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## TOWARDS A 'NEW DEAL' FOR THE LAITY IN THE CHURCH'S LEGISLATION

ANYBODY familiar with the active and important rôles that the laity played in the life of the Church during the first few centuries of its life must feel that, for quite some time until very recently, the laity have been getting rather a raw deal in the Church.

For many centuries it has become the accepted practice in the Catholic Church not only to insist on the distinction between the clergy and the laity as a fundamental distinction willed by Christ, but also to reduce the laity generally to the status of passive recipients of the clergy's pastoral ministry and to provide of the material needs of the clergy and the Church. With rather dry humour it has been said that the laity in the Church has been reduced to performing the functions of praying, of obeying and of paying.

There have, however, been new stirrings in the Church also on this account during these last few decades. These stirrings started on the practical level of Catholic Action. Slowly, gradually, these stirrings were felt on the level of theological reflection. They reached a high point during the Second Vatican Council, which devoted a whole chapter of its dogmatic Constitution on the Church, 'Lumen Gentium', exclusively to the rôle of the laity in the Church.

The Church is now once again aware of the more active rôle that the laity can and must perform in the Church. Our hope is that this new awareness will find practical expression not only in the attitudes both of the clergy and of the laity to this matter of the place and function of the laity in the Church, but also in the Church's legislation now in the process of revision. It is with this revision of the Church's legislation in mind that we submit our reflections on the subject in the hope that they can be of help towards obtaining a 'new deal' for the laity in the Church.



## THEOLOGICAL AND JURIDICAL NOTION OF THE LAITY

Before examining the juridical status of the laity, or the complex of rights and duties proper to lay people in the Church, we have first of all to establish clearly what we understand by the term 'laity' today in the Theology and Canon Law of the Church.

It is common knowledge that the terms 'lay' and 'laity' are etymologically derived from the Greek *λαός*. In classical Greek the word *λαός* was used to indicate either the people in general or, especially in the plural form, the common people as opposed to their leaders. In ecclesiastical usage, the term was originally used to refer to the whole People of God, the *λαός τοῦ θεοῦ* and therefore to indicate the faithful in general irrespective of any difference of function, office or status they may have possessed in the Church. Subsequently, in line with the second usage of classical Greek, it became customary in the Church to use such derivatives as 'laicus' to indicate those of the faithful who are not leaders of the Christian community and have no special public office in the Church. As such they are different and distinguished from the members of the hierarchy, the clerics, the holders of public office in the Church.

It is therefore quite in harmony with this development that canon 107 of the Code of Canon Law states that: 'By divine institution there are in the Church clerics distinguished from lay people, even though not all clerics are of divine institution; both, however, can be religious'. Canon 108 §1 goes on to define clerics as 'those who have been dedicated to the divine ministries at least through the first (clerical) tonsure'. Nowhere in the Codex do we find a positive definition of 'lay people'. Since, however, according to canon 107 by divine institution clerics are distinguished from lay people, canonical doctrine was accustomed to conclude negatively that lay people are those members of the Church who have not been deputized to the divine ministries at least by means of the first tonsure, or rite of admittance in the ranks of the clergy. Moreover, although lay people as well as clerics could become religious, for practical reasons it became the general custom to exclude 'lay religious', namely Brothers and Sisters, from the technical connotation of 'Laity'. This notion of lay people as non-clerics and non-religious was for practical reasons accepted also by Vatican II's Constitution on the Church when it stated that: 'What

is meant here by laity are all the faithful except those in sacred Orders and those in a religious state approved by the Church'.<sup>1</sup>

This concept of the laity common in canonical doctrine is evidently poor and negative. It defines lay people by what they are not, rather than by what they are. It does however reflect faithfully the predominantly hierarchic view of the Church that was at the basis of Catholic ecclesiology since before the Council of Trent and right up to very recent times, including the period of the compilation of the Codex. A Theology of the Laity worthy of the name 'Theology' is a comparatively recent phenomenon in the Church.<sup>2</sup> This lack of a solid and positive Theology of the Laity could not but have strong repercussions on the juridical and pastoral life and activity of the Church, on its laws and on its pastoral attitudes and structures. Although constituting the bulk of the Church's membership, the laity were as a general rule relegated to a passive role in the life of the Church and in its pastoral, apostolic activity.<sup>3</sup> With the birth of the modern apostolic groups of the laity, however, and with the consequent need for the development of a serious Theology of the Laity, of the Lay Apostolate and of a specifically lay spirituality, all based on the new biblical, patristic and liturgical movements of our times, a more positive concept of the laity slowly evolved, to be given official sanction by the Church in Vatican II's documents on the Church and on the Lay Apostolate.

Yet, as we have already pointed out, when in the Constitution 'Lumen Gentium' Vatican II comes to define the laity, it does not reject the old, negative notion at least as a starting-point. It goes on, however, to give us a more positive concept of the laity when it proceeds to say that by this term it understands: 'those of the faithful who are by baptism made one body with Christ, are constituted the People of God, share in their own way in the priestly, prophetic and regal functions of Christ, and so carry out their own part in the mission of the whole Christian people in the Church and in the world. The secular quality is proper and special to the laity.... By their very vocation, the laity are in duty bound to seek the Kingdom of God by engaging in

<sup>1</sup> VATICAN II, Constitution 'Lumen Gentium', n. 31.

<sup>2</sup> The Dictionnaire de Théologie Catholique, for example, contains no entry entitled 'laity' or 'layman'.

<sup>3</sup> Cf. CONGAR, Yves O.P., *Lay People in the Church*, especially Introduction and Chapter I.

temporal matters and ordering them according to God's Will. They live in the world, that is, in each and all of the professions and activities of the world and in the ordinary conditions of family and social life... There they are called upon by God so that, in exercising their own profession, inspired by the spirit of the Gospel, they should like leaven contribute to the sanctification of the world from within... In a special way, therefore, it is up to them so to cast light on and organize all temporal matters, to which they are so closely bound, that they might be made and developed according to Christ and might contribute to the praise of the Creator and the Redeemer'.<sup>4</sup>

A modification in the juridical, technical concept of 'cleric' that was foreshadowed by Vatican II<sup>5</sup> and clearly established by Pope Paul VI in the *Motu Proprio* 'Ministeria Quaedam'<sup>6</sup> has by reflection indirectly modified our understanding of the role of the laity in the Church. Formerly, as we pointed out when mentioning the definition of clerics given by canon 108 §1, 'dedication to the divine ministries at least through the first tonsure' was considered characteristic and constitutive of the clerical state. The *Motu Proprio* 'Ministeria Quaedam', however, suppressed the rite of first tonsure and substituted it by a new rite of admission among candidates for Holy Orders; suppressed the old minor orders and subdiaconate and substituted them partially by ministries which can be entrusted not only to candidates for Holy Orders but also to other lay people; and established that 'entrance into the clerical state is joined to the diaconate'.<sup>7</sup>

Since the 1st January 1973 when the *Motu Proprio* 'Ministeria Quaedam' came into force, therefore, the Church recognizes only Bishops, presbyters and deacons as clerics. On the other hand, some sacred liturgical ministries, to which the powers of Orders are no longer tied, can be entrusted officially and permanently to lay people. The distinction between clerics and laity in the Church today can be summed up as follows. Clerics are those members of the Church who either possess the fullness of the hierarchic priesthood and apostolic ministry (Bishops), or who are constituted hierarchic collaborators of bishops through ordination and participation in the ministerial priest-

<sup>4</sup> VATICAN II, Constitution 'Lumen Gentium', n. 31.

<sup>5</sup> Cf. Constitution 'Lumen Gentium' n. 18.

<sup>6</sup> 15th August 1972: AAS vol. 64 (1972), pp. 529-534.

<sup>7</sup> *Ibid.*, n. I, p.

hood (presbyters) or in the ministry of service (deacons). The laity, on the other hand, have only a general or 'common' participation in the priesthood of Christ: this participation differs in essence and not merely as a matter of degree from the 'hierarchic' participation of the clergy.<sup>8</sup>

We can therefore attempt to list the essential constituents of the concept of 'laity' by integrating elements from both the negative and positive conceptions that we have considered above:

(i) The laity are persons who, through Baptism, are members of the People of God.

(ii) The laity have a special function in the total mission of this People of God. This mission has been described by the Second Vatican Council as the mission 'of spreading the Kingdom of Christ everywhere for the glory of God the Father, thus making all men sharers in the saving redemption, and through men truly ordaining the whole universe to Christ'.<sup>9</sup>

(iii) The laity have to exercise this function or mission both in the Church and in the world, and not exclusively in the temporal order. As the Decree 'Apostolicam Actuositatem', n. 5 puts it: 'Laymen, carrying out this mission of the Church, exercise their apostolate both in the Church and in the world, both in the spiritual and temporal order'.

(iv) The laity's function within the Church is different from that of the clergy in that they do not have as such, that is as lay people, an active role in the hierarchic apostolate and in the sacred ministries to which powers of Orders are committed by Christ's Will. The laity's function is also different from that of Religious, whether clerical or lay, in that unlike Religious, lay people are not publicly committed to the communitarian search for evangelical perfection in a stable, canonical way of life that, by separation from the 'World' or temporal order, seeks to give a public witness in the Church and to the world of the eschatological realities that the Church already contains in germ within itself (cf. 'Lumen Gentium', n. 44).

(v) It is the special vocation of lay people to sanctify themselves in the world and through their activity in the temporal order, to bring other men engaged in the activities of the temporal order to Christ, and to sanctify the temporal order by infusing it with the spirit of the Gospel.

<sup>8</sup> Cf. VATICAN II, Constitution 'Lumen Gentium', n. 10.

<sup>9</sup> Decree 'Apostolicam Actuositatem', n. 2.

## THE RIGHTS AND DUTIES OF LAY PEOPLE

In a well organized juridical order, a person's rights and duties in that order or society should logically depend on his reality, rôle or function in that particular society. If this principle is ignored, the likelihood is either that too much or too little is recognized in the way of social rights and duties to members of that society or, as is very often the case, they are burdened with a load of irrelevant duties and endowed with a plethora of rights of which they can scarcely, if ever, avail themselves.

We have up to now examined the notion of lay people that the Church had up to recently accepted and the more positive notion that the Church has now re-acquired. On the basis of the rather negative and passive or receptive concept of the laity that flourished in our Theology of the last few centuries, the Code of Canon Law saw fit to devote only two canons to the laity as such, namely canons 682 and 683. Even a cursory examination of these canons reveals how well they reflect this older, impoverished concept.

Canon 682 states that: 'Lay people have the right to receive from the clergy, according to the norms of Church law, spiritual benefits and especially the aids necessary for salvation'. This is certainly an important right. Yet exclusive consideration of this right confirms that the outlook of the Code of Canon Law of 1917 is predominantly hierarchical and ministerial: it seems to project lay people merely as passive recipients of the clergy's pastoral action. Moreover, it is a right that does not belong specifically to lay people but to all the faithful Christians, clergy, laity and religious.

The second canon seeks to differentiate between laity and clerics even exteriorly when it lays down that: 'The laity are not allowed to wear clerical attire, due exception being made for seminarians and other aspirants to the priesthood and for laymen legitimately taking part in ecclesiastical services so long as they are within the church or even outside it but taking part in some church function'. This canon again confirms that for the Code of Canon Law the layman is fundamentally the non-cleric. With this rather uninspiring canon, the Code of 1917 rounds off its norms on the rights and duties of lay people in general and passes on to norms regulating 'Associations of the Faithful'.

The re-awakening in the Church about the rôle of the laity as full and active members of the Church naturally requires a different and more complex juridical formulation of the ecclesial rights and duties of the laity. We believe that the Church's legislation as regards the rights and duties of a certain category of members of the Church must reflect the reality and function recognized to that category of members of ecclesial society. Hence in briefly expounding what we feel should be kept in mind for an adequate codification of norms on the rights and duties of the laity in the Church, we shall attempt to connect these rights and duties with the various aspects of this lay reality and function that we have already tried to outline schematically.<sup>10</sup>

(i) As members of the People of God, lay people share in the fundamental rights and duties common to all the faithful irrespective of any special function they are called upon to perform in the Church. In the exercise of these fundamental rights and duties, however, lay people will logically give them a 'lay' colouring.

(ii) As persons having part in the total mission of the Church, they have:

(a) the right and duty of sanctifying themselves as lay people, called to evangelical perfection of charity in the lay state of life and therefore of exercising themselves in a truly lay spirituality that seeks sanctity in every-day secular life;

(b) the right and duty of exercising the lay apostolate, individually or even collectively.<sup>11</sup> With the hierarchical apostolate, from which it differs, the lay apostolate forms an essential part of the total mission of the Church;

(c) the right and duty of ordaining the whole temporal order in Christ to God through their own activity, while enjoying a requisite and correct autonomy.

(iii) As persons called upon to exercise the apostolate both in the Church and in the world, it follows that:

(a) in the Church, they have the right and duty to exercise in ecclesial communion their own specific share in the prophetic, priestly and pastoral or regal functions of Christ and their

<sup>10</sup>Cf. COMMUNICATIONES, vol.2 (1970), pp.89-98; and DEL PORTILLO, Alvaro, *Laiici e fedeli nella Chiesa*, ed. Ares, Milan 1969, especially chapter 5.

<sup>11</sup>Cf. VATICAN II, Decree 'Apostolicam Actuositatem', n. 15.

personal charisms of nature and grace for the good of the Church in all fields of the Church's life. The laity therefore have the right and duty to help their pastors by their advice and collaboration, whether on their own initiative or after request or mandate of the hierarchy and its clerical collaborators:<sup>12</sup> this includes the possibility of the laity sharing in the apostolate of the hierarchy as lay collaborators in that part of the Church's apostolate which does not belong by right to the laity. The laity can be called upon to fill certain ecclesiastical offices which do not require the sacred powers given in sacred ordination, particularly in matters in which lay people are especially competent, such as financial administration of ecclesiastical property.<sup>13</sup> The laity have the right and duty of contributing towards the financial and material needs of the ecclesiastical community. They also have the right and duty to acquire as good a grounding in theological and ecclesiastical knowledge as their circumstances permit in practice, and to help according to their capabilities and possibilities towards the dissemination of true knowledge.<sup>14</sup> They have the right and duty to take their place as laymen in the liturgical life of the Church. Finally they have the right and duty to foster Charity, both through union and communion in Faith, Charity and ecclesial-social life with their pastors and with other laymen and through the exercise of the works of spiritual and material help to those in need;<sup>15</sup>

(b) in the world, they have the right and duty of witnessing to the Truth and Love of Christ, especially in the fields of family, work, leisure, youth, means of social communication, national and international life.

(iv) As lay people they have neither the right nor the duty to assume rights or duties or social functions legitimately reserved to clerics or religious. They must however maintain with these other members of the Church bonds of love and respect and have the right to expect the

<sup>12</sup> Cf. *ibid.*, nn. 20, 24.

<sup>13</sup> The M.P. 'Causas Matrimoniales', 28 March 1971, enables laymen to act as Notaries, Assessors and Judges in Church tribunals.

<sup>14</sup> Cf. VATICAN II, Constitution 'Gaudium et Spes', n. 62.

<sup>15</sup> Cf. particularly the Decree 'Apostolicam Actuositatem', nn. 8, 10.



same attitude from them, in a spirit of mutual collaboration and help. They also have the right to expect from the hierarchy a worthy exercise of the ministry of Orders and pastoral regimen, and from religious the eschatological witness to the ideal of evangelical perfection. Furthermore, lay people can be invited by the hierarchy to collaborate officially as lay helpers in the hierarchy's own apostolate as distinct from the specifically lay apostolate.

(v) As the special vocation of the laity lies in 'contributing to the sanctification of the temporal order from within',<sup>16</sup> as their direct and immediate field of competence, they are also endowed with certain rights and duties in this field. In the canonical order, however, these rights and duties are not numerous. Because of the legitimate autonomy of the temporal order which the Second Vatican Council has explicitly recognized,<sup>17</sup> most of the rights and duties of lay people in this field are regulated by the norms intrinsic to the temporal order or emanated by civil society. This also follows from the fact that, as Vatican II has explicitly stated, 'As regards activities and institutions in the temporal order, the rôle of the ecclesiastical hierarchy is to teach and authentically interpret the moral principles to be followed in temporal affairs; it is also within its power to judge, after due consideration from all aspects and with the help of expert opinion, whether such activities and institutions conform to the moral principles, and to decide what is required of them to protect and promote the values of the supernatural order.'<sup>18</sup> On these matters, therefore, the hierarchy exercises directly and immediately the function of teaching authority, and only indirectly and exceptionally does it exercise its governing function as regards any of its members who reject its magisterium on these points or when the activity of Christians in these matters has important social effects in the Church. Hence it follows that:

- (a) Lay people have the right to act autonomously in the temporal order to sanctify themselves, to lead others to sanctity, and to sanctify the temporal order from within by direct and im-

<sup>16</sup>Cf. VATICAN II, Constitution 'Lumen Gentium', n.31; and Decree 'Apostolicam Actuositatem', n. 5.

<sup>17</sup>Cf. Constitution 'Gaudium et Spes', n. 41; Decree 'Apostolicam Actuositatem', n. 7.

<sup>18</sup>VATICAN II, Decree 'Apostolicam Actuositatem', n. 24.

mediate action aiming at impregnating this order with the spirit of Christ. They have, however, the duty of remaining faithful to the Church's teaching on this temporal order.

- (b) In all their actions, as lay Christians acting with legitimate autonomy, they have the duty to assume personal responsibility for their actions, without implicating the Church as such or its hierarchy. From the hierarchy they have the right to expect mainly the light of the Gospel as applied to the temporal order and any other spiritual help they might need to act always with upright conscience.<sup>19</sup>
- (c) In the temporal sphere lay people have the right to follow their own opinions that are not in conflict with the gospel teaching and the Church's pronouncements even if these opinions are not shared by other lay Christians. They therefore have the corresponding duty not to condemn such differing opinions on the part of other laymen, not to presume that they alone are correctly interpreting the Gospel, and not to expect that the Church's teaching authority or prestige be used to buttress their own points-of-view.

#### THE REVISION OF CANON LAW AND THE LAITY

The Second Vatican Council has cast new light on the nature of the Church. In so doing it has also placed in a clearer light and in a better perspective the rôle and mission of the laity in the Church. The theological reality of the laity and of the specific functions of lay people in the Church and in the world has been clarified, at least initially, even though one expects further clarification and developments in this field.

In the canonical field we are still lagging behind. The Code of Canon Law promulgated in 1917 is hopelessly inadequate as a means of translating this new or regained theological awareness of the place of the laity in the Church into norms of practical social conduct. Developments in the Church's legislation after the Code, and particularly since the Second Vatican Council, may have gone some way towards meeting this challenge. We believe, however, that what has been done

<sup>19</sup> Cf. DEL PORTILLO, Alvaro, *Laici e fedeli nella Chiesa*, pp. 116-122.

in this field of canonical legislation is still far from enough. What we need is a radical development of Church Law on the laity in the context of the revision of the Code of Canon Law that is now taking place. We feel that the ideas we have expressed above and which, we hope, reflect faithfully the developments and teachings of Vatican II on the laity, could be useful, at least as a start, in bringing about such a radical development of canon law which would give a 'new deal' to the laity in the Church.

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