

Academic Freedom in Catholic Higher Education

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Introduction

John Paul II, apostolic constitution *Ex corde Ecclesiae* 1:¹

- “Born from the heart of the Church, a Catholic University is located in that course of tradition which may be traced back to the very origin of the University as an institution. It has always been recognized as an incomparable center of creativity and dissemination of knowledge for the good of humanity.”

Ex corde Ecclesiae on academic freedom:

- Article 12: a 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.”
- Article 29: “the Church, ... recognizes the academic freedom of scholars in each discipline in accordance with its own principles and proper methods, and within the confines of the truth and the common good.”
- Article 37: “Catholic Universities join other private and public Institutions in serving the public interest through higher education and research; they are one among the variety of different types of institution that are necessary for the free expression of cultural diversity, and they are committed to the promotion of solidarity and its meaning in society and in the world. Therefore they have the full right to expect that civil society and public authorities will recognize and defend their institutional autonomy and academic freedom.”

Development of Academic Freedom

American Association of University Professors (AAUP) 1940 Statement:

“The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to ensure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition.”

“Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspects is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning. It carries with it duties correlative with rights.”²

John Paul II, Ex corde Ecclesiae 1:

“A Catholic University’s privileged task 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.’”

¹ John Paul II, apostolic constitution *Ex corde Ecclesiae* (hereafter “*Ece*”), 1, August 15, 1990: *Acta Apostolicae Sedis* 82 (1990). Translation in English by National Conference of Catholic Bishops in *Origins* 20/17 (October 4, 1990) 265-276. See also, Committee on Catholic Education, United States Conference of Catholic Bishops, *Catholic Mission and Culture in Colleges and Universities: Defining Documents: 1965-2014* (Washington DC: United States Conference of Catholic Bishops, 2014) 69-89.

² American Association of University Professors, “1940 Statement of Principles on Academic Freedom and Tenure, with 1970 Interpretive Comments,” available at: <https://www.aaup.org/file/1940%20Statement.pdf>, 14.

AAUP 1940 Statement:

First, that “teachers are entitled to full freedom in research and in the publication of the results.” Second, that “teachers are entitled to freedom in the classroom in discussing their subject.” And third, that when teachers write or speak, “they should be free from institutional censorship or discipline.”³

“Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of appointment.”⁴ However, the 1970 Interpretative Comments on the AAUP statement went on to assert that “most church-related institutions no longer need or desire the departure from the principle implied in the 1940 ‘Statement’, and we do not now endorse such a departure.”⁵ Seemingly, the comment on academic freedom for religiously affiliated universities reflects an attitude or desire of distancing themselves from Church affiliation that some Catholic universities had embraced since the promulgation of the 1940 statement. This is further reinforced by the subsequently issued AAUP’s 1988 committee report that stated, “institutions that invoke the religious Limitations Clause of the 1940 Statement on Academic Freedom have ‘no right to proclaim themselves as authentic seats of higher learning.’”⁶

1967 Land O’Lakes Statement:

- “The Catholic University today must be a university in the full modern sense of the word, with a strong commitment to and concern for academic excellence. *To perform its teaching and research functions effectively the Catholic university must have a true autonomy and academic freedom in the face of authority of whatever kind, lay or clerical, external to the academic community. To say this is simply to assert that institutional autonomy and academic freedom are essential conditions of life and growth and indeed of survival for Catholic universities as for all universities.*”⁷
- “Every university, Catholic or not, serves as the critical reflective intelligence of its society. In keeping with this general function, the Catholic university has the added obligation of performing this same service for the Church. Hence, the university should carry on a continual examination of all aspects and all activities of the Church and should objectively evaluate them. The Church would thus have the benefit of continual counsel from Catholic universities.”⁸
- Student learning “has no boundaries and no barriers. It draws knowledge and understanding from all the traditions of mankind; it explores the insights and achievements of the great men of every age; it looks to the current frontiers of advancing knowledge and brings the results to bear relevantly on man’s life today. The whole world of knowledge and ideas must be open to the student; there must be no outlawed books or subjects. Thus the student will be able to develop his own capabilities and to fulfill himself by using the intellectual resources presented to him.”⁹

The Role of Academic Freedom in Religiously Affiliated Universities

- “In the Christian scholastic tradition, truth is considered the proper object of the reasoning mind seeking knowledge. That tradition does not exclude the contribution of faith. The reasoning mind does not seek falsehood or error. The meaning and urgency of truth, however, are the goals of the believing heart and soul seeking truth’s purpose. Truth is not true because we believe it; the truth is true whether we believe it or not. To consider truth as a category of knowledge or science or reason without at the same time seeking its

³ Ibid.

⁴ Ibid.

⁵ “AAUP 1940 Statement,” n. 5.

⁶ Ibid.

⁷ Land O’Lakes Statement, available at: <http://archives.nd.edu/episodes/visitors/lo/idea.htm> (emphasis added).

⁸ Ibid.

⁹ Ibid.

deeper, God-given meaning, purpose, and value is to limit truth and, therefore, to separate the essential and integral relationship between reason and faith. Both seek and serve one truth.”¹⁰

- “In the ecclesial model of academic freedom the propositions of theologians do not automatically translate into authentic church teaching. Involved in the wider process is the recognition of the Holy Spirit, which manifests itself in the *sensus fidei* of the faithful and the final approbation by the bishops. In this model the whole church participates in the process according to the gifts and ministries with which the Spirit blesses the church... Yet it remains for the office of bishop to pass final judgment (even if the judgment is not meant to be irreformable) on the authenticity of any specific teaching proposed as the faith and teaching of the church.”¹¹

Principles Related to Academic Freedom in Canon Law

- Canon 218: freedom of inquiry and expression of opinions
- Canon 386§2: diocesan bishop’s role to protect the faith
- Canon 756§2: diocesan bishop as moderator of the word in the diocese
- Canon 809: establishing Catholic universities
- Canon 810: qualifications for teachers
- Canon 812: requirement of *mandatum*

*Congregation for the Doctrine of the Faith, “Regulations for Doctrinal Examination” (1997)*¹²

- Ordinary Procedure for Examination
- Examination in Cases of Urgency
- Disciplinary Measures
- *Latae sententiae* penalties for heresy, apostasy or schism
- Other just penalties
- Explanatory Note: “the regulations constitute a noteworthy and valid effort to harmonize the indispensable demands of safeguarding and promoting the faith with respect for the rights of the faithful.”

*National Conference of Catholic Bishops, “Doctrinal Responsibilities: Procedures for Promoting Cooperation and Resolving Disputes between Bishops and Theologians” (1989)*¹³

- Context
- Promoting Cooperation and Informal Dialogue
- Possibility for Formal Doctrinal Dialogue
 - Informal Discussion
 - Formal Dialogue
 - Agreement on particular issue and procedure
 - Tasks: gathering the data, clarifying the meaning; determining the relationship with Catholic tradition; and identifying the implications for the life of the Church
 - Possible Results

¹⁰ David M. O’Connell, “Staying the Course: Imperative and Influence within the Religious College,” in *The Future of Religious Colleges*, ed. Paul J. Dove (Grand Rapids, MI: William B. Eerdmans Publishing Co., 2002) 65.

¹¹ Donald Wuerl, “Academic Freedom and the University,” *Origins* 18/13 (September 8, 1988).

¹² Congregation for the Doctrine of the Faith, “Regulations for Doctrinal Examination,” AAS 89 (1997) 830-835. Available in *Origins* 27/13 (September 11, 1997) 221-224. Also available at:

http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19970629_ratio-agendi_en.html

¹³ NCCB, *Doctrinal Responsibilities: Approaches to Promoting Cooperation and Resolving Misunderstandings Between Bishops and Theologians*, *Origins* 19/07 (June 29, 1989) 97-110; See also, Committee on Catholic Education, United States Conference of Catholic Bishops, *Catholic Mission and Culture in Colleges and Universities: Defining Documents 1965-2014* (Washington DC: United States Conference of Catholic Bishops, 2014) 189-212.

Recent Applications

CDF and Sr. Margaret A. Farley, R.S.M.'s book *Just Love. A Framework for Christian Sexual Ethics*

- Examination in Cases of Urgency set forth in "Regulations for Doctrinal Examination". The book "cannot be used as a valid expression of Catholic teaching, either in counseling and formation, or in ecumenical and interreligious dialogue."¹⁴

USCCB Committee on Doctrine and Sr. Elizabeth A. Johnson, C.S.J.'s *Quest for the Living God*

- "While the book at times displays an engagement with the Catholic theological tradition and remains in continuity with it, it also departs from that tradition at a number of crucial junctures. For these reasons, combined with the fact that the book is directed primarily to an audience of non-specialist readers and is being used as a textbook for study of the doctrine of God, the Committee on Doctrine finds itself obligated to state publicly that the doctrine of God presented in *Quest for the Living God* does not accord with authentic Catholic teaching on essential points."¹⁵
- "Reference has been made to the 1989 NCCB document *Doctrinal Responsibilities* which was intended to promote cooperation in resolving misunderstandings between individual diocesan bishops and theologians. *Doctrinal Responsibilities* did not address the special responsibilities of the Committee on Doctrine of our national episcopal conference. In addition the document is presented for consideration as one way of proceeding but not as obligatory. Furthermore, the statement makes it clear that these suggested guidelines "can only serve if they are adapted to the particular conditions, of a diocese, its history and its special needs."¹⁶

USCCB Committee on Doctrine, "*Bishops as Teachers: A Resource for Bishops*"

- Creativity to be channeled and maximized by boundaries delineated by the received revelation. Sports analogy: "Once ideas are written and published by a theologian, they must stand on their own; it is the bishops who are entrusted with the office of referee, who must call the play. ... [I]t is the responsibility of the bishop to make the call and to declare, if necessary, certain notions out of bounds, the bounds of Christian revelation."¹⁷

Conclusion

Bishops as Teachers: "The legitimate academic freedom of Catholic theologians, then, is understood like any other freedom, with its own appropriate limits and its own ordering to human flourishing. At times it may seem to conflict with the pastoral freedom and, in fact, the pastoral obligation of the bishop to protect the authenticity of the faith and the spiritual good of the faithful. Nevertheless, when good will is present on both sides, when both are committed to the truth revealed in Jesus Christ, their relationship can be one of profound communion as together they seek to explore new implications of the deposit of faith."¹⁸

¹⁴ Available at: http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20120330_nota-farley_en.html

¹⁵ Available at: <http://www.usccb.org/about/doctrine/publications/upload/statement-quest-for-the-living-god-2011-03-24.pdf>, 20-21.

¹⁶ USCCB Committee on Doctrine, "Bishops as Teachers: A Resource for Bishops", 12.

¹⁷ *Ibid.*, 6-7.

¹⁸ USCCB, Committee on Doctrine, "Bishops as Teachers," 8.