

LINEAMENTA FOR A CHRISTIAN ANTHROPOLOGY: CANONS 208-223

Introduction

Clearly, Title 1 of Book II, *De omnium christifidelium obligationibus et iuribus*, represents an ecclesial triumph. Critics and commentators alike regard these new canons as «a breakthrough of great importance»¹. In a celebrated rotal address (26 February 1983), His Holiness, Pope John Paul II referred to these canons as «a fundamental charter»². While canonists, particularly in North America, seek strategies for realizing these

¹ See R. SHAW, *Understanding Your Rights and Responsibilities in the Catholic Church*, Ann Arbor 1994, 15. Among other contributions to this subject, see J. PASSICOS, *Pouvoirs et droits dans le nouveau code*, in *Droits et pouvoirs dans le nouveau Code de Droit Canonique*, Paris 1984, 9-16; R.J. CASTILLO LARA, *Some General Reflections on the Rights and Duties of the Christian Faithful*, in *Studia canonica* 20 (1986) 7-32; J. GAUDEMET, *Charisme et droit*, in *Zeitschrift der Savigny-Stiftung* 74 (1988) 44-70. E. CORECCO, *Considerations sur le problème des droits fondamentaux du chrétien dans l'Église et dans la société*, in *Théologie et droit canon: Écrits pour une nouvelle théorie générale du droit canon* (eds. F. FECHTER & B. WILDHABER), Fribourg 1990, 117-146; W. KASPER, *The Theological Foundations of Human Rights*, in *The Jurist* 50 (1990) 148-166.

² See J. THORN, *Le pape s'adresse à la Rote, 1939-1994*, Ottawa 1994, 186, 2-b. In this regard, see *Charter of the Rights of Catholics in the Church in A Catholic Bill of Rights* (eds. L. SWIDLER and H. O'BRIEN), Kansas City 1988, 1-6.

rights, this concern speaks rather to the formation of the people of God³. If this enterprise relates to the operative dimension of canon law, it may well be assisted by some theoretical considerations. These considerations turn largely on the rhetorical structure of the title. For one reason or another, the canonical commentaries assert that these canons, cc. 208-223, follow the structure found in «The Declaration of Human Rights,» promulgated by the United Nations on 10 December 1948⁴.

Admittedly, this title underwent significant discussion during the revision process. And canonists have

³ See, for example, J.A. CORIDEN, *A Challenge: Making the Rights Real*, in *The Jurist* 45 (1985) 1-23; J.J. FOLMER, *Promoting and Protecting Rights in the Church*, in *The Jurist* 46 (1986) 1-13; J.H. PROVOST, *Promoting and Protecting the Rights of Christians: Some Implications for Church Structure*, in *The Jurist* 46 (1986) 289-342. For the caveat, however, see P. LOMBARDIA, *Lezioni di diritto canonico*, Milano 1985, 6-8.

⁴ This is the position taken, for example, by Dr. J. HERVADA in his commentary found in *Code of Canon Law Annotated*, a Latin-English edition of the *Code of Canon Law* and English-language translation of the 5th edition of the Spanish-language edition of the commentary prepared under the responsibility of the Instituto Martín Azpilcueta (eds. E. CAPPAROS, M. THÉRIAULT, J. THORN), Montréal 1993, 190. Unless otherwise indicated all translations of the Code are taken from this edition. Relative to the UN *Declaration*, J. BEYER makes this observation: «Hisce verbis grave ponitur principium de natura ipsius *Declarationis Universalis Iurium Humanorum*. Quae declaratio, ut sit *iuridica*, indiget auctoritate competentis quae eam proclamando legitima gaudeat potestate ius dicendi, exigendi, et vindicandi». See his *De iuribus humanis fundamentalibus in statuto iuridico christifidelium assumendis*, in *Periodica* 58 (1969) 29-58, here at 34. On this same awareness, see also J. PROVOST, *The Code of Canon Law: A Text and Commentary* (eds. J.A. CORIDEN, T.J. GREEN, D.E. HEINTSCHEL), New York 1985, 135-a. For his division of these particular canons, see 136-a and b. For another reading, see Cardinal R.J. CASTILLO LARA, *Some General Reflections...* (cf. nt. 1), 30-32.

not been slow to review the history of the text, essentially a conflation of two different texts produced by two different committees⁵. At the last moment, as it were, the *coetus* decided to interpolate sixteen canons from the *Lex Fundamentalis Ecclesiae*⁶. These additions to those already prepared by the committee *De Populo Dei* reveal a degree of collaboration to which Pope John Paul II referred when he used the Code as an instance of collegiality in the Church⁷. It seems important, however, to get beyond the history and to consider the rhetorical structure that actually organizes the title⁸.

⁵ For the different texts in parallel columns, see the Appendix in P.A. BONNET and G. GHIRLANDA, *De Christifidelibus*, Romae 1983, 112-121. For another presentation of the *schemata*, see A. MONTAN, *Obblighi e diritti di tutti i fedeli*, in *Apollinaris* 60 (1987) 545-582.

⁶ For the history of the *Lex Fundamentalis Ecclesiae*, see A. GAUTHIER, *The Progress of the Lex Fundamentalis Ecclesiae*, in *Studia canonica* 12 (1978) 377-388. See also the earlier essay of J. BEYER, *De Legis Ecclesiae Fundamentalism redactione, natura et crisi*, in *Periodica* 61 (1972) 525-551. For the two differing views on the revision process itself, see J.A. ALESSANDRO, *The Revision of the Code of Canon Law: A Background Study*, in *Studia canonica* 24 (1990) 91-146, especially 92-101. Relative to these materials, R.J. KASLYN has presented a detailed analysis of the history of this title. See his *«Communion with the Church» and the Code of Canon Law*, Lewiston NY 1994, especially 82-103.

⁷ «This mark of collegiality by which the process of this Code's origin was prominently characterised, is entirely in harmony with the teaching authority and nature of the Second Vatican Council». *Sacrae disciplinae leges*, as found in *Code of Canon Law Annotated* (cf. nt. 4), 49.

⁸ The classic text on this principle still remains J. DE FINANCE, *Être et agir dans la philosophie de Saint Thomas*, 2^e ed., Roma 1960. See also W.N. CLARKE, *Action as the Self-Revelation of Being: A Central Theme in the Thought of St Thomas*, in *History of Philosophy in the Making* (ed. L.J. THRO), Washington DC 1982, 63-80.

In this way we can discover its logic (*la logique*) or rationale.

Agere sequitur esse

Fundamentally, canons 208-223 illustrate the importance of a principle often found in the Church's intellectual tradition. The metaphysical principle, *agere sequitur esse*, acts as another variation on the principle of sufficient reason. In the temporal order, it asserts a priority; in the logical order, it insists on a causality. Equally familiar to theologians, the principle now relumes the fundamental charter of baptismal rights and responsibilities. Before looking at these, however, we should consider the principle itself in greater detail.

That this axiom operates on three levels simultaneously greatly enhances its rhetorical appeal. First, on the temporal level, it indicates a priority in the order of existence. That is, before one can act, he must first of all be. While this may seem like belaboring the obvious, we must remember, as the Pope has recently reminded us, that Descartes got it wrong⁹. Once we exist, we can assert consciousness, not the other way around. Secondly, the principle insists on a strict causal necessity between cause and effect. That is, because black ice is on the road, the car skidded and crashed; because the dog sniffed out the drugs, the dealer was apprehended at customs; because the doctor performed the operation, the patient lived. In other words, the effect could not have occurred with-

⁹ See Pope JOHN PAUL II, *Crossing the Threshold of Hope*, New York 1994, 51-52.

out an adequate cause, thereby postulating a necessary (and not a contingent) connection¹⁰. Accordingly, this principle, *agere sequitur esse*, speaks to both efficient and final causality. Thirdly, on a metaphysical level, the principle addresses the principle of sufficient reason. This means that every contingent operation must have a proportionate set of causes to account for its activity. Because this awareness pertains to the orders of both immanent and transeunt activity, it necessarily includes the whole supernatural economy, wherein we recognize the action of grace emanating from God as the principal agent of all spiritual activity¹¹.

According to this reading then, the title uses the axiom in its metaphysical sense, thereby asserting the priority of *esse* (or existence) over *agere* (or behavior). That is, before anyone can do something, he must first of all exist. So in this area of subjective rights: empowerment precedes responsible action. Indeed, action becomes the principal means of self-manifestation and self-communication, a participatory stance entirely appropriate to the *communio* ecclesiology of the Code of

¹⁰ J. DE FINANCE refers to this aspect as «la diffusion de l'acte». See *L'être et agir...* (cf. nt. 8), 70-77. W.N. CLARKE, on the other hand, prefers to emphasize the epistemological realism of the principle. See *Action as the Self-Revelation of Being...* (cf. nt. 8), 70-75.

¹¹ For a contemporary discussion affirming that «the will of God is the first principle of all things», see the introductory chapter «Providentia Divina et Lex Aeterna» in O.J. BROWN, *Natural Rectitude and Divine Law in Aquinas*, Toronto 1981, 1-12. In this respect, we can also profitably consult the late Y. J.-M. CONGAR, *Rudolf Sohm nous interroge encore*, in *Revue des Sciences Philosophiques et Théologiques* 57 (1973) 263-294.

Canon Law¹². Of the sixteen canons that comprise this title, six are *esse* canons, ten belong to *agere*¹³. This rhythm imports a dialectic that clarifies the reciprocity characteristic of rights and responsibilities, a reciprocity which the Church has always recognized¹⁴.

¹² For the manifestative character of action, see W.N. CLARKE, *L'être et agir...* (cf. nt. 8), especially 65-70. For the importance of *communio* as a juridic principle, see J. BEYER, *La communio comme critère des droits fondamentaux*, in *Les droits fondamentaux du chrétien dans l'Eglise et dans la société*, Actes du IV^e Congrès international de droit canonique (eds. E. CORECCO, N. HERZOG, A. SCOLA), Friburg-im-Breisgau 1981, 79-96. See also H. MÜLLER, *Utrum «communio» sit principium formale-canonicum novae codificationis iuris canonici Ecclesiae latinae?*, in *Periodica* 74 (1985) 85-108. R. SOBAŃSKI, *L'ecclésiologie du nouveau Code de droit canonique*, in *The New Code of Canon Law*, Proceedings of the 5th International Congress of Canon Law (eds. M. THÉRIAULT and J. THORN), Ottawa 1986, 243-270. For a current commentary and bibliography, see R.J. KASLYN «*Communion with the Church...*» (cf. nt. 6), especially 67-72.

¹³ The language of rights here still remains somewhat fluid. To quote P. CIPROTTI, «maxime inconstans erat verborum usus apud doctores (ne hodie quidem est constans), praesertim quod attinet ad summa iuris principia et notiones»; *De vocabulorum usu ad ius subiectivum designandum in Codice Iuris Canonici*, in *Actus Congressus Internationalis Iuris Canonici*, Romae 1953, 57-61, here at 57-58. For a summary of this Congress and its agenda, see Cardinal R.J. CASTILLO LARA, *Some General Reflections...* (cf. nt. 1), 9-10 and notes. See also W. ONCLIN, *Considerationes de iurium subiectivorum in Ecclesia fundamento ac natura*, in *Ephemerides Iuris Canonici* 8 (1952) 9-23. For a more recent discussion, see R. SCHWARTZ, *Circa naturam iuris subiectivi*, in *Periodica* 69 (1980) 191-200. For purposes of this discussion, I will refer to the *esse* canons as subjective rights and to the *agere* canons as functional rights.

¹⁴ The Church has always insisted on this mutually. See, for example, the early article of J. BEYER, *De iuribus humanis...* (cf. nt. 4), and its documentation. G. GHIRLANDA has written a later ar-

The Canons and Structure of Title 1

This correlation occurs immediately in canons 208 and 209. Canon 208 asserts the fundamental equality of all the *christifideles* by reason of baptism. The grace of this sacrament confers a dignity traditionally associated with the name of «christian». The canon recognizes a state anterior to any further juridic determinations¹⁵. Once the baptized internalize this «newness in life» (*Rom* 6,4), they maintain communion. That is, canon 209 becomes a necessary consequence of baptism and imports the primary responsibility of all believers¹⁶. If canon 208 describes an internal con-

ticle, *De obligationibus et iuribus christifidelium in communione ecclesiali deque eorum adimptione et exercitio*, in *Periodica* 73 (1984) 329-378. Pope PAUL VI has made this reciprocity a theme in several of his rotal addresses. See, for example, that of 4 February 1977, in J. THORN, *Le pape s'adresse à la Rote...* (cf. nt. 2), 148. We find it also in Pope JOHN PAUL II, in his rotal addresses of 17 February 1979 and 28 January 1994, as found in J. THORN, 165 and 239.

¹⁵ For the abstract quality inherent in the term *christifideles*, see F. COCCOPALMERIO, *De conceptibus «christifidelis» et «laici»*, in *Periodica* 77 (1988) 381-424, especially at 407-410. P. VALDRINI also distinguishes between «le terme chrétien» et «le terme fidèle» in his commentary, *Droit canonique*, Paris 1989, no. 43, 29-30. For the essential dignity of all the baptized, see *Propositions on the Dignity and the Rights of the Human Person*, in *International Theological Commission: Texts and Documents 1969-1985* (trans. M. SHARKEY), San Francisco 1989, 251-266. Pope JOHN PAUL II has made this the principal theme of a recent rotal address as found in *Origins* 24.37 (2 March 1995) 620-622.

¹⁶ His Holiness, JOHN PAUL II marks this correlation in his rotal address of 26 February 1983 as found in J. THORN, *Le pape s'adresse à la Rote...* (cf. nt. 2), 186-188. For the importance of this relationship, see especially chapter 3 in R.J. KASLYN, «*Communion with the Church*»... (cf. nt. 6), 105-152.

dition, canon 209 puts it in the external order by mentioning «responsibilities towards both the universal Church and the particular Church». Moreover, the reference to «even in their external actions» reflects a certain compatibility between the inner and outer life which the Church assumes as a presumption of law (e.g. c. 1101, §1). Broadly reflecting the ecclesiology of Vatican II, these two canons indicate the causal (i.e. necessary) relationship that obtains between baptism and communions¹⁷. This correlation sets the precise context for understanding what we call ecclesial rights¹⁸. Specifically, the charter of rights presupposes the virtue of religion, the highest of all virtues, the one which mediates between the theological and the cardinal virtues¹⁹.

The next four canons, cc. 210-213, concern what *Lumen gentium* recognizes as «the universal call to holiness.» As the Constitution declares: «Thus it is evident to everyone that all the faithful of Christ are

¹⁷ For this relationship, see R.J. KASLYN, *The Value Underlying the Law: A Foundational Analysis of Canon 209*, in *Studia canonica* 29 (1995) 7-28.

¹⁸ On ecclesial rights in general, see J.H. PROVOST, *Ecclesial Rights*, in *Proceedings of the Canon Law Society of America* 44 (1982) 41-62. G. FILIBECK has prepared a useful anthology, *Les droits de l'homme dans l'enseignement de l'Église: de Jean XXIII à Jean-Paul II*, Cité du Vatican 1992. For the importance of historicity in this matter, see chapter 11, *Natural Right and Historical Mindedness*, in B. LONERGAN, *A Third Collection* (ed. F.E. CROWE), New York/Mahwah 1985, 169-183.

¹⁹ ST. THOMAS teaches this at *STh* II-II, 104.3c and 161.5c. R. CESSARIO has a contemporary reading of the Thomistic synthesis, *Le virtù*, Milano 1994. For the importance of these materials, see especially chapter 6 in O.J. BROWN, *Natural Rectitude...* (cf. nt. 11), 85-96.

called to the fulness of the Christian life and to the perfection of charity. By this holiness a more human way of life is promoted even in this earthly society. In order that the faithful may reach this perfection, they must use their strength according as they have received it, as a gift from Christ» (LG 40c)²⁰. Canon 210 presents this unique finality as a sign of Christian dignity and personal empowerment. By committing the individual to the continual sanctification of the Church, the canon implies a personal responsibility to lead a holy life²¹. This intentionality involves the baptized in the revealed will of God, so that the *christifideles*, each according to his own capacity, cooperate in the up-building of the kingdom. How do the faithful concretely realize this supernatural finality? They participate in the triple *munus* that canon 204 calls «the priestly, prophetic, and kingly office of Christ»²². So canon 210, an *esse* canon, finds its actuation in canon 211, which concerns evangelization (the prophetic office), in canon 212, which pertains to governance (the royal office), and in canon 213, which has to do with word and sacraments (the priestly office). According to the current teaching of the Church, the faithful by participating in this triple office achieve, however inchoatively, the form of Christ

²⁰ The English translations are taken from *The Documents of Vatican II* (ed. W.M. ABBOTT), New York 1966.

²¹ On this matter, see L.M. ÓRSY, *The Fundamental Rights of Christians and the Exercise of the «Munus Sanctificandi»*, in *Les droits fondamentaux* (cf. nt. 12), 203-220.

²² See J. BEYER, *Les trois fonctions du Christ*, in *Du Concile au Code de droit canonique*, Paris 1985, 45-50. Pope JOHN PAUL II offers a commentary on this participation in *Christifideles laici*, no. 14.

(*Gal* 4,19, *Phil* 3,17)²³. These four canons, as a unit, illustrate what J. De Finance has called «the vertical thrust of freedom,» setting an ecclesial context for achieving personal vocation²⁴. Accordingly, in this context, *agere sequitur esse* clarifies a relationship between means to an end.

Because canon 214 addresses spirituality and the form or rite it may take, it also belongs to the *esse* canons. Surely all the faithful are free to follow the Lord according to their own lights and approved ways. This liberty belongs to the *catholica* which denotes the wisdom of the Church²⁵. How does this spirituality become incarnate? The following two canons provide answers. Canon 215 assures the right of association²⁶. Like-minded people join together in order to share their spiritual insights, to receive support, and to find further direction. Like the Jesuit Socialities of old, the Christian Life Communities repre-

²³ For a commentary on "the form of Christ", the *typos* of *Phil* 3,17, see *Office in the Church*, chapter 2, in H.U. VON BALTHASAR, *Church and World* (trans. A.V. LITLEDAL), New York 1967, 44-111, especially 80-85.

²⁴ J. DE FINANCE, *Essai sur l'agir humain*, Rome 1962, 287. For VON BALTHASAR's reading of this dynamic, see *Why Still Christianity?*, in *A Short Primer for Unsettled Laymen* (trans. M. WALDSTEIN), San Francisco 1985, 25.

²⁵ For the relation of unity and pluralism in the Church, see Y. J-M. CONGAR, *Diversités et communion*, Paris 1982, especially *La première partie*, 19-68. See also chapter 8 in A. DULLES, *The Catholicity of the Church*, Oxford 1989, 147-166.

²⁶ On the right of association, see R. PAGÉ, *Associations of the Faithful in the Church*, in *The Jurist* 47 (1987) 165-203. For a more recent discussion, see M.P. FIOL CHIMELIS, *Christifidelium consociationes finem socio-temporalem habentes*, in *Periodica* 81 (1992) 93-134.

sent a shared vision, which in turn presupposes a shared spirituality. Secondly, canon 216 acknowledges another enabling, in that all of Christ's faithful (and not just the clergy and religious) must accept responsibility for apostolic action²⁷. In this respect, the spiritual vantage will affect and qualify the kind of catholic action required by local circumstances. Ministerial diversity represents one way of redressing the differences between the eucharistic body and the ecclesial body. Not everybody, for example, is called to join the Jesuit Volunteer Corps; but everybody is called to accept some responsibility for the Church's mission²⁸. Otherwise, he or she belongs to the anti-kingdom. So these three canons indicate the correlation between spirituality and apostolic involvement. They also reveal the interior dynamic characteristic of Christian liberty. That is, as St. Ignatius teaches, virtue proceeds from the inside out. So too, one's spirituality must be manifestative in deed.

²⁷ According to J.A. KOMANCHAK, «Every member of the Church has a right and responsibility to take part in the ministerial service of the Church. There should be no inactive members of the Church, no one who is not called to serve and minister in some respect. In turn, there is no minister who is not in some respects also the recipient of the ministrations of others. The whole Church becomes a ministerial body through this varied, mutual and dialectical interplay of particular ministries». *Church and Ministry*, in *The Jurist* 43 (1983) 273-288, here at 283.

²⁸ In the Apostolic Exhortation *Christifideles laici*, JOHN PAUL II reminds the faithful, «Above all, each member of the lay faithful should always be *fully aware of being 'a member of the Church'* yet entrusted with a unique task which cannot be done by another and which is to be fulfilled for the good of all» (no. 28). Official Vatican Translation, *The Lay Members of Christ's Faithful People*, Boston 1989, 69.

Just as the previous canons turn on formation and the interior life, canon 217 is concerned with formal education, *la scolarité*. The canon speaks of «a Christian education», which presumably includes those perspectives and emphases which characterize the faith throughout the ages. It has a way of empowering individuals with the lived experience of the Church. Decidedly counter-cultural, its thrust challenges those impersonal values associated largely with the utilitarian and the technological. So the canon provides certain criteria in the correlation between «the maturity of the human person» and the ability «to live the mystery of salvation». Indeed, the project called *pietas litterata* results in a tradition of Christian humanism capable of animating structures and encouraging renewals²⁹. More importantly, however, as an *esse* canon, it enables the laity in particular to live out their proper vocation in the world. To this extent, then, it necessarily relativizes the secular. For this reason, its correlative canon, c. 218, insists on the due freedom requisite to engage in any intellectual apostolate. Negatively, this imports a freedom from ideology, a point of view whose truth has already been predetermined³⁰. Pos-

²⁹ For the tradition of *pietas litterata*, see R.R. BOLGAR, *The Classical Heritage and Its Beneficiaries*, London & New York 1954. J.W. O'MALLEY points to the Jesuit involvement in this programme in chapter 6 of *The First Jesuits*, Cambridge MA 1993, 200-242.

³⁰ The classical test still remains chapter 8, *Ideology as a Cultural System*, in C. GEERTZ, *The Interpretation of Cultures*, New York 1973, 193-233. In one of the last interviews (6 February 1990) which he gave shortly before his death, N. FRYE admits, «I think that there are two kinds of minds: one is ideological and the other is genuinely imaginative». He goes on to explain, «But the old liberal principle of John Stuart Mill is that you have to permit freedom of thought because it is the only way to eliminate the

itively, however, in the face of increasing nationalism, contemporary pluralism, and world religions (translated into ecclesial terms as mission, inculturation, and ecumenism), the Church must encourage intellectual activity in order to ensure «the new evangelization»³¹. In a sense, this means respecting the particularity of the particular church wherein the encountering occurs³². As the

hysterical or unthoughtout liberty of action. Otherwise there is mob rule». See *Northrop Frye Newsletter* 4.2 (Summer 1992) 10-11. From an ecclesial perspective, B. LONERGAN has written: «Never has adequately differentiated consciousness been more difficult to achieve. Never has the need to speak effectively to undifferentiated consciousness been grater». *Method in Theology*, New York 1979, 99.

³¹ Pope JOHN PAUL II speaks to the new evangelization in *Crossing the Threshold of Hope* (cf. nt. 9), 105-117. Concerning these matters, at once complex and sensitive, see the essays that constitute the symposium, *Catholic Universities in Church and Society: A Dialogue on Ex Corde Ecclesiae* (ed. J.P. LANGAN), Washington DC 1993. On the other hand, J.-F. LYOTARD articulates the current challenge in *The Postmodern Condition: A Report on Knowledge* (trans. G. BENNINGTON and B. MASSUMI), Minneapolis MN 1993.

³² For the recovery and importance of the particular church, see E. LANGE, *The Local Church: Its Catholicity and Apostolicity*, in *One in Christ* 6 (1970) 288-313. Also J. KOMONCHAK, *The Local Realization of the Church*, in *The Reception of Vatican II* (eds. G. ALBERIGO, J.-P. JOSSUA, and J. KOMONCHAK, trans. M.J. O'CONNELL), Washington DC 1987, 77-90. See also P. GRANFIELD, *The Church Local and Universal: Realization of Communion*, in *The Jurist* 49 (1989) 141-154. For a broader treatment of «the two-tiered ecclesiology», see G. GHIRLANDA, *Universal Church, Particular Church, and Local Church at the Second Vatican Council and in the New Code of Canon Law*, in *Vatican II: Assessment and Perspectives* (ed. R. LATOURELLE, trans. L. WEARNE), New York/Mahwah 1989, 233-271. See also J.-M.R. TILLARD, *L'Église locale: Ecclésiologie de communion et catholicité*, Paris 1995.

poet reminds us, last year's language does not reach across this year's gulfs³³.

Up to this point, the Code has presented a sequence of positive rights. That is, they affirm certain capabilities. The four subjective rights (cc. 208, 210, 214, 217) empower the faithful; the seven functional rights (cc. 209, 211, 212, 213, 215, 216, 218) set correlative responsibilities necessary to achieve the fullness of Christ (*Eph* 4,13). We might call them entitlements. The following three canons (cc. 219, 220, 221) disclose what Bonnet has called «negative liberties»³⁴. To that extent, they represent a freedom from. In other words, they correspond to those negativities which ordinarily invalidate juridic acts (c. 125), namely, force, fraud, and fear. So canons 219, 220, and 221 represent immunities. Christ's faithful are immune from any coercion in choosing a state of life, from any deceit that injures reputation, and from any fear arising-from the imposition of unjust penalties³⁵. Indeed,

³³ According to T.S. ELIOT, writing in «Little Gidding», the fourth of *Four Quartets*: «For last year's words belong to last year's language/ And next year's words await another voice» (iii, II. 118-119). For a commentary on this phenomenon, see «Vicissitudes of the Word in Our Times», part 2 in A.N. WILDER, *The New Voice: Religion, Literature, Hermeneutics*, New York 1969. The three essays include «The Confusion of Tongues» 125-151, «Last Year's Language» 152-175, «New Rhetorics» 176-208.

³⁴ P.A. BONNET and G. GHIRLANDA, *De Christifidelibus*, (cf. nt. 5), 33-35. In this regard, see the discussion «Rights» in J. FINNIS, *Natural Law and Natural Rights*, Oxford 1980, 198-230.

³⁵ Admittedly, these immunities represent the teaching of the Church in moral theology. For this awareness, see J.M. AUBERT, *Droit et morale dans le nouveau Code*, in *L'année canonique* 28 (1984) 13-18. More recently, see F.X. URRUTIA, *Dolus in iure canonico*, in *Periodica* 79 (1990) 267-292. For this dimension in general, see *The Language of Law*, chapter 6 in J. MAHONEY, *The Making of Moral Theology*, Oxford 1987, 224-258.

following the injunction of Pope John XXIII, they are urged to claim and to vindicate their rights³⁶. Moreover, c. 222, the positive correlative to canon 219 urges all the *christifideles* to support the Church and to promote social justice, revealing once again the causal nexus between one's state in life and commensurate action. The canons, in other words, illustrate what von Balthasar calls «the catholic *and*»³⁷.

As we have seen, then, this fundamental charter of rights includes both positive and negative liberties. What are we to make of them? Two conclusions seem immediately operable. Both are found in canon 223. One concerns the exercise of rights; the other, the common good of the Church.

Two Corollaries

Very often, the exercise of rights involves a very delicate balancing act. Not only do the faithful have to consider the correlative responsibilities associated with any right, but they must equally respect the legitimate rights of others³⁸. Without admitting as

³⁶ See *Pacem in terris* (10 April 1963) no. 35, in AAS 55 (1963) 257-304. In his commentary on «The People of God», J.H. PROVOST remarks, «Protection or respect for rights is listed in four of the ten principles for the revision of the Code». See *The Code of Canon Law...* (cf. nt. 4), 135-a.

³⁷ H.U. VON BALTHASAR, *The Office of Peter and the Structure of the Church* (trans. A. EMERY), San Francisco 1986, 301-307.

³⁸ As G. GHIRLANDA reminds us, by reason of canon 223, §1 «exercitium iurium sub luce vitae communitariae ponit ita ut nulum ius in Ecclesia esse absolutum affirmare debeamus». See his *De obligationibus et iuribus* (cf. nt. 14), 373.

much, the canon implicitly acknowledges a conflict of rights, thereby necessitating agencies for conflict resolution (cc. 1713-1716, 1733). Since the Code recognizes six different kinds of right, each according to its proper title, canonists have increasingly turned to the resolution of conflicts³⁹. Just as human rights originate with human nature and civil rights derive from citizenship, so ecclesial rights occur with baptism. Religious rights derive from final profession; ecclesiastical rights are attached to office, and contractual rights come from contract. In ascertaining any hierarchy of rights, the canonist must consider the correlative responsibilities involved, especially in those areas that concern priests and their bishop. Lest the ordinary faithful become overwhelmed by these multiple and different rights, it is salutary to remember with Germain Grisez that the New Testament speaks more often about responsibilities than about rights⁴⁰.

Although these rights and responsibilities belong to the constitutional law of the Church, they have yet

³⁹ See, for example, the revised report, *Protection of Rights of Persons in the Church: Revised Report of the Canon Law Society of America on the Subject of Due Process*, Washington DC 1991. And more recently, see A. MALONE, *Rights: The Language and the Law*, in *Proceedings of the Canon Law Society of Australia & New Zealand* 28 (1994) 47-59.

⁴⁰ See G. GRIEZ, *The Way of the Lord Jesus: Christian Moral Principles*, Chicago 1983, 1:270. Cardinal R.J. CASTILLO LARA makes the same point: «Freedom conceived as an inviolable autonomous space is not a characteristic or fundamental Christian value. The Christian is placed before God in a fundamental relationship of filial obedience». See his essay *Some General Reflections...* (cf. nt. 1), 17.

to be appropriated by many (if not most) of the *christifideles*. Despite the animus of *Christifideles laici* (30 December 1988), the perception remains that christians are not yet convinced about taking responsibility for their properly secular vocation. While some authors point to a residual clericalism, others insist on the need for appropriate formation (c. 231, §1)⁴¹. In effect, clericalism inhibits many people from exercising their rights⁴². Either they refuse to become involved in public matters, or they refuse to take a stance. They prefer to let the pastor or the priests speak for them⁴³. Clergy would do well then to animate their congregations by making them aware of the Church's moral principles and social teachings and by encouraging the faithful to accept responsibility in the public arena. Without some systematic catechesis, the charter of rights is liable to consist of mere statements devoid of any personal or practical relevance.

In addition to the exercise of rights, canon 223 speaks of the common good of the Church. This latter

⁴¹ See Y. J.-M. CONGAR, *Respect for the Apostolate of the Laity among Priests and Religious*, in *Christians Active in the World* (trans. P.J. HEPBURN-SCOTT), New York 1968, 3-28. For the shift in sensibility, see E. SCHILLEBEECKX, *The Church with a Human Face* (trans. J. BOWDEN), New York 1992, 203-208.

⁴² See the position paper prepared by F. CARDMAN, P. PHILBERT, J. PROVOST, et al., *In Solidarity and Service: Reflections on the Problem of Clericalism in the Church*, in *The Jurist* 43 (1983) 430-449.

⁴³ In this matter, see chapter 7, *The Problem of Clericalism*, in R. SHAW *Understanding Your Rights...* (cf. nt. 1), 139-151. In the Apostolic Exhortation *Christifideles laici*, Pope JOHN PAUL II mentions «two temptations can be cited which they [the laity] have not always known how to avoid» (no. 2).

element has vexed canonists and commentators⁴⁴. In sum, in what does this «common good» consist? Traditionally, the Church's concern for the common good originates in special ethics where the tract outlines the obligations of the state to its citizens. Among others, these include freedom of conscience and freedom of worship⁴⁵. *Dignitatis humanae* has reprised these themes in a more contemporary setting. The conciliar document furthers the analysis by distinguishing between public order and the common good. Still, what pertains to the common good of the state is not the same for the Church⁴⁶. Admittedly, under a perfect society ecclesiology, the Church's concern for her own mission, including preaching, proselytising, and securing of property rights, makes a certain amount of sense. The current ecclesiology of communion does

⁴⁴ See, for example, F.X. URRUTIA, *Les normes générales*, Paris 1994, no. 142, 60. Also P. VALDRINI, *Droit canonique* (cf. nt. 15), no. 81, 54. For «the political dimension», see chapter 2 in O.J. BROWN, *Natural Rectitude...* (cf. nt. 11), 21-26. M. ZIMMERMAN describes this development as «l'émergence d'un nouveau langage». For her discussion, see *Structure sociale et Église*, 3^e ed., Strasbourg 1988, especially 134-143.

⁴⁵ For a theological setting of the common good, see chapter 2 in O.J. BROWN (cf. nt. 11), 21-26. For a more philosophical analysis, see chapter 6 in J. FINNIS, *Natural Law...* (cf. nt. 34) 134-160. See also D. HOLLENBACH, *The Common Good Revisited*, in *Theological Studies* 50 (1989) 70-94. G. GRISEZ also writes on «the common good» in *The Way of the Lord Jesus*, 1 (cf. nt. 40), 270-273.

⁴⁶ «Le bien commun de l'Église est différent de celui de la cité», J. PASSICOS, *Pouvoirs et droits dans le nouveau code* (cf. nt. 1), 13. Similarly, R. SHAW writes on «individual rights and the common good» and «the common good of the Church» in *Understanding Your Rights* (cf. nt. 1), 117-128.

not allow us to press the analogy quite so clearly, quite so easily⁴⁷.

Nevertheless, certain areas of ministry manifestly belong to the common good of the Church. P.A. Bonnet, for example, identifies the *bonum commune* with the love that fosters the unity and equality implicit in *communio*⁴⁸. G. Ghirlanda, in turn, has signalled whatever pertains to the life of grace, the *munus sanctificandi*⁴⁹. R. Shaw following G. Grisez, identifies the common good of the Church with «religion» broadly understood⁵⁰. The Holy Father prefers to ground christian liberty in the transcendence of the person. In his rotal address of 17 February 1979, Pope John Paul II acknowledges the Church as one of the major institutions in the world dedicated to the promotion and protection of human rights. He establishes this agenda precisely by em-

⁴⁷ For the analogy of freedom, see chapter 3, *The Modern Sense of Freedom and History and the Theological Definition of Human Rights* in W. KASPER, *Theology and Church* (trans. M. KOHL), New York 1989, 54-72, especially 63-72.

⁴⁸ See P.A. BONNET and G. GHIRLANDA *De Christifidelibus*, (cf. nt. 5) 48-49. In this respect, he agrees fundamentally with J.-M.-R. TILLARD, *Église d'Églises: L'écclésiologie de communion*, Paris 1987. For F.J. URRUTIA on «bonum commune», see *Legis ecclesiasticae definitio*, in *Periodica* 75 (1986) 303-335 at 333-334.

⁴⁹ See G. GHIRLANDA, *Quaestiones de christifidelium consociationibus non solutae*, in *Periodica* 80 (1991) 523-558, especially 529-532. By distinguishing the «bonum commune sensu anthropologico intellectum» and the «bonum commune externum», he resolves any tension by considering the human person in a specifically ecclesial context.

⁵⁰ R. SHAW, *Understanding Your Rights...* (cf. nt. 1), 124-125. G. GHIRLANDA, more narrowly perhaps, identifies it with whatever pertains to the moral life. See his *De obligationibus et iuribus...* (cf. nt. 14), 374-375.

phasizing the dignity of the human person⁵¹. Under the circumstances, it seems logical enough to suggest that the common good, with which canon 223, §1 is concerned, has a great deal to do with the recognition and the protection of rights in the Church.

For all practical purposes, the Church describes the dignity of the individual in terms of these rights and responsibilities. To that extent, the magisterium concurs with the overt sensibilities of an age. Nevertheless, while the Code presents ecclesial rights as baptismal prerogatives, they apparently exist in an essentialist or conceptual order. Pastors of souls must find ways of rendering these liberties of the people of God more concrete. Until the people of God realize their own dignity as intimately connected with these rights and responsibilities, the Church also compromises its own understandings of the common good, which «embraces the sum of those conditions of social life by which individuals, families, and groups can achieve their own fulfillment in a relatively thorough and ready way» (GS 74b)⁵². Because the Church associates ecclesial rights with baptism, they necessarily facilitate the messianic works which render the Church «Emmanuel» before the world. In other words, the baptismal rights and responsibilities reveal the form of Christ in and to the world. For this reason, the common good of the Church would seem to be intimately connected with programs of christian formation (*Phil* 3,17). That the

⁵¹ See J. THORN, *Le pape s'adresse à la Rote...* (cf. nt. 2), 161-162. In the rotal address of 10 February 1995, His Holiness emphasizes the same theme throughout (cf. nt. 15).

⁵² English translation in W.M. ABBOTT, *The Documents of Vatican II* (cf. nt. 20), 284.

Church foster this new life in every one of its faithful, the common good requires the promotion and the protection of both positive and negative liberties. By mediating christian freedom in social and ecclesial contexts, the Church cooperates institutionally in the up-building of the kingdom⁵³.

Principles of a Christian Anthropology

Having proposed these reflections on the structure of Title 1, I wish now to remark on the Christian anthropology which the canons announce. This goes to the understanding of «person» in the Church⁵⁴. Indeed, canon 96 describes the baptized individual in terms of those rights and responsibilities («officiis et iuribus») which belong to christians. In this way, the Church recognizes the essential dignity which baptism confers on everyone. So in addition to human and civil rights, the Code speaks of ecclesial rights, those proper to christians. Because five of the *esse* canons (cc. 208, 210, 214, 217, 219) denote principles of christian be-

⁵³ In his monograph, *Jesus and Mission: An Overview of the Problem*, R.A. HAIGHT distinguishes between «the mission of the Church» and «the kingdom of God». See this issue of *Discovery: Jesuit International Ministries*, published by The Institute of Jesuit Sources, St Louis 1994, 19-21. For his borrowing of «the anti-kingdom», see 20, n. 22. R. MARTINEZ DE PISON LIÉBANAS makes essentially the same analysis in his *L'au-delà*, Ottawa 1993, especially 71-81.

⁵⁴ Canonists traditionally distinguish between an individual (*homo*) and person. «Every individual or *homo* is by nature the subject of rights and duties, but to be a person in the juridical sense one must besides be recognized by law as *capax iurium*». B.F. BROWN, *The Canonical Juristic Personality*, Washington DC 1927, 61.

havior, they indicate the specifically christian character of the nature (understood as a *principium actionis*) associated with the «new creation» (2Cor 5,7). In other words, they present an outline of that new identity which «newness» in Christ achieves. For perfectly pedagogical reasons, I wish to comment on each of the canons in reverse order.

In actual fact, every christian belongs to a specific state in life (c. 219). The Church recognizes four: the married and single, the religious and priestly. Animated by the same vocation, each strives appropriately to reveal the form of Christ in and to the world. According to Von Balthasar, it is the form of Christ which unifies all the states thereby imparting a christological quality to life and witness. This principle of unity and/or identity is so profound that it transcends any easy opposition between clergy and laity⁵⁵. Moreover, because the form of Christ is clearly allied to the evangelical state, i.e. the life of the counsels, this same state of perfect poverty, chastity, and obedience must be proposed to all the faithful as an authentic sign of their discipleship⁵⁶. At any rate, the state of life defines the

⁵⁵ «The most important insight which conditions all the others is that of the functional and representative character of the Christian form of existence, in which the human opposition between person and function is no longer applicable. For this reason, any ecclesiology which is based on this opposition, and, for instance, assigns what is personal to the laity and what is functional to the clergy starts from a false premise. Though the cleric has a function that the layman has not, yet functionality on the Christian plane applies no less to the layman than to the cleric». H.U. VON BALTHASAR, *Church and World* (cf. n. 23), 108.

⁵⁶ For this argument, see H.U. VON BALTHASAR, *The Christian State of Life* (trans. M.F. MCCARTHY), San Francisco 1983, especially the summary at 364-387.

place where christians begin to work out their call to love. Among other things, it means fulfilling the appropriate responsibilities which specify each state.

Canon 217 is concerned with education, i.e. formal schooling or *Erziehung*. As part of the christian programme, the student learns the rights and obligations proper to each state in life, particularly his own. That is, christian learning does not occur on a merely theoretical level. As part of the spiritual panoply, it also becomes part of one's way to salvation⁵⁷. Indeed, according to the decree *Apostolicam actuositatem*, the conciliar fathers urged a curriculum for the laity: «In addition to spiritual formation, there is needed solid doctrinal instruction in theology, ethics, and philosophy, instruction adjusted to differences of age, status, and natural talents. The importance of acquiring general culture along with practical and technical training should not be overlooked in the least» (AA 29d)⁵⁸. Animated by the christian intellectual experience, the laity especially become empowered to draw the world increasingly to the Church and to Christ⁵⁹. «Person» in the

⁵⁷ Classic studies in this area surely include those of J. LECLERQ, *The Love of Learning and the Desire for God: A Study of Monastic Culture* (trans. C. MISRAHI), New York 1961; A.G. SERTILLANGES, *The Intellectual Life: Its Spirit, Condition, Methods* (trans. M. RYAN), Washington DC 1987; and F. CHARMOT, *La pédagogie des jésuites: Principes et actualité*, Paris 1943.

⁵⁸ English translation found in *The Documents of Vatican II*, ed. W.M. ABBOTT (cf. nt. 20), 517. In *Christifideles laici* Pope JOHN PAUL II presents «integrated formation» as an ideal at no. 60.

⁵⁹ H.U. VON BALTHASAR describes the efficacy of this essentially secular vocation: «The movement by which the Church draws the world to itself in order to transform it is essentially a universal one, for the Church, because it belongs to Christ and to God, has the power of transforming all things». *The Christian*

Church, therefore, presupposes and requires an intellectual formation in the sources of christian wisdom.

In order to realize responsibilities in the Church and in the world, the *christifideles* need to cultivate a spiritual life. In canon 214 the experience and liberality of the Church prevail⁶⁰. By encouraging believers to follow their own rite and to choose their own form of spirituality, pastors of souls witness to the *catholica* which ensures continuity and clarifies motivation. The variety of spiritual masters who direct committed disciples in the pursuit of their responsibilities concretizes the complexity of the enterprise. It puts ordinary christians in continuity with the lives of saints «who have done your will throughout the ages». St. Ignatius indicates as much in *The Spiritual Exercises* when he sets the preamble to the «Meditation on Two Standards»: «And so for some introduction to it, we will in the Exercise following, see the intention of Christ the Lord, and, on the contrary, that of the enemy of human nature, and how we ought to dispose ourselves in order to come to perfection in whatever state of life God our Lord would give us to choose»⁶¹. In order to discern this will of the Lord, the Church offers ordinary means in «the other acts of divine worship» (cc. 1166-1175) including «the

State of Life (cf. nt. 56), 356. In an interview with A. SCOLA, VON BALTHASAR links the idea of a specifically Christian culture with the missionary dynamic of the Church. See *Is There a Christian Culture?*, in *Test Everything: Hold Fast to What Is Good* (trans. M. SHARDY), San Francisco 1989, 49-56.

⁶⁰ Y. CONGAR presents a diachronic suvery of «rite» in *Quest-ce qu'un rite?*. See his *Diversités et communion* (cf. nt. 25), 114-125.

⁶¹ *The Spiritual Exercises of St Ignatius* (trans. L.J. PUHL), Westminster MD 1959, no. 135, 59.

cult of the saints» (cc. 1186-1190). Above all, the spiritual life presupposes and requires a life of prayer⁶². Clearly spirituality represents a principle of action.

The call to holiness, which canon 210 presupposes, exactly distinguishes Christians from non-Christians. Not only do believers accept the transcendent nature of their vocation, but they also understand its gratuity. As *Lumen gentium* reminds us, «The followers of Christ are called by God, not according to their accomplishments, but according to His own purpose and grace» (LG 40b)⁶³. The supernatural existential prompts the *christifideles* to participate in the very life of God. Von Balthasar calls it «the calling to love»⁶⁴. The immanence of grace, mediated to every believer through the urgency of the divine word, compels a response, a «yes» or a «no», to the will of God as concretely revealed. Since the holy does not act as one of the transcendentals of being, it must be made real through act, a cooperative activity that mediates the presence of God throughout the Church and the world. As the conciliar fathers say: «Now this holiness of the Church is unceasingly manifested, as it ought to be, through those fruits of grace that the Spirit produces in the faithful. It is expressed in multiple ways by those individuals who, in their walk of life, some for the perfection of charity and thereby help others to grow» (LG

⁶² See Part IV, «Christian Prayer», in *Catechism of the Catholic Church*, Ottawa 1994, 519-557.

⁶³ The English translation in *The Documents of Vatican II*, ed. W.M. ABBOTT (cf. nt. 20), 67. On the Church as medium of salvation, see J.-M.-R. TILLARD, *Église d'Églises...* (cf. nt. 48), 291-318.

⁶⁴ H.U. VON BALTHASAR, *The Christian State of Life* (cf. nt. 56), 25-65.

39b)⁶⁵. So the canon speaks of the responsibility «to promote the growth of the Church and its continual sanctification». This means that the orientation to the Godhead operates both vertically and horizontally in forming the christian personality. The self-surrender of God, revealed in the person of Christ, discloses the absolute nature of the holy. Consequently, all the disciples of Christ, in order to achieve their own completeness, must appropriate that primordial rhythm which in effect means acknowledging God's «yes» to the world.

Presumably, the preceding discussion of four *esse* canons has set a practical context for a consideration of canon 208. By reason of baptism, all the *christifideles* become children of a common Father. If this fact grounds their equality, it also establishes their essential dignity as followers of Christ. Once again, Von Balthasar makes the connection, «Only when God is person is man taken seriously as person»⁶⁶. Now that the baptized participate in the vitality of the trinitarian exchange of life, they realize, however inchoatively, the newness of Christ. It means another *persona*. Quoting from the *Catechism of the Catholic Church*, the Holy Father in a recent rotal address (10 February 1995) calls for «a unified vision of the human person». He reminds the members of the tribunal that man is created «in the image and likeness of God» and is redeemed in the image of Christ. From this data arises a specifically christian anthropology, which «enriched by the contribution of indisputable scientific data, includ-

⁶⁵ The English translation is found in *The Documents of Vatican II*, ed. W.M. ABBOTT (cf. nt. 20), 66. For a commentary on this passage, see *Christifideles laici*, nn. 16-17.

⁶⁶ H.U. VON BALTHASAR, *The Personal God*, in *Elucidations* (trans. J. RICHES), London 1975, 33.

ing that of modern psychology and psychiatry, can offer a complete and thus realistic vision of man»⁶⁷. In other words, the dignity of the christian vocation corrects a contemporary reductionism, whether it comes from the humanities or from the experimental sciences. Christians, worthy of their calling, respond to «the superior plan of God» which motivates them to work for «a new heaven and a new earth» (*Rev* 21,1)⁶⁸. Because of its fundamental openness to Almighty God and to the world, the christian personality resists the closure characteristic of the secular sensibility. In this way, the follower is continually putting on the form of Christ (*Rom* 13,14). The supernatural economy, therefore, encourages us to become what we already are by grace.

Conclusion

St Thomas Aquinas, following Boethius, defines the person as «an individual substance of a rational nature» (*STh* 1.29.1). He even adverts to the fact that when one says «person», he is also saying «relationship». For all practical purposes, however, this analysis pertains to the order of nature. With the recovery of ecclesial rights, we can expect to find a certain development in the Church's understanding of *person* (c. 96)⁶⁹. The five principles that underlie the *esse* canons can be seen to represent

⁶⁷ Pope JOHN PAUL II, rotal address, *Origins* 24.37 (2 March 1995) 621-a.

⁶⁸ For man's participation in the orders of cosmic hierarchy, see chapters 4 and 5 in O. BROWN *Natural Rectitude...* (cf. nt. 11), 63-84.

⁶⁹ For current reflections on this canon, see L. ÖRSY, *Interpretation in View of Action: A Quest for Clarity and Simplicity* (Canon 96), in *The Jurist* 52 (1992) 587-597.

such a development, for these five radicals have a way of structuring the christian personality. Equality and dignity, formation and state, spirituality and education become concretely realized in the call to holiness, which acts as *telos* and *arche* in the christian life and witness. Unlike the natural man, preoccupied with his own interests and ego, the christian *persona* fundamentally goes out of itself. In that sense, it is vitally ecstatic. By reason of baptism, the christian person necessarily rejects the unliberated ego of the natural man (*Col* 3,9). Reflecting the missionary impulse of the Church (c. 781), the baptized affiliate with others and announce in appropriate ways «the gospel of life». Encouraged «to think globally but to act locally», christians participate in the direction of the particular church and its activities. Moreover, the drive for holiness prompts an inwardness that nourishes and energizes. Indeed, in this context of the triple *munus*, the Ignatian questions seem quite relevant: «What have I done for Christ? What am I doing for Christ? What ought I to do for Christ?»⁷⁰. From this vantage, we find another variation on «the catholic and»⁷¹. Following the animus of Vatican II, the current *Code of Canon Law* anticipates the actual vocation of most of the *christifideles* who are called to be *et civis et christianus* (c. 225). As citizen and as christian, the baptized person by reason of vocation not only brings light to the world but also salt (*Mt* 5,13-14).

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⁷⁰ *The Spiritual Exercises of St Ignatius* (cf. nt. 60), no. 53, 28.

⁷¹ Cf. *supra* nt. 36.