

Ex Corde Ecclesiae, Canon 812 and the Academic Freedom of Theologians in a Catholic University

by David G. Hunter
Theology Department

Introduction

One of the more controversial features of the new Code of Canon Law, promulgated in 1983 by Pope John Paul II, was the inclusion of canon 812, requiring that "those who teach theological disciplines in any institute of higher studies have a mandate from the competent ecclesiastical authority."¹ In May of 1990 Cardinal Joseph Ratzinger, prefect of the Congregation for the Doctrine of the Faith, issued an "Instruction on the Ecclesial Vocation of the Theologian." In it the cardinal reiterated the importance of the ecclesiastical "mandate" to teach theology, stressing that the magisterium of the church could, in serious cases, withdraw the teaching mandate from a theologian who departs from the doctrine of the faith.²

In his "Apostolic Constitution on Catholic Universities" (*Ex corde ecclesiae*), issued in August of 1990, the Pope referred again to the "mandate" (although somewhat more obliquely) in Article 4, section 3, of the General Norms of his letter:

In ways appropriate to the different academic disciplines, all Catholic teachers are to be faithful to, and all other teachers are to respect, Catholic doctrine and morals in their research and teaching. In particular, Catholic theologians, aware that they fulfill a mandate received from the church, are to be faithful to the magisterium of the church as the authentic interpreter of sacred Scripture and sacred tradition.³

Since 1990, however, no further guidelines for the application of the mandate have been forthcoming from the Vatican.

The controversial character of this new canonical "mandate," at least in the American context, has been evident not only in the amount of discussion it has generated in Catholic academic circles, but also in the reluctance of the National Conference of Catholic Bishops to adopt any clear procedure to implement it. For example, on November 3, 1996 the Conference voted (by an unprecedented majority of 224-6) to approve a document, "*Ex corde ecclesiae: An Application to the United States.*" In it the bishops recommended that if a bishop should question whether a theologian is presenting authentic Catholic teaching, the dispute should be adjudicated according to procedures already adopted in their 1989 statement, "Doctrinal Responsibilities: Approaches to Promoting Cooperation and Resolving Misunderstandings Between Bishops and Theologians."⁴ The implementation of canon 812 was relegated to a footnote: "The mandate of canon 812 will be the subject of further study by the NCCB."⁵ Not content with this inconclusive response, in May of 1997 Cardinal Pio Laghi, prefect of the

Congregation for Christian Education, asked the NCCB for more specific information about what the bishops are doing in regard to canon 812.

The current standoff between the Vatican and the U.S. Catholic Bishops is symptomatic of the difficulties that have arisen for American Catholic colleges and universities since the appearance of the new Code of Canon Law. Part of the problem is that canon 812 is an innovation. As canonist James A. Coriden has noted:

The requirement of an ecclesiastical mandate to teach theology is not found in the 1917 Code nor in the teachings of the Second Vatican Council. It originated in Germany in 1848 when the hierarchy was struggling to retain some control over the teaching of religion in the newly secularized schools. The German bishops ruled that no one could teach the Catholic religion at any level of the educational system unless he or she had a "canonical mission" from the local bishop.⁶

This provision of a canonical mission was later adopted in norms for pontifical schools. Canon 812 is an attempt to extend to teachers of theology in all Catholic colleges and universities a "mandate" that is analogous to that required in pontifical faculties of theology.

The appearance of the new mandate and its implicit endorsement by *Ex corde ecclesiae* have provoked much commentary and critique, especially in the United States. Concerns about the traditional institutional autonomy of Catholic colleges, the vitality of Catholic theology, and possible conflicts with accrediting agencies and government regulations are foremost among the objections that have been raised to the implementation of canon 812 in any directly juridical way. It has even been suggested that the pattern of governance in most American Catholic universities is so different from that envisioned in the Code of Canon Law that the canons may not even be applicable in the United States.⁷

In this essay I will offer another line of argument. *Ex corde ecclesiae* itself, I will suggest, offers sufficient grounds for interpreting the mandate in the weakest possible sense. Pope John Paul II presents the Catholic university, and Catholic theology in particular, as a mediator in the dialogue between the church's faith and human culture. He also endorses the traditional Catholic assumption of a compatibility between human reason and divine revelation. These principles provide a rationale for theological inquiry that is at once both responsible to the church's scripture and tradition and profoundly open to new formulations and insights from the human sciences. Such a vision of the theological enterprise, I will argue, is best realized when the relationship between theologians and bishops is one characterized by ecclesial cooperation and continuing dialogue rather than by juridical control through the granting (or withdrawal) of canonical "mandates."

Part I: *Ex corde ecclesiae* and the Catholic University

Pope John Paul II has issued a vigorous and timely call to Catholic universities to be mindful of their Catholic identity. Their unique task as religiously-affiliated institutions is "to unite existentially by intellectual effort two orders of reality that too frequently tend to be placed in opposition as though they were antithetical: the search for truth and the certainty of already knowing the fount of truth."⁸ Assuming a traditional Catholic understanding of the compatibility between *faith* (i.e., the security of already possessing essential truths for salvation) and *reason* (the ongoing, human search for truth), the Pope suggests that a kind of "universal humanism" underlies the mission of the Catholic university: "[It] is completely dedicated to the research of all aspects of truth in their essential connection with the supreme Truth, who is God."⁹

According to *Ex corde ecclesiae*, the search for truth in the Catholic university leads inevitably to an engagement with all expressions of human culture. The document frequently portrays the Catholic university as involved in a "dialogue" (*colloquium*) and "encounter" (*congressio*) with human culture, one that runs two ways and is not merely monologic. Because "human culture is open to revelation and transcendence," the Pope argues, the Catholic university must be a place where there is genuine willingness to learn from the breadth of human knowledge and from the diversity of human cultures: "It is open to all human experience and is ready to dialogue with and to learn from any culture."¹⁰ Ultimately, the Pope discerns an evangelical role for the Catholic university: by facilitating the conversation between the Christian message and human culture, the Catholic university participates in the church's work of evangelization. Dialogue with culture makes the faith better understood and theological research translates the faith into contemporary language.¹¹

It is important to note that *Ex corde ecclesiae* grounds its affirmation of academic freedom explicitly in the traditional Catholic understanding of the two distinctive spheres of human knowledge: faith and reason. For example, in section 12 of the document, the Pope writes that the Catholic university

...possesses that institutional autonomy necessary to perform its functions effectively and guarantees its members academic freedom, so long as the rights of the individual person and of the community are preserved within the confines of the truth and the common good.

At this point in the text there appears a footnote to two documents from the Second Vatican Council: "The Pastoral Constitution on the Church in the Modern World" (*Gaudium et spes*), section 59, and "The Declaration on Christian Education" (*Gravissimum educationis*), section 10. A closer look at both of these texts is illuminating, for together they provide the foundation on which the Pope bases his understanding of the importance of academic freedom.

Gaudium et spes, itself quoting the first Vatican Council, declared that

"...there are two orders of knowledge" distinct from one another, faith and reason, and that the Church is not against "the use of human arts and sciences of their own principles,

and methods in their respective fields;" therefore, "it acknowledges this lawful freedom" and affirms the legitimate autonomy of culture and especially of the sciences.¹²

Similarly, *Gravissimum educationis*, specifically addressing the question of Catholic universities, affirmed that the church should endeavor to ensure that

...the treatment of the individual disciplines is consonant with their own principles, their own methods, and with a true liberty of scientific inquiry. Its object is that a progressively deeper understanding of them may be achieved, and by a careful attention to the current problems of these changing times and to the research being undertaken, the convergence of faith and reason in the one truth may be seen more clearly.¹³

Both documents locate the necessity of academic freedom in the autonomy of human reason to investigate matters within its proper sphere of inquiry; both also assume the possibility of a genuine "convergence" between faith and reason, one that is to be mediated within the Catholic university.

When the Pope's affirmation of "institutional autonomy" and "academic freedom" in *Ex corde ecclesiae* is viewed in the light of the sources he explicitly cites, it becomes clear that academic freedom in the Catholic university is grounded in the traditional Catholic view that reason has its own legitimate and autonomous sphere of inquiry and that the truths which are reached by human reason will not ultimately conflict with those of faith. This is an important point, especially in the current ecclesio-political climate. Critics of theological liberalism, eager to see the Vatican impose more restrictive standards of orthodoxy on theologians in Catholic universities, sometimes claim that the very notion of academic freedom is grounded in a liberal individualism that is the legacy of the Enlightenment (and, therefore, hostile both to tradition and to community as contexts for acquiring or norms of judging truth).¹⁴

The understanding of academic freedom presented by John Paul II, however, is quite different from that propounded by secular liberals and feared by conservative critics. Deeply committed to the notion that faith and reason (or, reason and revelation) offer distinctive, yet compatible, ways of knowing truth, the Pope argues that "the free search for the whole truth about nature, man and God" serves both the dignity of humanity and the good of the church.¹⁵ The support of academic freedom manifest in *Ex corde ecclesiae*, therefore, evinces a deep confidence that the church has nothing to fear (and much to gain) from the truth, wherever it is found.

Part II: *Ex corde ecclesiae* and the Catholic Theologian

But what about the Catholic theologian in the Catholic university? Does he or she possess the same degree of freedom as those in the non-theological disciplines? *Ex corde ecclesiae* makes several important points about the role of the Catholic theologian. First, Pope John Paul II places theology squarely at the heart of the Catholic university's mission to sustain the conversation between faith and reason:

Theology plays a particularly important role in the search for a synthesis of knowledge as well as in the dialogue between faith and reason. It serves all other disciplines in their search for meaning, not only by helping them to investigate how their discoveries will affect individuals and society, but also by bringing a perspective and an orientation not contained within their own methodologies. In turn, interaction with these other disciplines and their discoveries enriches theology, offering it a better understanding of the world today and making theological research more relevant to current needs.¹⁶

Once again, the Pope portrays Catholic theology as engaged in a genuine dialogue with contemporary culture, not merely a monologue. Theology can critique the presuppositions of the various disciplines and view their contributions within a broader ideological framework, one illumined by Christian faith and informed by the intellectual resources of Christian tradition.

But Catholic theology must also learn from the other academic disciplines, if it is effectively to fulfill its task of communicating the truths of the Christian faith to the modern world. If, as *Ex corde ecclesiae* suggests, a primary function of the Catholic university is to demonstrate "how faith and reason bear harmonious witness to the unity of all truth," then theology is central to that enterprise. But to carry out the dialogical aspect of the theological mission, the theologian must be sufficiently informed about the nature of the world. He or she must be open to learning the truth about human nature, from whatever source that knowledge might come: literature or biology, sociology or physics, psychology or philosophy, and so forth. I will return to this point in my conclusion, for I believe it is here—in the *interdisciplinary* character of the theological mission—that the necessity of academic freedom is most pertinent and that the question of the ecclesiastical mandate is most problematic.

In addition to these general remarks on the theological task, *Ex corde ecclesiae* also contains several paragraphs that explicitly address the question of the academic freedom of theologians. Again, the document explicitly quotes *Gaudium et spes* and presents "the legitimate autonomy of human culture and especially of the sciences" as the foundation of academic freedom, even of theologians. The Pope acknowledges that:

Theology has its legitimate place in the university alongside other disciplines. It has proper principles and methods which define it as a branch of knowledge. Theologians enjoy this same freedom so long as they are faithful to these principles and methods.¹⁷

In other words, to the extent that theologians investigate human reality and explore truth with the aid of human reason, they share in that same academic freedom which is necessary to the proper functioning of all the disciplines within the Catholic university.

But *Ex corde ecclesiae* has more to say about the "principles and methods" of Catholic theology. A unique characteristic of Christian theology (as distinct from other academic disciplines) is that the object of its exploration is a datum which the church declares to be divinely revealed. As *Ex corde ecclesiae* puts it:

[Theologians] seek to understand better, further develop and more effectively communicate the meaning of Christian revelation as transmitted in Scripture and tradition and in the church's magisterium.¹⁸

Echoing the "Dogmatic Constitution on Divine Revelation" (*Dei verbum*) of the Second Vatican Council and traditional Catholic teaching that the authentic interpretation of Christian revelation is entrusted to the bishops of the church, *Ex corde ecclesiae* suggests that

...it is intrinsic to the principles and methods of their research and teaching in their academic discipline that theologians respect the authority of the bishops and assent to Catholic doctrine according to the degree of authority with which it is taught.¹⁹

In other words, theology seeks to explicate a rational, contemporary understanding of a revealed truth whose authentic interpretation, *qua* revealed, is entrusted to the bishops of the church. For this reason, the document concludes, "dialogue between bishops and theologians is essential."²⁰

Ex corde ecclesiae has articulated precisely, I believe, the dual character of the theologian's task, and it is precisely in this duality of responsibilities that one can see the difficulty of discerning the relative scope of academic freedom and ecclesial fidelity. Pope John Paul II has presented a rationale for the academic freedom of the theologian based on the *autonomy* of human reason in its investigation of the truth accessible to it. He has also articulated the necessity of dialogue between theologians and bishops based on the *normativity* of the revelation transmitted by scripture and tradition and interpreted by the church's magisterium. The theologian in the Catholic university is responsible to both sources of truth to carry out the task of mediation between faith and culture. According to Catholic tradition, as affirmed in *Ex corde ecclesiae*, true knowledge obtained by human reason will not ultimately conflict with the truth revealed in the church's scripture and tradition.

Conclusion

By way of conclusion I would like to return to my original starting point, the question of canon 812, which requires that those who teach theological disciplines in Catholic institutes of higher learning have a mandate from the competent ecclesiastical authority. Is there any theological basis offered in *Ex corde ecclesiae* for the implementation of this mandate in any directly juridical way? I do not believe there is. If my reading of the document is correct, the Pope has made a strong and reasonable case for a closer, more collaborative relationship between bishops and theologians and, in an analogous way, between the church's magisterium and the Catholic university. The individual theologian (and the Catholic university) could benefit from more frequent conversation with the church's primary teachers and preachers; conversely, the magisterium could benefit from more direct contact with the knowledge acquired by Catholic academics in their ongoing dialogue with contemporary culture.²¹

But both of these tasks could be accomplished without the implementation of a teaching mandate analogous to the "canonical mission" required in pontifical schools. According to *Ex corde ecclesiae*, it is essential to the task of the theologian that his or her interpretations of the Christian faith be informed by developments in the contemporary fields of human knowledge. Therefore, the theologian must be free to learn from the human sciences without being restricted *a priori* from considering any piece of knowledge as valid in itself. At this initial phase of inquiry, human reason is a sufficient guide to truth, and the theologian shares in the academic freedom accorded to the practitioners of the other academic disciplines.

When the theologian takes the next step and begins to ask what impact some new information might have on traditional formulations of Christian doctrine, he or she will certainly take into account (if they are good theologians) what the church has traditionally taught and what it currently teaches on the matter. It is at this point that effective dialogue between bishops and theologians would be especially profitable. But at neither of these two stages of exploration does it seem reasonable to expect a bishop in his role as a pastor in the church also to be competent to judge a theologian's understanding of contemporary knowledge. In other words, the issue of an ecclesiastical mandate is still not relevant to the theologian's work of bringing the church's faith and contemporary culture into critical interaction.

What the bishop certainly is competent to do is to evaluate the results of a theologian's work in respect to the current understanding of the church's magisterium. That is, the bishop as the chief pastor in the church has the authority and responsibility to determine what is orthodox teaching and preaching for the church. But the Catholic university, *qua* university, ought to be a place where the earlier stages of exploration can be carried out with full academic freedom. Since the Catholic university is the place where the church's faith engages in dialogue with contemporary culture, the theologian ought to be free to engage in that conversation based on his or her expertise in the two respective spheres of knowledge, faith and reason, without the restriction of a juridical mandate.

Finally, I would add, beyond the question of ecclesiastical mandates, *Ex corde ecclesiae* offers a vision of the Catholic university as "an authentic human community animated by the spirit of Christ," a vision that is respectful both of the university's academic mission and of its Christian character:

As a result of this inspiration, the community is animated by a spirit of freedom and charity; it is characterized by mutual respect, sincere dialogue and protection of the rights of individuals.²²

Such a vision of the Catholic university is a challenge to all members of the academic community, especially when there are strongly held opinions on different sides of issues that are of profound concern to the church and to contemporary society. But if the Catholic university is faithful to this challenge, it will indeed serve the church's work of evangelization in the world.

NOTES

1. -Text in James A. Coriden, Thomas J. Green, and Donald E. Heintschel, eds., *The Code of Canon Law. A Text and Commentary* (New York/Mahwah: Paulist Press, 1985), p. 575. As James Coriden noted in his commentary on the text, "This terse, new canon caused more opposition during the drafting stages of the revised Code than probably any other provision of the law."
2. -The English text can be found in *Origins. CNS Documentary Service* 20/8 (July 5, 1990): pp. 117-126; references to canon 812 occur in sections 22 and 37 of the Instruction.
3. -English translation in *Origins. CNS Documentary Service* 20/17 (October 4, 1990): 274. The complete Latin text of *Ex corde ecclesiae* can be found in the *Acta apostolicae sedis* 82/12 (November 5, 1990): pp. 1475-1509. I will cite from the English translation published in *Origins*, pp. 265-276.
4. -The complete text is available in *Origins. CNS Documentary Service* 19/7 (June 29, 1989): pp. 97-110. Although "Doctrinal Responsibilities" makes passing reference to the teaching mandate, the document is primarily concerned with presenting procedures for dialogue between bishops and theologians; it offers no instructions on the matter of the mandate.
5. -"*Ex corde ecclesiae: An Application to the United States*," *Origins. CNS Documentary Service* 26/24 (November 28, 1996): 383; footnote 7, p. 384.
6. -*The Code of Canon Law*, p. 575.
7. -See the comments in Coriden, *et al.*, pp. 571-572.
8. -*Ex corde ecclesiae* 1, citing John Paul II's "Discourse to the Catholic Institute of Paris," June 1, 1980.
9. *Ex corde ecclesiae* 4; p. 267.
10. -*Ex corde ecclesiae* 43; p. 273. Cf. *Ex corde ecclesiae* 44: "Through this dialogue a Catholic university assists the church, enabling it to come to a better knowledge of diverse cultures, discern their positive and negative aspects, to receive their authentically human contributions and to develop means by which it can make the faith better understood by the men and women of a particular culture."
11. -*Ex corde ecclesiae* 49.

12. -*Gaudium et spes* 59; translated in Austin Flannery, ed., *Vatican Council II. The Conciliar and Post Conciliar Documents* (Collegeville: Liturgical Press, 1975), pp. 963-964. The council fathers cite the Dogmatic Constitution, *De fide catholica* 4, of the First Vatican Council.
13. -*Gravissimum educationis* 10; Flannery, p. 735.
14. -See, for example, Germain Grisez, "American Catholic Higher Education: The Experience Evaluated," in George A. Kelly, ed., *Why Should the Catholic University Survive?* (New York: St. John's University Press, 1973), p. 49: "Many sources have contributed to the common notion of academic freedom, but perhaps none more so than the thought of the German Enlightenment." The same position seems to be taken by Peter F. Ryan, who assumes that a "secular concept of academic freedom" is predominant in most American Catholic universities. See his article, "The Catholic University and the Idea of Academic Freedom," in Anthony J. Mastroeni, ed., *The Nature of Catholic Higher Education. Proceedings from the Eighteenth Convention of the The Fellowship of Catholic Scholars* (Minneapolis, 1995), pp. 133-156.
15. -*Ex corde ecclesiae* 4. For a similar argument, though from a more historical point of view, see William J Hoye, "The Religious Roots of Academic Freedom," *Theological Studies* 58 (1997): pp. 409-428.
16. -*Ex corde ecclesiae* 19; p. 269.
17. -*Ex corde ecclesiae* 29; p. 271.
18. -*Ex corde ecclesiae* 29; p. 271.
19. -*Ex corde ecclesiae* 29; p. 271.
20. -*Ex corde ecclesiae* 29; p. 271.
21. -The 1989 document of the NCCB, "Doctrinal Responsibilities" (see note 4 above), offers numerous suggestions for mutual cooperation between bishops and theologians, both before and after conflicts arise.
22. -*Ex corde ecclesiae* 21; p. 270.