 2319 of the old Code which reserved the latae sententiae excommunication to the Ordinary, canon 1366 of the revised law legislates no such restriction on its penalty.⁹¹

2. Canon 1689: Provisions for Educational Responsibilities in a Judicial Sentence.

Within the particular norms governing matrimonial processes, the revised law has introduced a new canon which requires that a judicial sentence make provision for the indispensable educational obligations of parents.

Canon 1689 states:

In the judgement the parties are to be reminded of the moral, and also civil, obligations by which they may be bound, both towards one another and in regard to the support and upbringing of their children.⁹²

This regulation is similar in spirit and intent to canon 1154 which mandates some provision be made for the maintenance and education of children in cases of spousal

91. It should be noted when such a penalty has been imposed or declared, then it is reserved to the Ordinary. See further CIC 1983, c. 1355,1.

92. CIC 1983, c. 1689.

separation.⁹³ Once again, because of the children's right to support and education, the parents remain duty-bound to render these basic human requirements, even in cases where the bond of marriage has been juridically declared null. Elementary justice demands that parents fulfil their on-going natural obligations toward their children, and the judicial sentence as an instrument of justice should uphold this essential principle.

Summary

An examination of the canons of the 1983 Code of Canon Law reveals a formidable list of parental rights in education, as well as an equally extensive enumeration of their duties in this same regard. Using the fundamental principles of both the natural and divine positive law as a basis, the revised Code in three separate precepts affirms the inalienable right and the grave obligation parents have in the education of their children.⁹⁴ Furthermore, in presenting the rights of parents, the canons assert that:

93. This basic requirement of justice is also implicit in CIC 1983, c. 1071,1,3.

94. See CIC 1983, cc. 226,2; 793,1; 1136.

- parents have the right to be aided and sustained in their catechetical function by pastors and those involved in Christian education (c. 776);
- Catholic parents have the right to select means that will foster their children's Catholic education (c. 793,1);
- Catholic parents have a right to avail themselves of that assistance they require from civil society in effecting their special responsibilities (c. 793,2);
- parents have a right to schools that will aid them in discharging their educational responsibilities (c. 796, 1);
- parents have a right to be consulted by teachers and involved in the school's education of their children (c. 796,2);
- parents have a right to form associations with teachers and school authorities to promote the education of children (c. 796,2);
- parents have a right to a religious and moral education in conformity with their conscience for their children in public school (c. 799);
- parents have a right to participate in the sanctifying office of the Church through the education of their children (c. 835,4);

- parents have a right in admitting their children to first communion (c. 914);
- parents have a right in determining their child's readiness for first confession (c. 914).

On the other hand, the canons also insist that parents have the following obligations:

- to give their children a Christian education in accordance with the teaching of the Church (c. 226,2);
- to form their children in faith and Christian living (c. 774,2);
- to choose means and institutes that will promote their children's Catholic education (c. 793,1);
- to cooperate with the schools and teachers to whom they entrust a portion of their children's education (c. 796,2);
- to enroll their children in schools that will provide for their Catholic education (c. 798);
- to see to the Catholic education of their children where there are no Catholic schools available or where they enroll them in non-Catholic institutions (c. 798);
- to contribute to the sanctity of the Church by educating their children (c. 835,4);

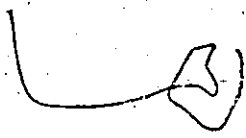
- to rear the children they have baptized in the Catholic Church in the Catholic faith, and are to offer a well-founded hope for such before the child is baptized (c. 868,1,2*);
- to certify that their children are suitably instructed to receive confirmation (c. 890);
- to ensure that their children are properly prepared to receive the sacraments of the Eucharist and penance for the first time (c. 914).

Clearly, the 1983 Code presents a broad spectrum of the rights and duties of parents in the education of their children. This marked feature of the new Code reflects and is grounded in the teaching of the Second Vatican Council, where the unique role of parents in education was noted repeatedly. Indeed, in many instances the texts of the canons were taken from the Council documents, especially the Declaration on Christian Education. What is more, the conciliar ecclesiology based on the participation of all the faithful in the three-fold function and used in structuring the 1983 Code, gives the exercise of these rights and the performance of these obligations a very particular context. Thus parents, in carrying out both the human and Christian instruction and formation of their children

mandated in the law, share in their own way in both the prophetic and priestly office of the people of God. The royal mission, although a part of the Code's overall framework, does not find particular expression in the canons on the educational rights and duties of parents. Nevertheless, parents in performing their educational task contribute, in an extended sense, to the pastoral governance of the Church and hence participate in this royal office as well.⁹⁵

Finally, while it is true that the parent-education canons are more often than not exhortatory or declaratory rather than directly regulatory or prohibitory, they nonetheless enunciate important principles and confirm the essential rights and obligations of parents in education. As such they are suitable to the character of a universal law such as the Code which must allow for a wide variety of educational systems. At the same time, they provide a foundation for the formulation and interpretation of particular law in the area of parental rights and responsibilities.

95. See B. GRIFFIN, "The Three-Fold Munera of Christ and the Church", in J. PROVOST, ed., Code, Community, Ministry, Washington, D.C., The Canon Law Society of America, 1983, pp. 19-20; also A. HYNES, E. HYNES, "Children and Worship in the Home", in Religious Education, 51 (1956), p. 338.



During the last century, magisterial teaching has repeatedly affirmed the inalienable right and serious duty parents possess in the education of their children. As such, it is understandable that this emphasis has found juridical expression in the official law of the Church, as promulgated first in the 1917 Code, and more recently in the revised 1983 Code.

An examination of these statements, and especially of the canons on parents in both the former and the revised Codes, reveals a continuity as well as a development in the Church's understanding and expression of this primary right and duty. The extent of that continuity and development can best be measured by considering the parent-education canons of the two Codes in the light of the task they regulate, that is, education.

The Church has enumerated the essential features of education in several of its documents, especially in the description given by the Second Vatican Council, in articles 2 and 3 of Gravissimum Educationis. These in their turn are embodied in canon 795 of the 1983 Code, constituting a good basis for the evaluation of the canons on parents and education. The canon reads:

Education must pay regard to the formation of the whole person, so that all may attain their eternal destiny and at the same time promote the common good of society. Children and young persons are therefore to be cared for in such a way that their physical, moral and intellectual talents may develop in a harmonious manner, so that they may attain a greater sense of responsibility and a right use of freedom, and be formed to take an active part in social life.¹

Education as described by this precept consists of several integral elements. It is, to begin with, wholistic, in that it aims for the complete formation of the whole person and occupies itself with the development of physical, moral and intellectual capacities. Another inherent feature of education, as presented in this canon, is its attention to the developmental aspect of human learning and making allowance for it. By taking into account the process of growth and change experienced by children and young people, genuine education promotes a sense of progressive formation, an unfolding and maturation of aptitudes and abilities, and a deepening awareness of responsibility and of the mature use of freedom.²

1. CIC 1983, c. 795.

2. Cf. J. CORIDEN, "Book III. The Teaching Office of the Church (cc. 747-833)", in J. CORIDEN, T. GREEN, D. HEINTSCHEL, eds., The Code of Canon Law. A Text and Commentary, New York, Paulist Press, 1985, p. 565.

At the same time, this education is characterized by its social orientations. Motivated by a concern for the common good of society, it demands a heightened sense of responsibility and a correct use of freedom for active involvement in the life of the human community.³

Lastly, education, as depicted in canon 795, is personal. It seeks for the full and complete burgeoning of the human person, graced with rights and liberties, and is focused on that person's final and ultimate destiny - life with God.⁴

Parents as the primary educators of their children are chartered to provide an education that encompasses these four elements; they must furnish an education that is wholistic, developmental, social and personal. Consequently, the laws of the Code which assert and outline the prerogatives and obligations of parents, must also sustain, foster and vindicate their ability to provide for such a multi-faceted education.

As concerns the wholistic aspect, the various types of formation that comprise an overall education

3. Cf. ibid., pp. 565-566.

4. Cf. ibid., p. 566.

were noted in canons 1113 and 1372 of the 1917 Code, and are repeated in canon 1136 of the 1983 Code. In these canons, parents are to ensure their children's physical, civil, social, cultural, religious and moral upbringing. Clearly, in this regard, there is a harmony with the first goal of education, and a continuity between the old and the revised law.

The developmental facet of education is not touched upon directly by any canon of either Code. It is, however, inherent in the fact that parents are required to give their children a Christian education.⁵ According to the 1983 Code, Christian education allows its recipient to strive for the maturity of the human person and at the same time to know and live the mystery of salvation.⁶ Although both Codes mandate that parents provide their offspring with a Christian education, the connection with the developmental dimension is more readily perceived in the 1983 law as a result of the interpretation presented by canon 217.

5. See further CIC 1917, c. 1372, 2; and CIC 1983, c. 226, 2.

6. Cf. CIC 1983, c. 217.

On another level, cognizance of the various phases of a child's development is acknowledged, to some degree at least, in the 1983 Code's sacramental law, where parents are recognized as having the basic responsibility in assessing their child's readiness for the sacraments of Eucharist and penance.⁷ This responsibility was also noted in the former law in the same area of sacramental initiation, but there the position of parents was mitigated by ecclesiastical authority.⁸

Like the developmental feature, the social aspect of education is not the focus of any one canon, although canon 1136 of the 1983 Code indicates that parents must ensure, among other things, their children's social upbringing. By the fact that it prepares the student to assume his or her proper place in the human community, the social element seems to entail the school, since generally parents have neither the ability nor the means to provide this type of instruction. The 1917 Code in canon 1374 urged parents to send their children to a Catholic school, where and when this was possible. Children could attend non-Catholic schools under certain

7. See further ibid., c. 914.

8. See further CIC 1917, c. 854,4.

conditions, but these were regarded in a negative manner. Beyond this, the former law prescribed nothing further in reference to parents and the school. Indeed, the law seemed to imply that the greatest portion of the parental obligation was discharged by sending children to a Catholic school.

The 1983 Code, although it urges parents to send their children to a Catholic school,⁹ makes no mention of the danger of non-Catholic schools. Moreover, the revised law repeatedly insists on the primacy of parents before the school,¹⁰ on their right to choose schools in conformity with their religious beliefs,¹¹ to receive religious and moral education in public schools,¹² and to obtain public assistance.¹³ The new law advocates the importance of the school in preparing children to take their place in society,¹⁴ but at the same time it

9. See further CIC 1983, cc. 793,1 and 798.

10. See further ibid., c. 796.

11. See further ibid., c. 797.

12. See further ibid., c. 799.

13. See further ibid., cc. 793,2 and 797.

14. See further ibid., c. 796,1.

preserves and defends the fundamental position of parents. In this area, the 1983 Code evidences a marked development.

Finally, education is to be personal. The law of the 1917 Code obliged parents to ensure that their children received religious instruction, which was usually accomplished by entrusting them to an outside agency, such as the parish catechetical programme.¹⁵ The 1983 Code insists on the direct involvement of parents in teaching their children, especially in their religious education.¹⁶

Evidently, the revised law on parents and education endorses and manifests the four basic elements of education presented by the Council and synthesized in canon 795. The canons of the 1917 Code did so to some extent and there is thus a link between the former law and the revised one. Nevertheless, the 1983 Code's precepts on parents reflect the development engendered by the Second Vatican Council, and present a more integral, and even more wholesome, view of education and of the central place of parents in every facet of that process.

15. See further CIC 1917, c. 1335.

16. See further CIC 1983, cc. 774, 2, 868, 1, 2, and 890.


THE CHARTER OF THE RIGHTS OF THE FAMILY

Article 5

Since they have conferred life on their children, parents have the original, primary and inalienable right to educate them; hence they must be acknowledged as the first and foremost educators of their children.

a) Parents have the right to educate their children in conformity with their moral and religious convictions, taking into account the cultural traditions of the family which favour the good and the dignity of the child; they should also receive from society the necessary aid and assistance to perform their educational role properly.

b) Parents have the right to choose freely schools or other means necessary to educate their children in keeping with their convictions. Public authorities must ensure that public subsidies are so allocated that parents are truly free to exercise this right without incurring unjust burdens. Parents should not have to sustain, directly or indirectly, extra charges which would deny or unjustly limit the exercise of this freedom.



c) Parents have the right to ensure that their children are not compelled to attend classes which are not in agreement with their own moral and religious convictions. In particular, sex education is a basic right of the parents and must always be carried out under their close supervision, whether at home or in educational centres chosen and controlled by them.

d) The rights of parents are violated when a compulsory system of education is imposed by the State for which all religious formation is excluded.

e) The primary right of parents to educate their children must be upheld in all forms of collaboration between parents, teachers and school authorities, and particularly in forms of participation designed to give citizens a voice in the functioning of schools and in the formulation and implementation of educational policies.

f) The family has the right to expect that this means of social communication will be positive instruments for the building up of society, and will reinforce the fundamental values of the family. At the same time, the family has the right to be adequately protected, especially with regard to its youngest members, from the negative effects and misuse of the mass media.

A. SOURCES

ABBOTT, W., gen. ed., The Documents of Vatican II, J. GALLAGHER, translation ed., Piscataway, New Jersey, Association Press, New Century Publishers, Inc., 1966, xxi - 792 p.

Acta Apostolicae Sedis: Commentarium Officiale, Romae, 1909-1929; Civitate Vaticana, Typis Polyglottis Vaticanis, 1929- , 78 vols. to date.

Acta et documenta Concilio Oecumenico Vaticano II apparando. Cura et studio Secretariae Generalis Concilii Oecumenici Vaticani II, In Civitate Vaticana, Typis Polyglottis Vaticanis, 1960-1969, 3 vols., 21 parts.

Acta synodalia Sacrosancti Concilii Oecumenici Vaticani II. Cura et studio Archivi Concilii Oecumenici Vaticani II, In Civitate Vaticana, Typis Polyglottis Vaticanis, 1970-1981, 4 vols., 25 parts.

BENEDICTINE MONKS OF SOLESMES, eds., Papal Teachings. Education, translated by A. REBESCHINI, Boston, St. Paul Editions, 1960, 668 p.

-----, Papal Teachings. Matrimony, translated by M. BYRNES, Boston, St. Paul Editions, 1963, 617 p.

BISHOPS OF NEW JERSEY, Pastoral Statement, "Education in Human Sexuality", NO DATE, in Origins, 10(1980-1981), pp. 669-672.

BOUSCAREN, T.L., ed., vols. 1-3; BOUSCAREN, T.L., O'CONNOR, J., eds., vols. 4-6; O'CONNOR, J., ed., vols. 7-10, The Canon Law Digest, Milwaukee, The Bruce Publishing Company, 1934-1969, vols. 1-6; Mundelein, Illinois, Canon Law Digest - Chicago Province S.J., 1975-1986, vols. 7-10.

CARLEN, C., ed., The Papal Encyclicals, Wilmington, North Carolina, McGrath Publishing Company, 1981, 5 vols.

The Charter of the Rights of the Family. Presented by the Holy See to all Persons, Institutions and Authorities Concerned with the Mission of the Family in Today's World, October 22, 1983, Ottawa, Canadian Conference of Catholic Bishops - Vatican Polyglot Press, 1983, 17 p.

The Code of Canon Law in English translation. Prepared by The Canon-Law Society of Great Britain and Ireland, in association with The Canon Law Society of Australia and New Zealand and The Canadian Canon Law Society, London, Collins Liturgical Publications, 1983, xv - 319 p.

Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus, Civitate Vaticana, Libreria Editrice Vaticana, 1983, xxx - 317 p.

Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus, Westminster, Maryland, The Newman Press, 1961, lv - 920 p.

Communicationes, Pontificia Commissio Codici Iuris Canonici Recognoscendo, Romae, 1969-1983; Pontificia Commissio Codici Iuris Canonici Authentice Interpretando, 1984- , 17 vols. to date.

Discorsi e Radiomessaggi di Sua Santità Pio XII, Milano, "Vita e Pensiero", 1939-1946, vols. 1-7; Città del Vaticano, Tipografia Poliglotta Vaticana, 1946-1959, vols. 8-20.

Documents de sa Sainteté Pie XII. Publiés sous la direction de Mgr S. DELACROIX, Saint-Maurice, Suisse, Editions Saint-Augustin, 1950-1963, 20 vols.

FIFTH GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS (1980), Propositions, Synodus Episcoporum: De muneribus Familiae Christianae in mundo hodierno. Elenchus Propositionum (sub secreto), October 23, 1980, Civitate Vaticana, Typis Polyglottis Vaticanis, 1980, 100 p.; English translation in The Tablet, 235(1981), pp. 116-118; 235(1981), pp. 141-142; 235(1981), pp. 164-167.

- , Written Message, "Nos Patres Synodales", October 25, 1980, in Enchiridion Vaticanum. Documenti ufficiali della Santa Sede, Bologna, Edizione Dehoniane, 1962-1980, 7 vols., vol. 7, pp. 742-759; English translation in Origins, 10(1980-1981), pp. 321-325.
- GASPARRI, P., ed., vols. 1-6; SEREDI, I., ed., vol. 7-9, Codicis Iuris Canonici Fontes, Romae, Typis Polyglottis Vaticanis, 1926-1939, 9 vols.
- GENERAL SECRETARIATE OF THE SYNOD OF BISHOPS, Lineamenta, De muneribus Familiae Christianae in mundo hodierno (ad usum conferentiarum episcopaliu), NO DATE, Civitate Vaticana, 1979; English translation in The Role of the Christian Family in the Modern World, Ottawa, Canadian Conference of Catholic Bishops, 1979, 52 p.
- , Working Document, De muneribus Familiae Christianae in mundo hodierno; Instrumentum laboris ad usum sodalium Quinti Coetus Generalis, NO DATE, Civitate Vaticana, 1980; English translation in The Role of the Christian Family in the World Today (Working document for use of members of the Fifth General Assembly), Ottawa; Canadian Conference of Catholic Bishops, 1980, 118 p.
- Insegnamenti de Giovanni Paolo II, Città del Vaticano, Libreria Editrice Vaticana, 1979- , 7 vols. to date.
- Insegnamenti de Paolo VI, Città del Vaticano, Tipografia Poliglotta Vaticana, 1969-1979, 16 vols.
- JOHN PAUL II, Apostolic Exhortation, "Catechesi Tradendae", October 16, 1979, in Acta Apostolicae Sedis, 71(1979), pp. 1277-1340; English translation in Catechesis In Our Time, Ottawa, Canadian Conference of Catholic Bishops, 1979, 100 p.

- , Apostolic Exhortation, "Familiaris Consortio", November 22, 1981, in Acta Apostolicae Sedis, 74(1982), pp. 81-191; English translation in The Role of the Christian Family in the Modern World, Ottawa, Canadian Conference of Catholic Bishops, 1982, 175 p.
- NATIONAL CONFERENCE OF CATHOLIC BISHOPS, Statement, "On Catholic Schools", November 16, 1967, in The Catholic Mind, 66(January 1968), pp. 1-6.
- , "The Family's Role in Catechesis. Synod '77", in Origins, 7(1977-1978), pp. 334-335.
- , Directory, Sharing the Light of Faith National Catechetical Directory for Catholics of the United States, March 1979, Washington, D.C., United States Catholic Conference, 1979, vii - 182 p.
- NOLAN, H., ed., The Pastoral Letters of the United States Catholic Bishops, Washington, D.C., National Conference of Catholic Bishops - United States Catholic Conference, 1983-1984, 4 vols.
- OCHOA, X., ed., Leges ecclesiae post Codicem Iuris Canonici editae, Romae, Commentarium pro Religiosis, 1966-1980, 5 vols.
- Origins, NC Documentary Service, Washington, D.C., NC News Service, 1971- , 15 vols. to date.
- L'Osservatore Romano - Weekly Edition in English, Vatican City, Tipografia de "L'Osservatore Romano", 1967-
- PAUL VI, Apostolic Exhortation, "Evangelii Nuntiandi", December 8, 1975, in Acta Apostolicae Sedis, 68(1976), pp. 5-76; English translation in On Evangelization, Boston, Daughters of St. Paul, 1975, 62 p.
- PIUS XII, Allocution, "Vegliare con sollecitudine", to the Italian Catholic Union of Mid-wives, October 29, 1951, in Acta Apostolicae Sedis, 43(1951), pp. 835-854; English translation in Moral Questions Affecting Married Life, Washington, D.C., National Catholic Welfare Conference, NO DATE, 32 p., pp. 3-23.

PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO,
Schema legis ecclesiae fundamentalis: textus
emendatus cum relatione de ipso schemate deque
emendationibus receptis, Romae, Typis Polyglottis
 Vaticanis, 1971, 159 p.

-----, Schema documenti pontificii quo disciplina
canonica de sacramentis recognoscitur, Romae,
 Typis Polyglottis Vaticanis, 1975, 95 p.

-----, Schema canonum libri III de Populo Dei,
 Romae, Typis Polyglottis Vaticanis, 1977, 158 p.

-----, Schema canonum libri II de Ecclesiae munere
docendi, Romae, Typis Polyglottis Vaticanis, 1977,
 39 p.

-----, Schema Codicis Iuris Canonici iuxta
animadversiones S.R.E. Cardinalium, Episcoporum
Conferentiarum, Dicasteriorum Curiae Romanae,
Universitatum Facultatumque ecclesiasticarum
necnon Superiorum Institutorum vitae consecratae
recognitum, Civitate Vaticana, Libreria Editrice
 Vaticana, 1980, xiii - 382 p.

-----, Relatio complectens synthesim animadversionum
ab Em. mis atque Exc. mis Patribus Commissionis ad
novissimum schema codicis iuris canonici
exhibitarum, cum responsionibus a secretaria et
consultoribus datis, Civitate Vaticana, Typis
 Polyglottis Vaticanis, 1981, 358 p.

-----, Codex Iuris Canonici: Schema novissimum iuxta
placita patrum Commissionis emendatum atque summo
Pontifici praesentatum, In Civitate Vaticana,
 Typis Polyglottis Vaticanis, 1982, xvii - 308 p.

The Pope Speaks. The Church Documents Quarterly,
 Huntington, Indiana, Our Sunday Visitor, Inc.,
 1956- , 31 vols. to date.

The Rites of the Catholic Church, translation prepared
 by The International Commission on English in the
 Liturgy, New York, Pueblo Publishing Company,
 1976-1980, 2 vols.

SACRED CONGREGATION FOR CATHOLIC EDUCATION, Declaration, The Catholic School, March 19, 1977, Ottawa, Publications Service, Canadian Conference of Catholic Bishops, 1977, 33 p.

-----, Declaration, Lay Catholics in Schools: Witnesses to Faith, October 15, 1982, Ottawa, Canadian Conference of Catholic Bishops - Vatican Polyglot Press, 1982, 44 p.

-----, Guidelines, Educational Guidance in Human Love. Outlines for Sex Education, November 1, 1983, Ottawa, Canadian Conference of Catholic Bishops, 1983, 36 p.

SACRED CONGREGATION FOR THE CLERGY, Directory, "Directorium Catechisticum Generale", April 11, 1971, in Acta Apostolicae Sedis, 64(1972), pp. 97-176; English translation in General Catechetical Directory, Washington, D.C., United States Catholic Conference, 1971, 112 p.

SACRED CONGREGATION FOR THE DOCTRINE OF THE FAITH, Instruction, "Pastoralis Actio", October 20, 1980, in Acta Apostolicae Sedis, 72(1980), pp. 1137-1156; English translation in Instruction on Infant Baptism, Boston, Daughters of St. Paul, 1980, 22 p.

SACRED CONGREGATION FOR THE SACRAMENTS AND DIVINE WORSHIP, Norms, Variationes in libros liturgicos ad normam Codicis Iuris Canonici promulgati introducendae, September 12, 1983, in Notitiae, 19(1983), pp. 541-555; English translation in Emendations in the Liturgical Books following upon the New Code of Canon Law, translation prepared by The International Commission on English in the Liturgy, Washington, D.C., United States Catholic Conference, 1984, iii - 26 p.

SECRETARIATE OF STATE, Letter, "~~J'ai l'honneur~~", on the occasion of the Fourth Portuguese Social Week, October 16, 1952, in La Documentation catholique, 50(1953), p. 26.

-----, Letter, "A l'occasion", on the occasion of the Twenty-eight Social Week in Italy, September 25, 1955, in La Documentation catholique, 55(1958), col. 978-982.

-----, Letter, "Le sujet", on the occasion of the Forty-fifth French Social Week, June 28, 1958, in La Documentation catholique, 55(1958), col. 978-982.

Servant of Truth. Messages of John Paul II. Volume 2, December 1978 - March 1979, compiled and indexed by the Daughters of St. Paul, Boston, St. Paul Editions, 1979, 575 p.

Talks of John Paul II, compiled by the Daughters of St. Paul, Boston, St. Paul Editions, 1979, 541 p.

THOMAS AQUINAS, The Summa Contra Gentiles. Literally translated by the English Dominican fathers from the latest Leonine edition, London, Burns, Oates and Washbourne, 1923-1929, 5 vols.

-----, Summa Theologica. Literally translated by the Fathers of the English Dominican Province, New York, Benziger Brothers, Inc., 1947-1948, 3 vols.

UNITED NATIONS ORGANIZATION, "Universal Declaration of Human Rights", December 10, 1948, in The New Encyclopaedia Britannica, 15th edition, Chicago, Encyclopaedia Britannica, Inc., 1984, 30 vols., Micropaedia, vol. X, pp. 1049-1050.

B. BOOKS

[ANONYMOUS], La famille chrétienne. Message du Synode. Discours de Jean-Paul II. Lettre des évêques français du Synode. Interventions des évêques français. Synode des évêques 1980 (26 septembre - 25 octobre), Paris, Editions du Centurion, 1980, 91 p.

-----, John Paul II, Catechist, Chicago, Franciscan Herald Press, 1980, x - 233 p.

-----, Synode des évêques 1980, 26 septembre - 25 octobre, Paris, Editions du Cerf et La Vie, 1980, 293 p.

ABBO, J., HANNAN, J., The Sacred Canons. A Concise Presentation of the Current Disciplinary Norms of the Church, revised edition, St. Louis, B. Herden Book Company, 1957, 2 vols.

- ANDERSON, F., ed., Council Daybook: Vatican II, Washington, D.C., National Catholic Welfare Conference, 1965-1966, 3 vols.
- AUGUSTINE, C., A Commentary on the New Code of Canon Law, St. Louis, B. Herder Book Company, 1925-1936, 8 vols.
- AYRINHAC, H., Administrative Legislation in the New Code of Canon Law, New York, Longmans, Green and Company, 1930, xxv - 477 p.
- , General Legislation in the New Code of Canon Law, New York, Blase Benziger and Company, Inc., 1923, 384 p.
- , Legislation on the Sacraments in the New Code of Canon Law, New York, Longmans, Green and Company, 1928, xxv - 416 p.
- , Marriage Legislation in the New Code of Canon Law, revised and enlarged by P. LYDON, New York, Benziger Brothers, Inc., 1939, xi - 394 p.; xxi - xxiv p.
- , Penal Legislation in the New Code of Canon Law, revised by P. LYDON, New York, Benziger Brothers, Inc., 1936, xxii - 340 p.
- BIZIER, J., L'éducation chrétienne et le rapport Parent, Ottawa, Fides, 1969, 230 p.
- BLACK, H., et al., Black's Law Dictionary. Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern, abridged 5th Edition, St. Paul, Minnesota, West Publishing Company, 1983, xiv - 855 p.
- BOFFA, C., Canonical Provisions for Catholic Schools (Elementary and Intermediate), Washington, D.C., The Catholic University of America Press, 1939, x - 211 p. (Canon Law Studies, n. 117).
- BOUREAU, D., La mission des parents, Perspectives conciliaires, Paris, Les Editions du Cerf, 1970, 425 p.

- BOUSCAREN, T.L., ELLIS, A., KORTH, F., Canon Law: A Text and Commentary, 4th revised edition, Milwaukee, The Bruce Publishing Company, 1966, xvi - 1011 p.
- BRUSSELMANS, C., Les fonctions de parrainage des enfants aux premiers siècles de l'Eglise, Washington, D.C., The Catholic University of America, 1964, ms., iii - 220 p.
- BUCKLEY, F., Children and God: Communion, Confession, Confirmation, New York, Corpus Books, 1970, 59 p.
- CONGAR, Y., Lay People in the Church, revised edition, with additions by the author, translated by D. ATTWATER, London, Geoffrey Chapman, 1965, xxi - 498 p.
- CORIDEN, J., GREEN, T., HEINTSCHEL, D., eds., The Code of Canon Law. A Text and Commentary, New York, Paulist Press, 1985, xxvi - 1152 p.
- CROTTY, M., The Recipient of First Holy Communion, Washington, D.C., The Catholic University of America Press, 1947, ix - 142 p. (Canon Law Studies, n. 247).
- ENDEBROCK, D., The Parental Obligation to Care for the Religious Education of Children Within the Home with Special Attention to the Training of the Pre-School Child, Washington, D.C., The Catholic University of America Press, 1955, xix - 267 p. (Studies in Sacred Theology (Second Series), n. 84).
- FLANNERY, A., ed., Vatican II: The Church Constitution, Chicago, The Priory Press, 1966, 207 p.
- GIAMMANCHERI, E., et al., Il Concilio e il problema educativo. Pedagogia e Vita. Serie XXVII, n. 4-5, Aprile-Luglio, 1966, Brescia, La Scuola Editrice, 1966, 340-557 p.
- GRIESE, N.O., The Marriage Contract and the Procreation of Offspring, Washington, D.C., The Catholic University of America Press, 1946, xvi - 224 p. (Canon Law Studies, n. 226).

- GROOTAERS, J., SELLING, J., The 1980 Synod of Bishops "On the Role of the Family". An Exposition of the Event and an Analysis of Its Texts, Louvain, Leuven University Press, 1983, 375 p.
- HALLIGAN, N., The Sacraments and Their Celebration, New York, Alba House, 1986, xviii - 284 p.
- HANDREN, W., No Longer Two: A Commentary on the Encyclical Casti Connubii of Pius XI, Westminster, Maryland, The Newman Press, 1955, 242 p.
- HUELS, J., The Pastoral Companion. A Canon Law Handbook for Catholic Ministry, Chicago, The Franciscan Herald Press, 1986, xi - 355 p.
- HURLEY, M., De Educatione Christiana. The Declaration on Christian Education of Vatican Council II. Commentary, Glen Rock, New Jersey, Paulist Press, 1966, 158 p.
- JANSEN, R., Canonical Provisions for Catechetical Instruction, Washington, D.C., The Catholic University of America, 1937, x - 153 p. (Canon Law Studies, n. 107).
- KLOPPENBURG, B., The Ecclesiology of Vatican II, translated by M. O'CONNELL, Chicago, Franciscan Herald Press, 1974, xv - 373 p.
- KUBIK, S., The Family and the State. A Study Based on the Teachings of Popes Pius XI and Pius XII, Montreal, Grand Seminary of Montreal, 1945, 148 p.
- LEIBELL, J., ed., Readings in Ethics, Chicago, Loyola University Press, 1926, xv - 1098 p.
- LYNCH, T., gen. ed., DILLON, V., ed., A Positive Vision for Family Life. A Ressource Guide for Pope John Paul II's Apostolic Exhortation "Familiaris Consortio", Washington, D.C., United States Catholic Conference, Inc., 1985, 48 p.
- MARTHALER, B., Catechetics in Context. Notes and Commentary on the General Catechetical Directory issued by the Sacred Congregation for the Clergy, Huntington, Indiana, Our Sunday Visitor, Inc., 1974, xxxi - 293 p.

- McNAMARA, K., ed., Vatican II: The Constitution on the Church. A Theological and Pastoral Commentary, London, Geoffrey Chapman, 1968, 437 p.
- NATIONAL COMMITTEE ON HUMAN SEXUALITY EDUCATION, — DEPARTMENT OF EDUCATION, UNITED STATES CATHOLIC CONFERENCE, Education in Human Sexuality for Christians, Washington, D.C., United States Catholic Conference, 1981, x - 118 p.
- NAZ, R., ed., Dictionnaire de droit canonique, Paris, Librairie Letouzey et Ané, 1957, 7 vols.
- NEWMAN, J., ed., Vatican II: The Christian Layman, Dublin, Scepter Books, 1967, 174 p.
- ONWULI, C., Catechetical Education of Youth in the New Code of Canon Law, Romae, Pontificia Universitas Urbaniana, 1985, 89 p.
- ORSY, L., Marriage in Canon Law. Text and Comments. Reflections and Questions, Wilmington, Delaware, Michael Glazier, Inc., 1986, 328 p.
- OSTHEIMER, A., The Family. A Thomistic Study in Social Philosophy, Washington, D.C., The Catholic University of America Press, 1939, xviii - 240 p.
- POTIN, J., ed., Aujourd'hui la famille. Principaux documents du Synode des évêques 1980, traduction de La Documentation catholique, Paris, Le Centurion, 1981, 308 p.
- PREW-WINTERS, A., The Role of Christian Parents in the Church's Teaching Mission According to the 1980 "Schema" in Light of Vatican II and Post-Conciliar Teachings, Washington, D.C., The Catholic University of America, 1983, ms., ii - 88 p.
- RIGA, P., The Church Made Relevant. A Commentary on the Pastoral Constitution of Vatican II, Notre Dame, Indiana, Fides Publishers, Inc., 1967, 337 p.
- SCHENK, F., The Matrimonial Impediments of Mixed Religion and Disparity of Cult, Washington, D.C., The Catholic University of America, 1929, xvi - 306 p. (Canon Law Studies, n. 51).

- SIEGLE, B., Marriage According to the New Code of Canon Law, New York, Alba House, 1986, xv - 297 p.
- SINISTRERO, V., Il Vaticano II e l'educazione. Con la Dichiarazione su l'educazione cristiana genesi, testo, commento, Torino - Leumann, Elle Di Ci, 1970, 1029 p.
- VORGRIMLER, H., gen. ed., Commentary on the Documents of Vatican II, Montreal, Palm Publishers, 1969, 5 vols.
- WIATROWSKI, R., The Responsibility of Parents in Presenting a Child for Baptism. The General Development of Church Law, and Recent Particular Applications of Various Dioceses in the United States of America, Roma, Pontificia Studiorum Universitas a. S. Thoma Aq. in Urbe, 1981, xi - 262 p.
- WOYWOD, S., A Practical Commentary on the Code of Canon Law, revised and enlarged by C. SMITH, New York, Joseph F. Wagner, Inc., 1962, 2 vols.
- WRENN, M., ed., Pope John Paul II and the Family. The Text with a Theological and Catechetical Commentary with Discussion Questions on the Apostolic Exhortation of Pope John Paul II on "The Role of the Christian Family in the Modern World", Chicago, Franciscan Herald Press, 1983, xxxi - 286 p.

C. ARTICLES

- [ANONYMOUS], "Catholic Schools and the Duties of Parents", in Ecclesiastical Review, 105(August 1941), pp. 147-150.
- , "The Education of Children of Mixed Marriages", in One in Christ, 4:2(1968), pp. 189-202.
- , "Family is Church in Miniature, Catholic Educators Told", in Our Sunday Visitor, 69(April 20, 1980), p. 7.
- , "Holy See Issues New Family Rights Charter", in Our Sunday Visitor, 72(December 11, 1983), p. 8.

- , "Le mariage et la famille dans les documents conciliaires", in Anneau d'or 128(1966), pp. 90-109.
- , "Religious Instruction of Children Withheld from Catholic School", in The Clergy Review, 44(1959), pp. 428-431.
- , "Vatican Documents Defend Rights of the Family", in Our Sunday Visitor, 72(December 18, 1983), p. 8.
- ALLEN, W., "The Insincerity of the Cautiones", in The Jurist, 16(1936), pp. 59-86.
- ANCEL, A., "L'éducation chrétienne dans la lumière du Concile", in La Documentation catholique, 66(1969), pp. 976-986.
- AUSTIN, R., "The History of the Revision of the Code of Canon Law", in The Australasian Catholic Record, 60(1983), pp. 343-354.
- BAIER, P., "Parents: God's Teachers of the Faith", in Christian Family, 51(March 1956), pp. 24-26.
- BAKER, K., "Inside the 1980 Synod", in Homiletic and Pastoral Review, 81:6(1980-1981), pp. 45-51.
- BARBER, L., "Ministry With Parents of Infants and Preschool Children", in Religious Education, 69(1974), pp. 192-197.
- BEAUPERE, R., "Mixed Marriages at the Synod of Bishops", in One in Christ, 4(1986), pp. 170-186.
- BECK, G., "Christian Education. Restoring All Things in Christ", in The Tablet, 219(1965), pp. 1232-1233.
- BEKKER, E.-de, "Attendance at Non-Catholic Schools", in African Ecclesiastical Review, 3(1961), pp. 181-184.
- BERNHARD, J., LEGRAND, H., "L'instruction 'Matrimonii Sacramentum' sur les mariages mixtes", in Revue de droit canonique, 16:1(March 1966), pp. 58-73.
- BHALDRAITHE, E. De, "The Mixed Marriage Promise", in Doctrine and Life, 32(1982), pp. 165-176.

- BIRCH, P., "Parents and Religious Education", in The Irish Theological Quarterly, 23(1956), pp. 171-178.
- BLANCO, A., "La conexión de los Ordenamientos Canonico y Estatal Espanol en materia de Enseñanza", in Revista Espanola de Derecho Canonica, 28(1972), pp. 29-57.
- BRANCHEREAU, P., "Le sacrement de mariage dans le Code de droit canonique", in Nouvelle revue théologique, 107(1985), pp. 376-393.
- BRINKMAN, G., "The Role of Parents as Educators in the Home", in The Family and Franciscan Ideals. Report of the Forty-first Annual Meeting of the Franciscan Educational Conference, Quincy College, Quincy, Illinois, August 9-11, 1960, Washington, D.C., The Franciscan Educational Conference, Capuchin College, 1960, vol. 41, ix - 370 p., pp. 137-158.
- BRUSSELMANS, C., "A Catechesis Adapted to the Present Age and the Liturgical Initiation of Children", translated by L. SHEPPARD, in Concilium, 6:1(1970), pp. 69-76.
- BUCKLEY, F., "First Confession Before or After Communion", in Homiletic and Pastoral Review, 72:7(1971-1972), pp. 49-56.
- , "Parents, Children and First Communion", in American Ecclesiastical Review, 156(1967), pp. 393-403.
- BUSCH, V., "The Role of the Family in Preparing Children for the Sacraments", in Our Sunday Visitor, 69(April 19, 1981), pp. 14, 17.
- CALLAHAN, S., "Human Sexuality III. Parents and Sex Education", in Marriage, 59(November 1977), pp. 8-12.
- CAMPBELL, P., "The Child's First Teacher", in Homiletic and Pastoral Review, 58(1957-1958), pp. 1159-1164.
- , "Who May Teach the Child?", in Homiletic and Pastoral Review, 31(1931), pp. 1054-1061.

- CARR, A., "Refusing Absolution to Negligent Parents?", in Homiletic and Pastoral Review, 63(1962)-1963), pp. 1066-1070.
- CASIRAGHI, A., "Il diritto di famiglia nel nuovo codice di diritto canonico", in Il Diritto ecclesiastico, 95(1985), pp. 604-632.
- CHALLANCIN, J., "Infant Baptism: More Difficult Requirements?", in Homiletic and Pastoral Review, 77:5(1976-1977), pp. 61-68.
- CONNELL, F., "The Catholic Student in a Non-Catholic College", in American Ecclesiastical Review, 140(1959), pp. 229-236.
- CORIDEN, J., "Preliminary Report on the Draft of Canons on the Church's Teaching Office", in CANON LAW SOCIETY of AMERICA, Task Force Critiques of the Initial Schemata for the Revision of the Code of Canon Law, Washington, D.C., Canon Law Society of America, 1969-1978, n.p.
- CREMIN, P., "Conditions Contrary to the Substance of Marriage", in The Irish Ecclesiastical Record, 85(1956), pp. 357-359.
- CURRAN, C., "The Mixed Marriage Promises", in A New Look at Christian Morality, Notre Dame, Indiana, Fides Publishers, Inc., 1968, viii - 249 p., pp. 177-199.
- CUSHING, R., "Education and the Christian Home", in The National Catholic Education Association Bulletin, 43(May 1977), pp. 3-15.
- D'AMOUR, O., "Vatican II on Christian Education", in Ave Maria, 104(November 12, 1966), pp. 20-22.
- DANIEL, W., "Mixed Marriages - The New Promises", in The Australasian Catholic Record, 48(1971), pp. 196-210.
- DAVEY, T., "Mixed Marriages: A Note on the 'Promises'", in The Clergy Review, 54(1969), pp. 559-567.
- DELHAYE, P., "La pastorale familiale dans l'optique de 'Familiaris Consortio'", in Esprit et vie, 92(1982), pp. 561-570; 609-617.
- , "Quelques thèmes majeurs du Synode 1980. La famille chrétienne 'église domestique'", in Esprit et vie, 91(1981), pp. 113-125.

- DEVINE, P., "Mixed Marriages and the Report from the RCC/LWF/WARC Dialogue", in The Irish Theological Quarterly, 45(1978), pp. 47-72.
- DOMINIAN, J.; "The Family Today", in The Tablet, 233(1979), pp. 651-652.
- , "The Family Today. Marriage and Children", in The Tablet, 233(1979), p. 798.
- DOUGHERTY, A., "The Parents' Challenge in Christian Development in the Home", in Spiritual Life, 16(1970), pp. 269-274.
- DOYLE, T., "The Relationship of Canon Law to the Catholic Family", in The Priest, 39:2(1983), pp. 37-41.
- DRINAN, R., "Parental Rights and American Law. The Oregon School Case, Twenty-five Years After", in The Catholic World, 172(1950-1951), pp. 21-26.
- DUFRESNE, P., "La liturgie dans la famille", in Bulletin national de liturgie, 15(1981), pp. 241-255.
- DUNNE, E., "Catholic Parents Versus Catholic Schools", in The Australasian Catholic Record, 43(1966), pp. 129-136.
- ENNIS, E., "The Ends of Marriage", in The Clergy Review, 37(1952), pp. 270-281.
- FAMILY LIFE BUREAU OF THE NATIONAL CATHOLIC WELFARE CONFERENCE, "The Child and 'Life Adjustment' Responsibility of Parents in the Education of Children", in The Catholic Mind, 56(1958), pp. 567-570.
- FITZPATRICK, E., "Theology of Education in the Encyclical on Christian Education", in The National Catholic Educational Association Bulletin, 44(February 1948), pp. 6-26.
- GAGNON, E., "The Church Places Her Hope in the Christian Family", in L'Osservatore Romano - Weekly Edition in English, n. 29 [743], July 19, 1982, pp. 4-6.
- GALLAGHER, C., "Marriage and the Family in the Revised Code", in Studia Canonica, 17(1983), pp. 149-170.

- GALLAGHER, J., "Parents Right to Educate: A Right Inalienable", in Homiletic and Pastoral Review, 76:3(1975-1976), pp. 29-32, 50-54.
- GALLEN, G., "The Promise of Catholic Education of Children of Mixed Marriages", in The Australasian Catholic Record, 38(1961), pp. 149-154.
- GALVIN, W., "Ecclesiastical Legislation on Christian Education with Special Application to Current Problems", in The Jurist, 14(1954), pp. 463-480.
- GRAF, E., "Parental Rights and Responsibility", in Homiletic and Pastoral Review, 37(1936-1937), pp. 849-851.
- GREEN, T., "The Revision of Marriage Law: An Exposition and Critique", in Studia Canonica, 10(1976), pp. 363-410.
- , "The Revision of Sacramental Law: Perspectives on the Sacraments other than Marriage", in Studia Canonica, 11(1977), pp. 261-327.
- GRIFFIN, B., "The Three-Fold Munera of Christ and the Church", in J. PROVOST, ed., Code, Community, Ministry, Washington, D.C., The Canon Law Society of America, 1983, vi - 116 p., pp. 19-20.
- GRIFFIN, J., "Papal Pronouncements on Parental Rights", in Ave Maria, 69(January 15-22, 1949), pp. 71-75; 106-109.
- GROCHOLEWSKI, Z., "Diritti fondamentali della famiglia cristiana di fronte allo stato e di fronte alla chiesa", in E. CORECCO, N. HERZOG, A. SCOLA, eds., Les droits fondamentaux du chrétien dans l'Eglise et dans la société: actes du IV^e congrès international de droit canonique, Fribourg (Suisse), 6-11, X, 1980, Editions Universitaires Fribourg Suisse - Verlag Herder Freiburg i Br. - Dott. A. Guiffre Editore Milano, 1981, xxxvi - 1328 p., pp. 1107-1111.
- GURRIERI, J., "Domestic Sanctuary: The Family and Worship", in The Priest, 37(1981), pp. 39-42.
- HAGMAIER, G., "How Pre-schoolers Learn Religion", in Marriage, 45(August 1963), pp. 25-31.

- , "The Parent is the Primary Teacher", in The Catholic World, 195(April 1962), pp. 20-25.
- HANLON, K., "Education Towards Marriage", in The Clergy Review, 65(1980), pp. 443-447.
- HARING, B., "The Christian Family as Community for Salvation", translated by G. STEVENS, in D. BURKHARD, et al, eds., Man Before God. Toward a Theology of Man, New York, P.J. Kenedy and Sons, 1966, xiv - 241 p., pp. 146-158.
- , "Mariage mixte au Concile", in Nouvelle revue théologique, 84(1962), pp. 699-708.
- HEARNE, B., "Synod 1980 on Family Life. Selected Points and Some Introductory Comments on the Instrumentum laboris", in African Ecclesial Review, 22(1980), pp. 264-272.
- HEBBLETHWAITE, P., "Vatican Family Rights Charter: No Surprises", in National Catholic Reporter, 20(December 16, 1983), p. 8.
- HEDDON, R., "The Religious Education of Children", in The Life of the Spirit, 12(1957-1958), pp. 558-566.
- HENRIVAUX, O., "Famille et éducation chrétienne", in Lumen vitae - Edition française, 35(1980), pp. 275-285.
- HERMANIUK, M., "Developing a Charter of Family Rights", in Origins, 10(1980-1981), pp. 305, 307.
- HUESMAN, J., "Exodus", in R. BROWN, J. FITZMEYER, R. MURPHY, eds., The Jerome Biblical Commentary, Englewood Cliffs, New Jersey, Prentice-Hall, Inc., 1968, xxxvi - 889 p., pp. 47-66.
- HUIZING, P., "Bonum prolis ut elementum essentielle objecti formalis consensus matrimonialis", in Gregorianum, 43(1962), pp. 657-722.
- HYNES, A., HYNES, E., "Children and Worship in the Home", in Religious Education, 51(1956), pp. 338-343.
- KENNEDY, R., "Canonical Tradition and Christian Rights", in J. CORIDEN, ed., The Case for Freedom, Washington, D.C, Corpus Books, 1969, x - 175 p., pp. 91-106.

- KIRSCH, F., "The Teacher Needs the Parent", in Homiletic and Pastoral Review, 40(1939-1940), pp. 1038-1045.
- LEFEVRE, L., "Familiaris Consortio. Exhortation apostolique", in La pensée catholique, 197(1982), pp. 5-20.
- LEVEN, S., "The Role of the Church", in The Catholic Lawyer, 4(1958), pp. 215-217.
- LEVIS, R., SATTLER, H., "Theology of Marriage", in The New Catholic Encyclopaedia, New York, McGraw-Hill Book Company - Publishers Guild, Inc., 1967-1978, 17 vols., vol. 9, pp. 265-270.
- LOURDUSAMY, S., "The Family, the Starting Point of Evangelization and of Catechesis", in Omnis Terra English Edition, 14(1980), pp. 442-449.
- MARCUZZI, P., "L'educazione cattolica nel nuovo Codice di Diritto Canonico", in Vita consecrata, 20(1984), pp. 645-658.
- MARTIN, D., "The Family in the Synod of Bishops 1977", in L'Osservatore Romano - Weekly Edition in English, n. 31 [540], August 3, 1978, pp. 3; 6.
- , "The Function of the Family in the Salvific Mission of the Church", in L'Osservatore Romano Weekly Edition in English, n. 10 [571], March 5, 1979, p. 9.
- , "Restore Confidence in the Family", in L'Osservatore Romano - Weekly Edition in English, n. 52-53 [866], December 24, 1984, pp. 9; 12.
- MARTIN, T., "The Role of the State", in The Catholic Lawyer, 4(1958), pp. 218-224.
- MCCORMICK, T., "The Parent-Teacher", in The National Catholic Education Association Bulletin, 35(August 1938), pp. 320-326.
- McDERMOTT, W., "Responsibilities of Parents With Regard to Catholic Education", in The National Catholic Education Association Proceedings, 48(1951), pp. 273-277.

- McGINNIS, J., McGINNIS, K., "Parenting for Peace and Justice", in Spirituality Today, 36(1984), pp. 34-46.
- McKEE, J., "Mixed Marriages and Divine Law: Another View", in The Clergy Review, 49(1964), pp. 415-428.
- McREAVY, L., "The Mixed Marriage Promise of Catholic Education", in The Clergy Review, 45(1960), pp. 420-422.
- MOLINSKI, W., "Parent", in K. RAHNER, ed., Encyclopaedia of Theology. The Concise Sacramentum Mundi, New York, The Seabury Press, 1975, xiv - 1841 p., pp. 924-931.
- MORNEAU, R., "Familiaris Consortio: Themes and Theses", in Review for Religious, 41(1982), pp. 481-494.
- MUSSINGHOFF, H., "Familienrecht in Codex Iuris Canonici", in Osterreichisches Archiv Fur Kirchenrecht Vierteljahresschrift, 34(1983-1984), pp. 96-130.
- NEUMAN, M., "The Christian Parent... Today's Apostle?", in Marriage, 63(1981), pp. 12-15.
- NUTTING, W., "Religious Education At Home", in Orate Fratres, 22(1947-1948), pp. 157-168.
- O'CONNOR, E., "The Catholic Vision of the Family", in Homiletic and Pastoral Review, 84:3(1983-1984), pp. 9-19.
- O'HANLEY, D., "Rights Within the Family Structure", in Eglise et théologie, 12(1981), pp. 167-184.
- O'HIGGINS, B., "Mixed Marriages: The 'Cautiones'", in The Irish Theological Quarterly, 41(1974), pp. 205-221, 274-288.
- O'NEILL, J., "Sex Education. The Right of the Family, the Duty of School. An Interview with James T. McHugh", in Our Sunday Visitor Magazine, 72(January 29, 1984), p. 3.
- O'RIORDAN, S., "The Synod on the Family, 1980", in The Furrow, 31(1980), pp. 759-777.

- ORSY, L., "The Complex Question of Mixed Marriages", in The Heythrop Journal, 4(1963), pp. 367-385.
- , "The Religious Education of Children Born From Mixed Marriages", in Gregorianum, 45(1964), pp. 739-760.
- PARELLA, F., "Towards A Spirituality of the Family", in Communio, 9(1982), pp. 127-141.
- PARENT, L., PARENT, N., "Parents: First Preachers of the Word", in Spirituality Today, 36(1984), pp. 24-33.
- PERKINS, E., "Goals of the Synod of Bishops 1980 on the Role of the Christian Family in the Modern World", in The Australasian Catholic Record, 58(1981), pp. 379-391.
- PETERS, R., "What Rights Do Parents Have (re the Education of Their Children)?", in Ave Maria, 86(August 27, 1957), pp. 14-17.
- PETTY, M., "The Council on Education", in The Catholic Educator, 37(March 1967), pp. 89-90, 95.
- POTVIN, T., "La famille - Eglise domestique", in Prêtre et pasteur, 83(1980), pp. 311-332.
- PROVENCHER, N., "Vers une théologie de la famille: l'Eglise domestique", in Eglise et théologie, 12(1981), pp. 9-34.
- PROVOST, J., "Ecclesial Rights", in Canon Law Society of America. Proceedings of the Forty-fourth Annual Convention, 1982, Washington, D.C., The Canon Law Society of America, 1983, 385 p., pp. 41-62.
- QUEBEC CITY STUDY COMMITTEE, "Religious Education - Parental Rights - Student Needs", in Religious Education, 68(1973), Supplement, pp. 31-42.
- QUINDLEN, J., "Religious Education as a Family Affair", in Dimension, 9:2(1977), pp. 71-76.
- RANWEZ, P., "Parents and Family Prayer", in Lumen Vitae - English Edition, 15(1960), pp. 657-666.

- , "Preparing Parents for Their Responsibilities", in Lumen Vitae - English Edition, 7(1952), pp. 241-245.
- , "Religious Formation and the Family", in Lumen Vitae - English Edition, 5(1950), pp. 371-377.
- REED, G., "The Status of the Catholic or Private School in Law", in The Catholic Lawyer, 4(1958), pp. 235-232.
- RENARD, A., "La famille dans l'église", in Esprit et Vie, 92(1982), pp. 337-341.
- RIEDMATTEN, H. DE, "Responsible Parenthood: Theory and Practice", in J. McHUGH, ed., Marriage in the Light of Vatican II, Washington, D.C., Family Life Bureau - United States Catholic Conference, 1968, vii - 144 p., pp. 31-64.
- ROONEY, M., "The Role of the Parent", in The Catholic Lawyer, 4(1958), pp. 210-214.
- RUBIN, W., "A Synod for the Family", in L'Osservatore Romano - Weekly Edition in English, n. 35 [596], August 27, 1979, pp. 4-5.
- RYAN, C., "Parents, State and Education", in Thought, 13(March 1938), pp. 82-95.
- RYAN, D., "Forming a Community of Persons", in L'Osservatore Romano - Weekly Edition in English, nn. 14-15 [729], April 5-12, 1982, pp. 14-15.
- SAINCLAIR, J., "L'éducation chrétienne au Concile", in Etudes, 324(1966), pp. 391-397.
- ST. JOHN, H., "The Problem of Mixed Marriages", in The Eastern Churches Quarterly, 16(1964), pp. 155-163.
- SCHILLO, G., "The Parents' Organization and Catholic Schools", in Today's Catholic Teacher, 15(October 1981), p. 36.
- STANLEY, R., "Parenthood and Holiness", in Cross and Crown, 20(1968), pp. 153-162.
- SULLIVANT, T., "The First Confession: Law and Catechesis", in America, 137(1977), pp. 128-131.

- THOMAS, D., "Parents as Religious Educators", in Today's Catholic Teacher, 10(October 1976), pp. 48-49.
- , "Toward A Christian Theology of Parenting", in New Catholic World, 222(November - December 1979), pp. 281-284.
- THOMAS, J., "Parental Responsibility Left at the School Door?", in Homiletic and Pastoral Review, 57(1956-1957), pp. 814-819.
- TINNELLY, J., "The Right to Educate - The Role of the Parent, the Church and the State", in The Catholic Lawyer, 4(1958), pp. 198-209; 251.
- TOBIN, W., "The Rights and Obligations of Parents With Reference to the Religious Formation of Their Children", in Ius Populi Dei, Roma, Università Gregoriana Editrice, 1972, 3 vols., vol. 3, pp. 251-286.
- TOMKO, J., "Synod's Secretary General presents Theme, spirit and nature of the Working Document. Press Conference by the Most Rev. Jozef Tomko", in L'Osservatore Romano - Weekly Edition in English, n. 39 [651], September 29, 1980, pp. 1, 7, 12.
- TRACY, R., "The Council on Christian Education", in America, 113(1965), pp. 432-433.
- VAN DER POEL, C., "Marriage and Family as Expressions of Communio, in the Church", in The Jurist, 36(1976), pp. 59-88.
- VAUGHAN, F., "Education, the Duty of Parents" in The Tablet, 156(1930), p. 736.
- WARREN, M., "Parental Duties and Rights in Catechetical Instruction", in The American Ecclesiastical Review, 167(1973), pp. 20-29.
- WHITE, E., "The Role of the Home in the Religious Development of Children", in Review and Expositor, 80(1983), pp. 231-243.
- WILLIAMS, T., "Parental Duty in Education", in The Tablet, 160(1932), p. 337.

-----, "Parental Right and Duty", in The Tablet, 158(1931), p. 306.

WINNIPEG STUDY GROUP, "Parental Rights", in Religious Education, 68(1973), Supplement, pp. 42-46.

WOYWOD, S., "Law of the Code. On Schools", in Homiletic and Pastoral Review, 28(1928), pp: 509-518, 624-631.

WRIGHT, J., "The New Catechetical Directory and Initiation to the Sacraments of Penance and Eucharist", in Homiletic and Pastoral Review, 72:3(1971-1972), pp. 7-24.

D. ROMAN JURISPRUDENCE

March 2, 1974, c. LEFEBVRE, in Sacrae Romanae decisiones seu sententiae, 66(1974), pp. 155-161.