

SCHOOL AND CULTURE

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Mister Chairman, ladies and gentlemen!

During this international congress of canonists on the theme of religious liberty here in Mexico City, we are going to speak of the links between the school and culture. How then could we forget to pay tribute to the 1982 Mexico Declaration on Cultural Policy?² Drafted under the auspices of UNESCO, that Mexico Declaration provided the follow-up to the Convention on the struggle against discrimination in the field of teaching, which had been previously adopted by UNESCO on the 14th December 1960.

Let us note also that the Holy See has entertained close relations with UNESCO since 1946, the year after its creation as the United Nations Educational Scientific and Cultural Organisation on 16 November 1945.³

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² *Mondiacult 1982, "Déclaration de Mexico", in Conférence mondiale sur les politiques culturelles (Mexico, 26 juillet- 6 août 1982), Paris, UNESCO, CLT/MD/1, 1982: La déclaration adoptée à l'unanimité par cent trente gouvernements traite notamment du rôle de la famille, des rapports entre la culture et l'éducation. La culture est définie en ces termes dans la déclaration de Mexico: " Dans le sens le plus large, la culture peut aujourd'hui être considérée comme l'ensemble des traits distinctifs, spirituels et matériels, intellectuels et affectifs, qui caractérisent une société ou un groupe social. Elle englobe, outre les arts et les lettres, les modes de vie, les droits fondamentaux de l'être humain, les systèmes de valeurs, les traditions et les croyances. La culture donne à l'homme la capacité de réflexion sur lui-même. C'est elle qui fait de nous des êtres spécifiquement humains, rationnels, critiques et éthiquement engagés. C'est par elle que nous discernons des valeurs et effectuons des choix. C'est par elle que l'homme s'exprime, prend conscience de lui-même, se reconnaît comme un projet inachevé, remet en question ses propres réalisations, recherche inlassablement de nouvelles significations et crée des oeuvres qui le transcendent "* (in Hervé Carrier S.J., *Lexique de la culture pour l'analyse culturelle et l'inculturation*, Desclée, 1992, p. 116).

³ Maurice Barbier, *L'Eglise Catholique et l'UNESCO. Vingt-cinq ans de relations*, présentation de Vincent Cosmao O.P., éd. Centre L.-J. Lebret " Foi et Développement ", 1971, 151 pages; Mgr Benelli, " L'UNESCO et le Concile au service de l'homme ", *La soirée de l'UNESCO sur le Concile*, in *La documentation catholique*, 1471, 15 mai 1966 col. 909-911; Card. Suenens, " A l'écoute et au service des hommes, le Concile devant le monde et devant l'histoire ", *ibid.*, col. 911-926; René Cassin, " Vatican II et la protection de la personne ", *ibid.*, col. 924-928; Jacques Maritain, " Le rôle du spirituel à l'égard du progrès et de la paix ", *ibid.*, col. 929-934; Philippe Laurent S.J., " Le Saint-Siège à L'UNESCO, trois orientations en jeu dans l'actuelle Conférence générale ", in *La Croix*, 4 novembre 1987, p. 15; Mgr Jean Millet, " Groupe de travail " (ONG) " Sciences et éthique " à l'UNESCO, " *Chronique de l'UNESCO* ", in *Esprit et vie*, 1995, pp. 194-195.

We will have the occasion later to return to the institutional effort of the Catholic Church in favour of culture,⁴ especially in the field of school education,⁵ but also with respect to seminary⁶ and university education.⁷ This

4 *Coll. Christianisme et culture en Europe, mémoire, conscience, projet*, Colloque présynodal, Vatican, 28-31 octobre 1991, préface du cardinal Paul Poupard, Conclusion de S.S. PP. Jean Paul II, éd. Mame, 1992, 248 pages; Paul VI, "L' lettre 'Lumen Ecclesiae' pour le VIII^e centenaire de la mort de saint Thomas d' Aquin" (20 novembre 1974), in *La documentation catholique*, 1671, 2 mars 1975, pp. 202-214; à propos de l'inculturation, le Pape Jean-Paul II a déclaré devant la Commission biblique pontificale: "Le terme acculturation ou inculturation peut très bien être un néologisme, mais il exprime parfaitement un des éléments du grand mystère de l'incarnation" (26 avril 1979, cit., par Hervé Carrier S.J., *Lexique de la culture*, op. cit., p. 13; Joseph Caillot, Eudiste, "Bible et cultures", in *L'Evangile de la communication*, coll. Cogitatio fidei N 152, éd. Cerf, 1989, pp. 309-330; Claude Geffré O.P. (Dir.), *Michel de Certeau ou la différence chrétienne*, coll. Cogitatio fidei N 165, éd. Cerf, 1982 pages; Anne Fortin-Melkevich, "Théologie, université et espaces publics. Quelle théologie pour quelle culture?" *Théologiques*, 2/1, 1994, pp. 127-139.

5 Déclaration *De educatione christiana Gravissimum educationis* (du Concile Vatican II); *Education, culture, Evangélisation*, éd. Vatican, 1986; Rapport de synthèse du Conseil pontifical pour la Culture, du Conseil pontifical pour les laïcs et de la Congrégation pour l'Education catholique, "L'Eglise et la culture universitaire" (25 mars 1988), in *La documentation catholique*, N 1964, 1988, pp. 623-628; Document de la Congrégation pour l'Education catholique, du Conseil pontifical pour les laïcs et du Conseil pontifical de la Culture, "La présence de l'Eglise dans l'université et dans la culture universitaire" (22 mai 1944), in *La documentation catholique*, N 2097, 1994, pp. 604-610.

6 Degert, *Histoire des séminaires français jusqu'à la Révolution*, éd. Paris, 1912; D'édret *Presbyterorum ministerio et vita presbyterorum ordinis* (du Concile Vatican II); "Lettre de la Sacrée congrégation de l'Education catholique: L'enseignement de la philosophie dans les séminaires" (20 janvier 1972) et "Circulaire de la Sacrée congrégation pour l'Education catholique: l'enseignement du droit canonique pour les aspirants au sacerdoce" (2 avril 1975), et "Document de la Sacrée congrégation pour l'Education catholique: La formation théologique des futurs prêtres" (22 février 1976), in *La documentation catholique*, 1605, 19 mars 1972, pp. 262-267 et 1679, 6 juillet 1975 pp. 607-609 et 1688, 16 mai 1976 pp. 457-477; "Directives pour la préparation des éducateurs de séminaires" de la Congrégation pour l'Education catholique, in *La documentation catholique*, N 2089, 1994, pp. 209-223; "Directoire pour le ministère et la vie des prêtres" de la Congrégation pour le Clergé, in *La documentation catholique*, N 2092, 1994, pp. 360-389; "Directives pour la formation des séminaristes sur les problèmes relatifs au mariage et à la famille, de la Congrégation pour l'Education catholique", in *La documentation catholique*, N 2120, 1995, pp. 279-287; Collectif, *La formation des prêtres, Synode de 1990, coéd. Cerf-Centurion*, 1990, 336 pages; Instrument de travail, *La formation des prêtres*, coll.; Documents d'Eglises, éd. Cerf, 1990, 90 pages; Jean-Paul II, *Je vous donnerai des pasteurs, Exhortation sur la formation des prêtres dans les circonstances actuelles*, introduction de Raymond Deville, coll. Documents des Eglises, éd. Cerf, 1992, 232 pages.

7 G. Bardy, *L'Eglise et l'enseignement en Occident au V^e siècle*, éd. Toulouse, 1948; René Aigrain, *Les universités catholiques*, éd. Auguste Picard, 1935, 81 pages; Gérard Cholvy, "L'Eglise et les universités de 1919 à 1960", in *Esprit et vie*, 20, 18 mai 1995, pp. 300-303; Pie XI, "Constitution apostolique 'Deus scientiarum' sur les universités et facultés d'études ecclésiastiques" (24 mai 1931), in *La documentation catholique*, 1950, col. 195-206; Paul Tillich, *Théologie de la culture*, éd. Planète, 1968; Jean-Paul II, "Constitution apostolique 'Ex corde Ecclesiae'" (15 août 1990), in *La documentation catholique*, 2015, 1990, pp. 934-945; Jean-Paul II, "Constitution apostolique 'Sapientia christiana' sur les universités et facultés ecclésiastiques" (15 avril 1979), in *La documentation catholique*, 76, 1979, pp. 551-566; Paul Löwenthal (dir.), *L'université catholique aujourd'hui, liberté et engagements*, éd. Academia, 1994, 140 pages; Jean-Paul Durand O.P., "Pour une théologie universitaire", in *La documentation catholique*, N 2107, 1995, p. 21; P. Delhay, *L'organisation scolaire au XII^e siècle*, éd. Louvain, 1961; J. Verger, *Les universités au Moyen Age*, éd. PUF, 1973; Jean Gaudemet, "Les universités et la vie politique (XIII^e - XVIII^e siècles)", in A. Romano & J. Verger (Dir.), *I poteri politici e il mondo universitario (XIII-XX secolo)*, éd. Rubbettino, 1994, pp. 3-16; Daniel Bloch, "Pour les universités", in *Etudes*, 381 X, 1994, pp. 205-215; Jean-Paul II, *Discorsi alle università*, éd. Camerino, 1991.

ecclesial effort concerns one of the *tria munera*, that is to say the *munus docendi*.⁸

The right to education is recognised as a fundamental right of the person in several international conventions, a number of which were mentioned in 1983 by Professor Roland Minnerath in his book dealing with the context of Concordatlaw in respect of the right to educate. Concordatlaw is often required to deal with Concordat States on the question of the Church's right to educate, for example, the 1993 Polish Concordat.⁹

With respect to the links between education and culture, Professor Jozef Krokowski, at the last congress of our international association of canonists at Lublin in 1993, presented the main principles of state and international law relating to religious education within the framework of school education.¹⁰

In this paper I would like to make a modest contribution to the question of the relationship between school and culture - an issue which has already been treated at length,¹¹ but which has raised many questions of canon law, and continues to do so. It would undoubtedly be overambitious to try to answer in one lecture all of the questions concerning the relationship between the school, culture and canon law. Therefore, this lecture will simply endeavour to raise the canonical issues relating to the links between the school and culture, issues which in fact are of particular concern to canonists.¹²

⁸ CIC (L'Éducation catholique: cc. 793-821) et CCEO (De educatione catholica: cc. 627-650); P. Valdrini, "La fonction d'enseignement de l'Église" in Patrick Valdrini (Dir.), Jacques Vernay, Jean-Paul Durand O.P., Olivier Echappé, *Droit canonique*, coll. Précis, éd. Dalloz, 1989, pp. 264-295.

⁹ Roland Minnerath, "Le droit d'éduquer", in *L'Église et les États concordataires (1846-1981), la souveraineté spirituelle*, préface Jean Gaudemet, éd. Cerf, 1983, p. 381, note 28; Hervé Carrier S. J., "Droits culturels", in *Lexique de la culture pour l'analyse culturelle et l'inculturation*, éd. Desclée, 1992, pp. 129-135; Brigitte Basdevant-Gaudemet et Jean-Paul Durand O.P. (Dir.), "Renouveau du droit concordataire? Le concordat de Pologne de 1993", colloque du Centre universitaire 'Droit et sociétés religieuses' mars 1994, in *Revue de droit public*, à paraître.

¹⁰ Jozef Krokowski, "Education et culture", in *L'Église et l'État dans les systèmes juridiques contemporains, VIII^e Congresso internazionale di diritto canonico*, Lublin, settembre 1993, à paraître.

¹¹ Henri-Irénée Marrou, "Culture, civilisation, décadence", in *Revue de synthèse*, décembre 1938 et *Histoire de l'éducation dans l'antiquité*, éd. Seuil, 1966, 2^e éd.; P. Riché, *Éducation et culture dans l'Occident barbare (VI^e-VII^e siècles)*, éd. Seuil, 1962; Jacques Maritain, *l'éducation à la croisée des chemins*, éd. Egloff, 1947; G. Mialaret & J. Vial (Dir.), *Histoire mondiale de l'éducation*, éd. CUF, 1981, 4 vol.; *Rapport mondial sur le développement humain*, publié par le Programme des Nations Unies pour le Développement, éd. Economica, 1991; C. Rondi (éd.), *L'université en question. Les nouveaux défis à l'université par les transformations du monde moderne* (Association internationale des sociologues de langue française), éd. Université de Toulouse-L. Mirail, 1991.

¹² Marcel Launay, *L'Église et l'école en France XIX^e-XX^e siècle*, éd. Desclée, 1988 et son article: "L'Église catholique et l'école en France XIX^e-XX^e siècle", in Jean-Paul Willaime (Dir.), *Univers scolaires et religions*, coll. Sciences humaines et religions, éd. Cerf, 1990, pp. 113-122; Francis Messner, "L'Église catholique et l'école publique en France", in "École et religions dans la société moderne", *Le Supplément, Revue d'éthique et théologie morale*, N 181, juillet 1992, pp. 23-38; Giorgio Feliciani, "L'insegnamento della religione cattolica nelle scuole pubbliche tra normativa canonica e legislazioni civili", in *Ius Ecclesiae*, 6 1994, pp. 159-176; Jean Gaudemet, "Il diritto canonico nella storia della cultura giuridica Europa", in *Coll. Scienza*

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First of all, we shall attempt to characterise the canonical status of parental mediation with respect to the links which the Church wants to promote between school and culture. The family can sometimes create a risk of confining the child within the family environment. Accordingly, the canonical legislator invites the parents to open the child towards the world. In fact, as Vatican II taught,¹³ the Church itself constitutes a *lieu éminent* —a special place— for fostering this relationship, between the personal and social, the particular and the universal.

Young people need to become increasingly aware of their own and other cultures; they need also to understand better the specific mission of the Church which consists in entering into dialogue with the various cultures. One again, the teaching of the Second Vatican Council specifically encourages this mission. During the sixties, the Vatican Council presented a definition of culture which harmonised the classical understanding with an anthropological understanding which only emerged in the 19th century.¹⁴

It is well known that before the start of the 20th century, the word “culture” was rarely used in a socio-historical sense; rather it conveyed intellectual and aesthetic connotations indicating erudition, refinement of spirit, or artistic and literary pursuits. Certainly, this classical or humanist meaning of the word culture is still valid, but it has now gained a sociological and historical sense. Today we speak of cultural identity, of dialogue between cultures, of cultural domination or liberation. The Christian churches speak of evangelisation of cultures, of acculturation or inculturation. The classical notion of culture or of a cultured person also implies a normative aspect, with culture in this context referring to an ideal to be attained. On the other hand, the anthropological notion of culture

giuridica e diritto canonico, éd. Giappichelli, 1991, pp. 3-29; Cardinal Paul Poupard, “L’Eglise au défi des cultures”, *Cultures et foi*, éd. Pontificum concilium de cultura, III-1, 1995, pp. 1-17.

13 “Constitution *Gaudium et spes*”, Ns 54, 58, 61.1; Jacques Etienne, “Nature et culture selon la théologie morale”, in collectif, *Nature et culture, Le Supplément, Revue d’éthique et théologie morale*, Ns 182-183, 1992, pp. 253-270; Rémi Brague, “Les fondations de l’Europe: une identité ouverte, le christianisme comme forme de la culture européenne”, in Collectif, *Christianisme et culture en Europe*, éd. Mame, 1992, pp. 29-44.

14 Constitution *Gaudium et spes*, 53 (du Concile Vatican II): Le Concile enseigne que “au sens large, le mot culture désigne tout ce par quoi l’homme affine et développe les multiples capacités de son esprit et de son corps; s’efforce de soumettre l’univers par la connaissance et le travail; humanise la vie sociale, aussi bien la vie familiale que l’ensemble de la vie civile, grâce au progrès des mœurs et des institutions; traduit, communique et conserve enfin dans ses oeuvres, au cours des temps, les grandes expériences spirituelles et les aspirations majeures de l’homme, afin qu’elles servent au progrès d’un grand nombre et même de tout le genre humain. Il en résulte que la culture humaine comporte nécessairement un aspect historique et social et que le mot culture prend souvent un sens sociologique et même ethnologique...”

refers to a collective psychology, the lifestyles typical of a particular human group. Understood thus, culture leads to a descriptive approach, which also takes account of socio-historical or socio-cultural circumstances with both positive and negative aspects.¹⁵ In his 1871 book *Primitive Society*, Edward Taylor put forward the first anthropological definition of culture: "Culture, or civilisation, consists of an ensemble which includes knowledge, beliefs, art, ethics, laws, customs and every other aptitude or habit that man has acquired as a member of society".¹⁶

Secondly, we will consider a canonical approach to the question of culture in schools providing a Catholic education. This raises the problem of the specifically Catholic character of confessional schools, founded and directed by the Church. In fact, the Church places great stress on the originality of her approach to this question. Nevertheless, this approach poses the problem of the necessary conditions for respecting the legitimate autonomy of culture in a Catholic school. Moreover, the Church is also present in non-Catholic schools, both public and private, especially in contexts where the dominant culture is non-Christian.

How is it possible to guarantee a Catholic education in such a context?¹⁷ Here, we need to bear in mind the Church's special responsibility to be present to science and culture, both secular and sacred. Granted the specific character of its own schools, how can the Church hope to guarantee an ethical approach¹⁸ to culture within the context of the school, as well as in the seminary or at a Catholic university?

How can these institutions of the Church contribute to the development of Catholic education even in non-Catholic public and private schools? What are the conditions in which a Catholic education is or can be given in a non-Catholic school belonging to civil authorities or to private persons?

This second part of my presentation will allow me to address the problem of the links between religious teaching and religious culture. The school, the seminary and the university —as well as parish-based catechesis for children,

¹⁵ Hervé Carrier S.J., *Lexique de la culture pour l'analyse culturelle et l'inculturation*, 1992, op. cit., pp. 100-102.

¹⁶ Hervé Carrier S.J., *ibid.*, p. 104.

¹⁷ Jean-Marie Swerry, *Aumôneries catholiques dans l'enseignement public. Un renouveau de la laïcité ?* préface de Jean Lambert et postface de Patrick Valdrini, coll. Droit canonique et droit civil ecclésiastique, éd. Cerf, 1995, 439 pages; "Episcopat Français, Droits et devoirs des parents relativement à l'école, lettre pastorale (14 septembre 1909)", "Assemblée plénière de l'Episcopat français: Le problème de l'enseignement libre (4 avril 1951)", in Denis Maunegest S. J. (Dir.), *Le discours social de l'Eglise catholique de France (1891-1992)*, coll. Documents des Eglises, éd. Cerf, 1995, pp. 105-116, et pp. 265-276.

¹⁸ Henri Bergson, *Les deux sources de la morale et de la religion*, éd. Félix, Alcan, 1932.

adolescents and adults— all require that appropriate public liberties be recognised under both canon and civil law.

In any event, we can never be too conscious of the cultural challenges¹⁹ which confronted educational institutions and universities. These institutions nevertheless still provide the necessary channels for the acquisition of the main qualifications desired by young people.

The canonical legislator also endeavours to promote educational institutions, as Canon 796 § 1 of the 1983 Code of Canon Law shows: “Among educational means the Christian faithful should greatly value schools, which are of principal assistance to parents in fulfilling their educational task.”

In other words, this lecture will reflect the evolution which is taking place within canon law. In order to better take account of this link between the school and culture, canon law is seeking to renew the conditions for the exercise of its mission of safeguarding culture, beginning with the school. After all, did not Pope John Paul II end his speech to UNESCO on 2 June 1980 with the words: “Indeed, the future of man depends on culture!”²⁰

I. CANON LAW, CATHOLIC PARENTS AND CULTURE

If we assume that Canon Law has a special mission to safeguard culture, how is it possible to reconcile this task with the parents’ mission with respect to education, a role equally recognised by the canonical legislator?

Canon law has found it necessary to clarify the terms of parental responsibility in the field of education taking into account the new cultural challenges.

The Second Vatican Council devoted special attention to this subject in the Apostolic Constitution, *Gaudium et Spes*. Section 3 of this document, entitled “The Most Urgent Duties of Christians with respect to Culture”, and Chapter

¹⁹ Jean Stoetzel, *Les Valeurs du temps présent: une enquête européenne*, éd. PUF, 1983, 309 pages; Georges-Hubert de Radkowski, *Métamorphoses de la valeur. Essai d'anthropologie économique*, coll. Influences, éd. PUG, 1987, 167 pages; Collectif, *l'univers culturel des jeunes*, in *Lumen vitae*, XIV, 31 1990, pp. 245-326; Anne Fortin-Melkevik, “Le rapport Nature/ culture/ normativité”, in Collectif “Nature et Culture”, *Le Supplément, Revue d'éthique et théologie morale*, Ns 182-183, 1992, pp. 327-337; Document “Presencia de la Iglesia en la Universidad y en la cultura universitaria”, in *Cultures et foi*, II-3 1994, pp. 161-177.

²⁰ FIUC, *Culture chrétienne et droits de l'homme* (Colloque international de la fédération internationale des universités catholiques, 1989), éd. Academia, 1991; J. Hersch (Dir.), *Le droit d'être un homme, recueil de textes*, éd. UNESCO, 1968 et *Le droit d'être un homme, anthologie mondiale de la liberté*, coéd. UNESCO-Lattès, 1985; J.-M. Ponter, J.-C. Ricci, J. Bourdon, *Droit de la culture*, coll. Précis, éd. Dalloz, 1990; Luc Rouban, *L'Etat et la science: la politique de la science et de la technologie*, éd. CNRS, 1968; J.-J. Salmon, *Science et politique*, éd. Seuil, 1970; P. Schlesinger, *Media, State and nation: political violence and collective identities*, éd. University of Stirling, 1991; H. Shaughnessy & C. Fuente Cobo, *Les obligations culturelles de la radiodiffusion. Législations nationales et transnationales sur les obligations culturelles des télédiffuseurs en Europe*, éd. Institut européen de la Communication/ Conseil de L'Europe, 1990.

60. "The Recognition of a Universal Right to Culture and to its Practical Fulfilment" offer some important directions. If tomorrow culture supersedes the school, how will the Church respond? How will the church be able to support the family in the face of this renewed cultural challenge? Will culture escape from the Church and the family as has the school? The Synod of Bishops in Rome in 1985 highlighted the necessity of discernment with respect to culture in order that the Church may exercise an appropriately critical regard.²¹ Vatican II itself recalled the Church's traditional support for the family and the school:

The family is in the first instance like a nurturing mother with respect to education. Within the family, children, surrounded by love, discover easily the hierarchy of values, while they absorb virtually unconsciously the elements of cultural experience as they grow and develop.²²

The Catholic Church has always shown a deep attachment to the school,²³ and even more so for the parental responsibility for the Christian education of young people.

With respect to catechesis, drawing on Canon 1355 of the Code of Canon Law of 1917²⁴ and the spirit of Vatican II, the supreme legislator emphasised in Canon 774 § 2 of the 1983 Code the primary responsibility of the parents under the responsibility of their legitimate pastors: "Parents above others are obliged to form their children in the faith and practice of the Christian life by word and example; godparents and those who take the place of parents are bound by an equivalent obligation." Canon 776 is also important in this context, the pastor having the responsibility to help and encourage parents in their task of family catechesis.²⁵

21 Gérard Defois, "La crise culturelle de la modernité", in *Pour une éthique de la culture*, coll. Eglise et société, éd. Le Centurion, 1988, pp. 40-44.

22 "Constitution conciliaire *Gaudium et Spes*", N. 6.2; Jean-Paul II, "Lettre aux enfants, en l'année de la famille", in *La documentation catholique* N. 2108, 1995, pp. 52-56.

23 A. Michel, *La question scolaire et les principes théologiques*, éd. Lille, 1921; A. Mascarel, *La question scolaire. Principes et solutions*, éd. Paris, 1921; J. Creusen, "L'école catholique", in *Nouvelle revue théologique*, 1926; Pie XI, "Encyclique *Rappresentanti in terra* (31 décembre 1929)", in *La documentation catholique*, XXIII, col. 389. At: "l'Eglise et l'école d'après le *Corpus juris canonici*", in *Revue canonique*, 1990 pp. 388 et s.; Raoul Naz, "Des écoles (Can. 1372-1383)", in *Traité de droit canonique*, éd. Létouzey et Ané, 1948, pp. 153-159; "Document de la Congrégation pour l'Education catholique: L'école catholique" (19 mars 1977), in *La documentation catholique*, N. 1725, 1977, pp. 705-716; Jacqueline Duthel de la Rochère & Yves Gaudemet (Dir.), "Ecole et religion à l'étranger", in *Revue française de droit administratif*, 7.1, 1991, pp. 82.

24 "Les parents ou tuteurs (des enfants, leurs) maîtres (leurs) parrain et marraine doivent assurer l'instruction religieuse des enfants qui dépendent d'eux" (Canon 1335); Jean Joncheray (Dir.), "L'histoire des catéchismes", in *Revue de l'Institut catholique de Paris*, N. 29, 1989, pp. 1-48.

25 Jean-Paul II, "Exhortation apostolique *Catechesi tradendae*" (1979), in *La documentation catholique*, 1979.

Concerning education as a whole, CIC 1983 Canon 1136 is even more insistent regards parents: "Parents have the most serious duty and the primary right to do all in their power to see to the physical, social, cultural, moral and religious upbringing of their children."

Regarding Catholic education, we know that CIC 1983 Canon 793 also attributes an eminent responsibility to the parents. Whereas Canon 796 § 1 speaks of the educational task which falls on parents, the second paragraph of that canon attempts to balance the responsibilities incumbent respectively on parents and on the school teachers to whom parents entrust their children. Here canon law insists both on the presence of parents and the responsibility of teachers.²⁶ Moreover, the legislator advocates close co-operation between parents and teachers in order that they may jointly promote an educational service that meets the challenge of the numerous other mediums of education and culture.

In relation to the responsibility of civil powers, it is opportune to recall that Ancient Greece witnessed an heuristic conflict between the family and city with respect to the education of youth.²⁷ Thus it is always relevant to ask the question: is the school on the side of the parents? The Church also has to take a stand in favour of the family considering the need to evangelise the family itself.

The Church has also spoken out on the links between culture and political society.²⁸

Perhaps never in history has culture managed to exceed the limits of school and university as it has done at this end of the twentieth century, to the point where the image of the "universal man" seems to be disappearing.²⁹ How then is the Church to assist parents in their responsibility over the whole range of culture and cultures? How can the school and the university support the Church in the exercise of that responsibility with respect to children and adolescents? As Pius XI wrote in 1929: "Man must exist in order that he may be a citizen, and this existence derives not from the State but from one's parents."³⁰ How then does canon law contribute towards guaranteeing such freedoms and responsibilities within the life of the Church and how does it negotiate these with civil society? These questions raise a number of challenges for parents and educators but also for pastors, theologians and canonists. Here it is not simply a question of the risk of failing to differentiate between religions, or between

26 Patrick Tapemoux, "Parents et enseignants: antagonisme?" in *Etudes*, 3774, 1994, pp. 321-330.

27 Cf. les dialogues de Platon sur l'éducation: *La République; les lois*.

28 "Constitution conciliaire *Gaudium et Spes*", N. Cl. 2; B. Duballet, *La famille, l'Etat dans l'éducation*, éd. Paris, 1910.

29 "Constitution *Gaudium et spes*", Cl. 1.

30 Pie XI, "Encyclique *Rappresentanti in terra* (31 décembre 1929)", in *La documentation catholique*, XXIII, col. 397.

different Christian denominations, which in turn leads us back to the need for an authentic but non-irenic (and therefore demanding) ecumenism. Rather, the evolution of the cultural phenomenon itself creates the risk of reducing the religious question to a cultural question, even though it is absolutely necessary at the same time to understand and promote an understanding that the religious process can never exist outside of culture.

The conciliar Constitution *Gaudium et Spes* states:

As for the public powers, it is their task, not to determine the proper character of civilisation, but to establish the conditions and to promote the means susceptible of favouring cultural life for the benefit of all, without forgetting the minority elements present in a nation. This is why it is necessary to avoid at all costs that culture, turned away from its proper ends, be subjected to political and economic powers.³¹

Canon law, searching after Vatican II to guarantee the liberty of choice of school by parents, has also taken into account the Council's deepening of the Church's doctrine with respect to the responsibilities of the parents and for the responsibilities of civil societies in the matter of education.

First of all, catechetical teaching and the magisterium must always be free of any civil hindrances. Canon 1322 § 2 a) of the 1917 Code specified that "independently of any civil power, the Church has the right and duty to teach the doctrine of the Gospel to all nations". The school itself, in canonical tradition, has no rights over the child.³² Whatever rights the school may exercise originate from a parental mandate. The parents' responsibility for the education of their children in turn derives from their responsibility for the acts which led to the birth of their children. In 1948, Raoul Naz described very clearly the traditional links defined in canon law between the parents, the Church and the State in relation to the education of the children:

Parents, however, only give natural life to the child. But there is in the child another kind of life: supernatural life... the principle (of which), according to Church teaching, is sacramental grace. Just as the parents are responsible for the development of the natural life of the child, so too the Church has a mission to develop that germ of supernatural life she has deposited in the child. For the Church as for the parents, paternity is the unbreakable foundation of the rights and duties which are incumbent on each party in respect of the education of the child. If it so happens that parents or the Church are not in a position to carry out their responsibilities, it is permissible to call upon the assistance of the State, which is required to assist those under its authority to fulfil their purposes in educational matters as well as in all other domains.

³¹ "Constitution conciliaire *Gaudium et Spes*", 59 § 5.

³² Raoul Naz, *Traité de droit canonique*, op. cit., p. 153.

But assisting them must not be understood as replacing them, nor as taking over their rights as in the case of a claim that a child belongs to the State in priority to its natural parents.³³

According to CIC 1917 Canon 1374, the Church in principle forbids Christian parents from enrolling their children in so-called “neutral” schools or even in so-called “mixed” schools. (In this context, neutral schools are those without any religious education, whereas mixed schools are schools enrolling children belonging to other religious confessions.) The canon law of that period however admitted that in cases of necessity, as judged by the Ordinary, for example in the absence of a Catholic school, it was permissible for a child to attend such a neutral school. This permission was, of course, subject to the condition of taking appropriate steps such as extra-curricular religious formation to avoid any risks or dangers.

In Catholic schools, catechesis was required to be given on an equal footing with secular subjects, and linking it to the whole life of the children concerned. Various concordats were signed during the pontificates of Pius XI and Pius XII,³⁴ which included notably a clause providing for a religious education in all schools, including non-Catholic schools. This education was to be under the control of, and organised by the Catholic Church herself with the assistance of the State concerned, but without seeking to impose this religious teaching on the children against the will of their parents.³⁵ According to canonical tradition, the temporal power has the duty to provide parents with the necessary means to ensure the religious education of their children. In any event, the respect of the common good, according to canonical tradition and the natural law,³⁶ requires the State to provide all its subjects with a minimum of knowledge.

Canon 798 of the Latin Code of 1983 is more flexible than Canon 1374 of the 1917 Code. Canon 798 in fact provides first that “parents are to entrust their children to those schools in which Catholic education is provided”. But the same canon adds that “if they are unable to do this, they are bound to provide for their suitable Catholic education outside the schools”. The vocabulary has thus become more supple, less rigid. It is no longer a question of Catholic schools being the only option, but simply of schools which give a Catholic education.

³³ *Ibid.*, pp. 153-154.

³⁴ Concordats de Bavière et de Pologne en 1925, d'Italie et de Roumanie en 1929, d'Autriche et de Portugal en 1940, Espagne en 1953.

³⁵ Raoul Naz, *op. cit.*, p. 155.

³⁶ Pie XI, “Encyclique Rappresentanti in terra” (31 décembre 1929), in *La documentation catholique*, XXIII, col. 389.

Thus it is possible to conceive of State schools in which Catholic education is integrated into the academic programme. Consequently, canon 799 recommends to parents to strive for civil legislation permitting young people to receive a religious and moral education “according to the conscience of the parents” in the schools themselves. CIC Canon 800 in particular then bears witness to the Church’s perennial claim to be able to found and direct Catholic schools. CIC Canon 797, for its part, consecrates the principle of the parents’ freedom to teach. Thus “it is necessary that the parents enjoy true freedom in selecting schools”. This is why, to take the words of the same canon, that “the Christian faithful must therefore be concerned that civil society acknowledge this freedom for parents and also safeguard it with its resources in accord with distributive justice”. This is a principle of religious freedom and of religion sanctioned in principle by international law and in numerous constitutional laws.³⁷

II. A CANONICAL APPROACH TO CULTURE IN THE SCHOOL

We have seen that Canon 798 of the 1983 Latin Code no longer limits Catholic parents to choosing between on one hand a Catholic school, and on the other hand a neutral or multi-religious school. Canon 1374 of the 1917 Code had enjoined parents to avoid sending their children to non-Catholic schools. Today, however, the emphasis is placed on Catholic education so that both Catholic and non-Catholic schools may receive Catholic children provided that they be “given a Catholic education”, as required by Canon 798.

How then can the institutions of the Catholic Church guarantee on one hand a legitimate cultural autonomy in Catholic schools, and on the other hand, how can they secure a Catholic education in schools where a non-Christian culture prevails? It is necessary at the outset to refer to canonical tradition regarding culture.

1. *Towards a Study of the Links between Canon Law and Culture*

As an indication of the importance which I place on this dimension of canonical science, at the Centenary Celebration for the Faculty of Canon Law of the Institut Catholique de Paris, I plan to propose to Rector Patrick Valdrini

³⁷ Article 26 § 3 de la Déclaration universelle des droits de l’homme du 10 octobre 1949; Article 13 § 3 du Pacte international de droits économiques, sociaux et culturels de l’ONU, le 16 décembre 1966; Article 18 § 4 du Pacte international des droits civils et politiques, du 16 décembre 1966; Article 5 § b, de la Convention relative à la lutte contre la discrimination dans le domaine de l’enseignement, de l’UNESCO le 14 décembre 1960; l’Article 2 du premier protocole additionnel à la Convention européenne pour la sauvegarde des droits de l’homme et des libertés fondamentales, du Conseil de l’Europe, le 4 novembre 1950.

that an International Consortium be founded which will focus on the links between Canon Law and Culture.

Law is a part of culture. Canon law, then, needs to pursue a dialogue with different juridical regimes whose cultural evolution conditions religious liberty, especially in respect of educational institutions. Even more importantly, the spirit of dialogue between canon law and the various cultural institutions of education derives from the canonical tradition relating to the links between Church and culture.

Canon law provides a guarantee for the autonomy of culture and of science. Drawing on the teaching of the First Vatican Council³⁸ as well as Pope Pius XI's Encyclical *Quadragesimo Anno*,³⁹ Vatican II declared that: "The Church affirms the legitimate autonomy of culture and in particular that of the sciences."

Nevertheless, canon law holds certain values to be higher than those of culture itself. The Constitution *Gaudium et Spes* not only recalled the foundations of the autonomy of culture, but set out its principal limits:⁴⁰

Culture, in fact, since it flows directly from the rational and social character of man, always requires a just freedom in order that it may flower, and benefit from its legitimate autonomy of action, in conformity with its own principles. Thus culture has the right to a certain inviolability on condition, evidently, that it safeguards the rights of the person and of society, particular or universal, within the limits of the common good.

In this spirit, Canon 803 of the 1983 Code makes clear that the Bishops Conferences will see to it that Catholic university institutions are places "in which the various disciplines are to be investigated and taught with due regard for their academic autonomy, and with due consideration for Catholic doctrine". This ethic of university culture should permeate the whole educational effort in both primary and secondary schools as well as in seminaries.

Nevertheless, canon law promotes and protects culture. In fact, Vatican I in its Constitution *De Fide Catholica* taught that the Church "considers it to be her duty to help and promote the culture of sciences and arts".⁴¹ Canon 807 of the 1983 Code speaks of the contribution of universities erected or directed by the Church "to a higher level of human culture". Within the framework of the canon law of the temporal goods of the Church, Canon 1283 relative to the administration of ecclesiastical goods insists on the preservation of goods which

³⁸ *Dei Filius*, in Denzinger, 1795, 3015, 3019.

³⁹ 44-47.

⁴⁰ "Constitution *Gaudium et spes*", 59, 2-3.

⁴¹ c. IV, commenté par Raoul Naz dans son *Traité de droit canonique*, 1948, p. 156, note 4.

are “either precious or of a significant cultural value”.⁴² This helps explain the decision of Pope John Paul II on the 28 June 1988 to constitute the Pontifical Commission for the Conservation of the Artistic and Historical Patrimony of the Church.

The Church wants to protect and promote culture as a possible privileged meeting point between persons of different philosophical or religious convictions. Thus, a new Pontifical Council for Culture was created on 4 May 1983 from the union of the previous Pontifical Council of Culture, created in 1982, and of the Pontifical Council for Dialogue with Non-Believers. In this regard, Pope John Paul II wrote that he seeks to “promote the encounter with non-believers in the privileged domain of culture, which forms a fundamental dimension of the spirit, linking men (and women) together, and uniting them in that which is most important to them, their common humanity”.⁴³

Canon law defines the conditions of responsibility of educators, teachers and especially for those who teach and undertake university-level research in the field of the sacred sciences. The Second Vatican Council, following the First Vatican Council, has recognised that there are two distinct orders of knowledge, that of faith, and that of reason. Thus “the Church certainly is not opposed to the arts and human disciplines having their own proper principles and methods in their respective domains”.⁴⁴ Both Councils in fact speak of a just freedom. In its turn, Canon 218 of the 1983 Latin Code declares that, *par excellence*, “those who are engaged in the sacred disciplines enjoy a lawful freedom of inquiry and of prudently expressing their opinions on matters in which they have expertise, while observing a due respect for the Magisterium of the Church”. The 1989 Instruction of the Roman Congregation for the Doctrine of the Faith, speaking on the vocation of the theologian, also respects this fundamental principle, while recalling the duties inherent in the responsibilities of those who are teachers and researchers in the sacred sciences.⁴⁵ For educators and teachers, especially those who teach in Catholic educational bodies, the supreme legislator of 1983 also insists on the required personal qualities. Canon 803 provides that “teachers are to be outstanding for their correct doctrine and integrity of life”. Canon 804 then entrusts to the bishop the task of ensuring “that those who are assigned as religion teachers in schools, even in non-Cath-

42 Henri Kraus, *A prix d'or. Le financement des cathédrales*, coll Histoire (petite), éd. Cerf 1991, 368 pages; “Les bibliothèques ecclésiastiques dans la mission de l’Eglise. Lettre de la Commission pontificale pour les biens culturels de l’Eglise”, in *La documentation catholique*, N 2095, 1994, pp. 51 O-51 G.

43 “Motu proprio *Inde a pontificatus*”, in *La documentation catholique*, N 2074, p. 551.

44 “Constitution *Gaudium et spes*”, 59 § 3; cf. Vatican II, Constitution dogmatique *Dei Filius*, IV, § 1795 (301 5, 301 9).

45 Instruction de la Congrégation romaine pour la Doctrine de la foi, *La vocation ecclésiastique du théologien*, coll Documents des Eglises, éd. Cerf, 1990, 48 pages.

lic ones, be outstanding for their correct doctrine, their witness of Christian living and their pedagogical skill". Canon 805 adds that "the local ordinary has the right to name or approve teachers of religion and likewise to remove or to demand that they be removed if it is required for reasons of religion or morals". For teachers in Catholic universities, Canon 810 insists on their scientific and pedagogical capacity as well as the integrity of their doctrine and the probity of their lives.

Teachers are also subject to the cultural crisis.⁴⁶ They may thus embrace lifestyles which risk becoming a counter-witness at the heart of the Church's educational family of the values that she wishes to promote in Catholic schools. However, international conventions on non-discrimination protect the private lives of teachers.⁴⁷ The principals of Catholic schools are considered in French labour law,⁴⁸ for example, as key personnel who are consequently expected to show a stronger adhesion to the values of the institution—in this instance a Catholic one—which has entrusted them with a responsibility. From the point of view of the Church, such a position is considered to be a public office in canon law.⁴⁹

All the same, in a case where a failing is noted, but in which there is no scandal being caused, the diocesan bishop could, by means of a dispensation, in certain cases maintain in office a person such as the principal of a school. Such a dispensation would be granted after a process of discernment *intuitu personae* and *ad casum*, exercised under the jurisdiction of the diocese responsible for the school. The dispensation would be justified as long as the principal involved continued to show that he otherwise continued to possess the necessary qualities for his post as the principal of a Catholic school. The Catholic character of a school must be protected, but the bishop should not be ill-advisedly deprived

⁴⁶ "Face à la culture de violence, message pastoral des évêques des Etats-Unis", in *La documentation catholique*, N 21 09, 1995, pp. 130-137.

⁴⁷ Jean Savatier, "L'application du droit du travail dans les rapports entre les maîtres et les établissements privés d'enseignement sous contrat d'association", in *Droit social*, N 5, 1992, pp. 439-445; Georges Dole, "La liberté d'opinion et de croyance en droit comparé du travail", *ibid.*, pp. 446-449.

⁴⁸ Cour d'appel de Montpellier, 18 février 1988 cit. par Aurélie de Saint-Exupéry, "La jurisprudence française et le caractère propre de l'enseignement catholique", in *L'année canonique*, T. XXXVII, 1994, à paraître; à propos des directeurs d'écoles catholiques, la Cour d'appel a pris en considération le fait que l'organisme employeur du directeur (organisme de Gestion de l'Enseignement Catholique) prévoit dans ses statuts que "la nomination ou le licenciement d'un chef d'établissement exige l'accord de l'autorité de tutelle" à savoir l'autorité diocésaine ou l'institut religieux délégué à cet effet. Pour la Cour, cet organisme de gestion du lycée catholique a reconnu dans ses statuts civils l'autorité canonique du diocèse catholique; que les statuts civils de cet organisme de gestion, employeur du directeur, interdisent à cet organisme de recruter ou de licencier un directeur sans retrait préalable d'agrément dûment délivré par l'autorité canonique (la *missio canonica* signée par l'évêque si la tutelle canonique est directement diocésaine et non pas confiée à un institut de vie consacrée).

⁴⁹ Patrick Valdini (Dir.), "Statuts civil et canonique des animateurs pastoraux", in *L'année canonique*, XX XV, 1992, pp. 1-126.

of his right to grant a canonical dispense. In such a delicate matter, it would be important to also give pastoral attention to the cultural context of a Catholic school.

An appropriate application of canon law could give precious assistance in such cases, for example in creating or defining a canonical status for the person at fault. Instead of either systematically practising exclusion or pretending to ignore the fault, the ordinary, who is responsible for the Catholic character of confessional schools, could concretise his own canonical and pastoral responsibility as well as the situation of the persons and institutions concerned by these difficulties of respecting Catholic morality in confessional Catholic educational institutions. Canon law could respond in this way to cultural mentalities which today are more attentive than ever to the ethical comportment of the bishop with respect to both persons and institutions.

Canon law needs also to appreciate the culture of different states. In the steps of Leo XIII, Pope John Paul II returns to this question in his Encyclical *Centesimus Annus* of May 1991.⁵⁰ In line with the culture of a particular state, the specifically Catholic character of a confessional school will be taken into consideration to a greater or lesser extent. In the French system of separation between religions and the state, for example, it is worthwhile to consider how French jurisprudence would deal with a problem. What would happen, for example, in a case in which a civil body of management in charge of a Catholic school dismissed the school principal because the bishop had withdrawn his *missio canonica* on the grounds that the principal had become a remarried divorcee? In the case of a sacristan without a *missio canonica*, but who was a practising homosexual, a civil judge overruled the dismissal, because in the judge's view there was no open manifestation of trouble in that case.⁵¹ Since that case many Catholic institutions who employ lay people in services or even in ecclesiastical offices prefer to proceed through arbitration in cases of dismissal in order to avoid the risk of a negative response from a civil judge before whom such a dismissal may be brought for judgment.⁵² These incidents

⁵⁰ Jean-Paul II, "L'Etat et la culture", in *Le centenaire de "Rerum novarum"*, lettre encyclique "Centesimus annus" (1er mai 1991), coll. Documents des Eglises, éd. Cerf, 1991, pp. 90-107.

⁵¹ Cour de Cassation (Chambre sociale), 17 avril 1991, in *Gazette du Palais*, 13 août 1991, pp. 8 et 9, note Olivier Echappé, cf. note Seriaux in *Jurisclasseur périodique*, 1991, II, 21724. La chambre sociale s'est prononcée en faveur du pourvoi formé par le sacristain contre l'arrêt de la Cour d'appel de Paris du 30 mars 1990. "aucun trouble caractérisé au sein de l'association n'avait été créé par la conduite privée de sacristain salarié". La Cour de renvoi a estimé que le licenciement n'était point justifié étant donné que l'association avait pris connaissance des moeurs du sacristain à la suite d'indiscrétions.

⁵² Secréariat général de l'Episcopat, *Laïcs chargés d'une mission dans l'Eglise*, éd. Paris, juin 1995, 40 pages.

illustrate well the question of the evolution of culture and labour law in such a state.

Canon law also promotes the scientific standing of the various Catholic educational institutions. Canon 806 § 2 provides that “ the directors (principals) of Catholic schools, under the vigilance of the local ordinary, are to see to it, that the instruction given in them, is at least as academically distinguished as that given in the other schools of the region ”. Canon 807 takes a similar line.

Throughout the history of the Church, canon law has often been called upon to settle conflicts, which were eminently cultural conflicts, and which have sometimes had considerable impact on mentalities in succeeding centuries. It is not necessary in this present Mexico congress, nor in this particular paper, to demonstrate the importance of such canonical arbitrations in cultural or educational matters. Here I will only mention a few especially significant interventions of the Church. One of the most important of these interventions for theology, piety, religious education, and culture, was during iconoclastic dispute, when the Church decided in favour of the protection of the icons. This took place at the Second Council of Nicaea, during its seventh session, on 13 October 787. The Council that day decreed that the veneration of icons of Christ, the Virgin, of angels and saints was justified by virtue of the Incarnation, that such veneration in no way constituted idolatry since “ the homage rendered to the icon is directed to its prototype ”, and that such veneration was not only permissible but necessary: to refuse it amounting to a denial of the incarnation of the Word of God.⁵³ Moreover, we should mention here the canon law concerning missions, and its numerous adaptations as well as the riches of canon law in general.⁵⁴ Another famous episode was the ecclesiastical process in 1633 against Galileo who had espoused the astronomical model proposed by Copernicus.⁵⁵ It would be necessary also to mention the quarrel concerning the Chinese rites.⁵⁶ And what of the declaration *Sollicitudini Nostrae* by Pope Benedict XIV in 1745, where he specified the manner in which the Holy Trinity

⁵³ François Boespflug & Nicolas Lossky (Dir.), *Nicée II (787-1987), douze siècles d'images religieuses*, coll. Histoire, éd. Cerf, 1987, pp. 7 et 8; l'Église est intervenue par excellence à la fin du XII^e et au début du XIII^e siècle pour réguler les récits de vie de saints. Cf. Innocent III, la bulle *Licet apostolica Sedes* de l'été 1202 citée par Alain Boureau, *La légende dorée. Le Système narratif de Jacques de Vorragine (+ 1298)*, préface de Jacques Le Goff, coll. Histoire, éd. Cerf, 1984, pp. 218 et s.

⁵⁴ Paul Coulon & Paul Brasseur (éd.), *Libermann, 1802-1852: Une pensée et une mystique missionnaire*, préface de Léopold Sédar Senghor, coll. Histoire, éd. Cerf 1988, 938 pages; Jean-Paul II, *La mission du Christ rédempteur*, présentation de Claude Geffré O.P., coll. Documents des Eglises, éd. Cerf, 1991, 134 pages.

⁵⁵ *The Galileo Galilei Affair. A meeting of faith and science. Proceedings of the Cracow Conference*, 1984, G. Coyne, M. Heller, M. Zycinski éd., Vatican Observatory publications, vol. 1, N°3, 1985; W. Brandmüller, *Galilée und die Kirche oder das Recht auf Irrtum*, éd. Pustet, 1982.

⁵⁶ Michel Masson, “ Les jésuites en Chine ”, in *Études*, 1990, pp. 667-678.

may be represented aesthetically for the devotion of the faithful —another constant pedagogical concern of the Church? The Council of Trent had already urged more rigour in religious iconography. Professor Chastel wrote concerning this: “We forget too often that in the West —as opposed to in Greek Christianity— the theology of images has always bowed to traditional practice, *consuetudo*.”⁵⁷ Here we should note also that it was Benedict XIV who ordered in 1741 that the Holy Office should give its *imprimatur* to the first edition of *The Complete Works of Galileo*, recognising the optical proof of the fact that the Earth orbits the Sun.⁵⁸ And it was Pope John Paul II himself who carried out the final rehabilitation of Galileo.⁵⁹ The beginnings of a more anthropological approach to culture can also be discerned through a rereading of the teachings of the magisterium from Leo XIII to John Paul II.⁶⁰

It is important to take note of an important pontifical arbitration during the 19th century concerning the presence of the pagan classics in the programmes of Catholic colleges. Mgr Jean-Joseph Gaume was unable to secure from Pope Pius IX that they be excluded in favour of exclusively Christian authors, preferably the fathers of the Church. Nor did Mgr Gaume succeed in obtaining from Pius IX that a pontifical instruction be sent to the bishops of the whole world containing the pope’s response on this question, a response which was in the end quite moderate. As Daniel Moulinet explained in 1995,⁶¹ Pope Pius IX only wrote two letters on this matter —one letter of encouragement for the

⁵⁷ Préface d’André Chastel à: François Boeplflug, *Dieu dans l’art “Sollicitudini Nostrae” de Benoît XIV (1745) et l’affaire Cescence de Kaufbeuren*, postface de Léonid Ouspensky, coll. Histoire éd. Cerf, 1984, 379 pages.

⁵⁸ Comme l’écrit le Cardinal Paul Poupard en 1992 (note suivante) la réforme implicite par le Pape Benoît XVI de la sentence infligée à Galilée en 1633 a été explicitée dans le décret de la Sacrée Congrégation de l’Index qui a retiré de l’édition de 1757 du *Catalogue des livres interdits* les ouvrages en faveur de la théorie héliocentrique. (p. 341).

⁵⁹ Paul Poupard, “Discours au terme des travaux de la Commission pontificale d’étude de la controverse ptoléméo-copernicienne aux XVI^e-XVII^e siècles”, in *Le Supplément. Revue d’éthique et théologie morale*, Ns 182-183, 1992, pp. 338-342; Jean-Paul II, “La conclusion de la session plénière de l’Académie pontificale des sciences” (31 octobre 1992), *ibid.*, pp. 343-352.

⁶⁰ Denis Maugeness S. J (Dir.), *Le discours social de l’Eglise catholique de Léon XIII à Jean-Paul II*, coll. Eglise et société, éd. Le Centurion/CERAS, 1985, p. 712.

⁶¹ Pie IX, “Encyclique *Inter multiplices*” (21 mars 1853) in *Annales de philosophie chrétienne*, t. 46 N 40, avril 1853, pp. 297 ets.; Daniel Moulinet, *Les classiques païens dans les collèges catholiques? Le combat de Mgr Gaume*, préface de Jean-Marie Mateur, coll. Histoire religieuse de la France, éd. Cerf, 1995, 485 pages. Daniel Moulinet y cite la lettre du Pape Pie IX au Cardinal d’Avanzo de 1874; cette lettre atteste que c’est l’enseignement mixte des deux littératures qui est la pratique traditionnelle de l’Eglise: “La coutume constante de l’Eglise a été d’apprendre le latin aux enfants par l’étude mixte des auteurs sacrés et classiques”. (p. 317). Le Pape s’en tient à la pédagogie et évite de se prononcer en effet sur la position de l’Eglise face au paganisme; voir aussi par ailleurs Hélène Toubert, *Un art dirigé. Réforme grégorienne et iconographique*, coll. Histoire, éd. Cerf, 1990, 400 pages; Louis Doutreleau, “L’assemblée du clergé de France et l’édition patristique grecque au XVIII^e siècle”, in Emmanuel Bury & Bernard Meunier (Dir.), *Les pères de l’Eglise au XVIII^e siècle*, coéd. IRHT-Cerf, 1993, pp. 99-116.

use, alongside the profane authors, of a selection of Christian writers, and another letter to recognise that the use of both kinds of literature conformed with Church custom. The Jesuits in fact minimised the importance of these two pontifical letters, considering them as simply personal letters and applicable only to the formation of future priests. In 1990, the Roman Congregation for Catholic Education published a very balanced instruction "The Study of the Fathers of the Church in Priestly Formation".⁶²

In any event, the efforts of the Holy See in its attention to culture have led to the creation of its pontifical academies⁶³ and also to the foundation of the Pontifical Council for Culture, which is particularly attentive to questions of inculturation.⁶⁴ Who can anticipate the results of this contemporary research with respect to inculturation, especially in Africa, in the Americas and in Asia?⁶⁵

We can also note that the canonical legislator insists in the field of education, even school education, on the impact of ecumenism.⁶⁶ He also insists on the cultural effort undertaken in favour of the Oriental Churches, and of a knowledge of the canonical institutions of these Churches, including those united to Rome and all others.⁶⁷ Finally, the legislator emphasises the task of the Church in favour of an education open to inter-religious dialogue.⁶⁸

The history of the relations of the Catholic Church and culture bears witness to a growing interest in culture on the part of the Church, and particularly of canon law. This interest has grown in importance in the face of the particular problems which have confronted both school and university education, which

⁶² N 2001, 4 mars 1990, pp. 262-273; Lettre des évêques aux catholiques de France, "Les pères de l'Église dans notre culture", in *La documentation catholique*, N 2084, 1993, pp. 1070-1072; Michel Fédoou S.J., "Les pères de l'Église dans la culture contemporaine", in *Études*, 381/3, 1994, pp. 629-636.

⁶³ Régis Ladoux, *Des Nobel au Vatican. La fondation de l'Académie pontificale des sciences*, coll. Histoire, éd. Cerf, 1994, 224 pages.

⁶⁴ Jean-Paul II, "Motu proprio *Inde a pontificatus*. Union des Conseils pontificaux de la Culture et pour le dialogue avec les non-croyants" (4 mai 1993), in *La documentation catholique*, N 2074, 1994, pp. 551-552; ce motu proprio modifie la constitution apostolique *Pastor Bonus* de 1988.

⁶⁵ Claude Pairault S.J., "Questions sur l'inculturation", in *Revue de sciences religieuses*, 83/1, 1995, pp. 61-72.

⁶⁶ *Directoire oecuménique: introduction et applications à la situation française*, présentation par le Cardinal Cassidy, coll. Documents des Églises, éd. Cerf, 1994, 194 pages; La méthode oecuménique qui réserve une place considérable à l'éducation concernant l'oecuménisme, implique notamment une relecture en commun par les Églises séparées de leurs divisions: par exemple, l'existence de communautés nestoriennes et monophysites est une invitation à la relecture de l'histoire qui a entouré les Conciles d'Éphèse et de Chalcédoine (Cf. "Déclaration commune" signée le 10 mai 1973 par le Pape Paul VI et le Patriarche Shénouda III), in *La documentation catholique*, N 1683, 2 juin 1973, pp. 514-516; Jean-Paul II, *Qu'ils soient un*, présentation par Bernard Dupuy O.P., coéd. Cerf-Flammarion, 1995, 109 pages 109 pages.

⁶⁷ Jean-Paul II, "Évangile, Église et culture", in *La lumière de l'Orient*, présentation de Mgr Bernard Dupire, coll. Documents des Églises, éd. Cerf, droit canonique, 45/1, 1995, pp. 163-174.

⁶⁸ A.-Henry O.P. (Dir.), *Les relations de l'Église avec les religions non chrétiennes, Déclaration "Nostra aetate"*, coll. Unam sanctam 61, éd. Cerf, 1966, 325 pages; Jean-Paul II, "La révélation de la Prière. L'appel universel à la prière", in *Catéchisme de l'Église catholique*, coéd. Mame-Plon, 1992, p. 521.

have both faced heavy competition from other cultural outlets⁶⁹ or media. This interest in culture presupposes the Church's respect and also its vigilance in this regard.

2. Religious Culture and Catholic Education at School

Universal positive canon law employs various terms in this context, such as "general culture", for example in CIC 1983 Canon 248, or "higher level of human culture" (Canon 807), or "significant cultural interest" (Canon 1283), and also "cultural upbringing" (Canon 1136). Canon law also speaks of "Christian culture" (Canon 821) within the context of the establishment by the Church of higher education in the sacred sciences. Canon 821 uses three significant terms: "religious sciences", "theological disciplines", and "other disciplines pertaining to Christian culture". From this canon, we can see that the notion of Christian culture in no way constitutes a call for the Catholic or Christian world to close itself off from the world. As in Canons 800, 802 and 807, Canon 821 places Catholic educational institutions at the centre of a whole network which includes freedom of teaching, freedom of the Church, and above all freedom of religion. When Catholic schools are established, it is in order to promote the whole of culture (Canon 800 § 1), and thus to offer an appropriate Catholic education.

With respect to education, the Latin Code (*Codex Iuris Canonici*) and the Eastern Code (*Codex Canonum Ecclesiarum Orientalium*) present two priorities for total or integral human development. The first of these priorities calls for an education imbued with a Christian spirit as a minimum, and better still for a complete Catholic education. The Code's second priority is for the promotion of culture itself. The foundation of Catholic teaching establishments can be justified in a number of ways. One of these justifications proceeds from the implementation of the principle of the innate right of the Church itself to found and direct Catholic and ecclesiastical schools, seminaries, and universities. A second justification arises from the necessity to respond to the absence of public and private non-confessional schools offering an education imbued with a Christian spirit. Another justification would be the need to provide for the absence of higher level teaching in the sacred sciences. As for the foundation of seminaries, the justification is particularly evident.⁷⁰ Catholic establishments

⁶⁹ Paul Watrelot S.J., "Y a-t-il encore des collèges jésuites en France ?" in *Etudes*, 356/5, 1982, pp. 675-685.

⁷⁰ Canon 1364 du Code de 1917, Dans les classes inférieures du séminaire: 1 " L'enseignement de la religion doit avoir la place principale, et elle doit être expliquée très diligemment, d'une manière adaptée à l'âge et à l'esprit de chacun", 2: " L es élèves doivent apprendre avec soin surtout la langue latine et la langue du pays"; 3 " Dans les autres disciplines, on doit donner une formation en rapport avec la culture commune

must be at least as competent as other equivalent institutions, however, this does not imply a spirit of competition with other establishments for education, teaching and research.

Professor Lamberto Echeverría, commenting on Canon 793 of the 1983 used to insist on the importance of Canon 217 according to which Christian education is a right that a Christian may demand by reason of his baptism.⁷¹

The end of the 19th century and the beginning of the 20th century saw another kind of dispute illustrated very well in France in the life of a certain Monsieur Portal.⁷² This dispute centred on the following questions: Was it necessary to try to rebuild the "Christian city"? Or was it sufficient to simply try to provide a Christian inspiration for a secularised and pluralist society? Choosing the second alternative does not in canon law exclude the possibility of choosing to found and direct confessional establishments. On the contrary, it is the fortress mentality which the spirit of Vatican calls us to eliminate. The establishment of confessional institutions, therefore, retains all its validity as an original pastoral method.

In the 19th century, on the occasion of the polemic concerning the presence of the classics within the teaching programme of Catholic schools, two contrasting conceptions of education arose. On one hand, education was conceived as the transmission of a certain culture. On the other hand, education was thought of a possibility offered to a student to develop himself or herself as a person.⁷³ The Catholic school, as defined in Canon 803 of the Latin Code, is invited by Vatican II and by the canonical legislator to put into practice freedom of teaching, but also to reconcile Catholic education and culture. Today, when a non-confessional school is capable of giving a Catholic education, it is a question of a non-Christian culture granting a place to Christian culture. This implies the necessity for reconciling neutrality in philosophical and religious matters with the demands of cultural and religious non-discrimi-

de tous et l'état des clercs dans la région où les élèves doivent exercer le saint ministère". Cf. le canon 248 du Code latin de 1983 parle de "Culture générale".

⁷¹ *Code de droit canonique annoté* (version francophone, Jean-Paul Durand O. P. Dir.), coéd. Cerf-Tardy, 1989, p. 466.

⁷² Régis Ladoux, *Monsieur Portal et les siens (1855-1920)*, préface d'Emile Poulat, coll. Histoire, éd. Cerf, 1985, 521 pages.

⁷³ Daniel Moulinet, *Les classiques païens dans les collèges catholiques? Le combat de Mgr Gaume*, 1995, op. cit., p. 340; Henri-Irénée Marrou, *Saint Augustin et la fin de la culture antique*, éd. De Boccard, 1938, pp. 397 et s.; et *Histoire de l'éducation dans l'Antiquité*, éd. Seuil, 1965, 2^e éd., pp. 458 et s. Jean-François Gilmont, *La Réforme et le livre*, coll. Histoire, éd. Cerf, 1980, 500 pages; Frédéric Delforge, *Les petites écoles de Port-Royal, 1636-1660*, préface de Philippe Sellier, coll. Histoire, éd. Cerf, 1885, 440 pages; Martine Sonnet, *L'éducation des filles au temps des Lumières*, préface de Daniel Roche, coll. Histoire, éd. Cerf, 1987, 368 pages; Jean Delumeau (Dir.), *La religion de ma mère*, coll. Histoire, éd. Cerf, 1992, 400 pages; Madeleine Singer, *Le GEN de 1937 à mai 1986*, coll. Histoire, éd. Cerf, 1993, 360 pages; Gérard Defois, *Pour une éthique de la culture*, coll. Eglise et société, éd. Le centurion, 1988, 132 pages.

nation. At certain times, the question has arisen also of how to reconcile these values in the climate of modernity. In fact, St Thomas Aquinas had already provided a basis for this reconciliation in his *Contra Gentiles* (III, 76) and in his *Summa Theologica* IIa IIae, 49, 6 where he spoke of the free exercise of reason, aided by grace, thus opening up an extremely profound approach. By its very vocation, Christian faith is open to culture.⁷⁴ This link between Christian faith and culture was particularly remarked upon by Pope John Paul II in his Apostolic Constitution *Sapientia Christiana* of 1979 in relation to universities and ecclesiastical faculties.⁷⁵ The Apostolic Constitution *Ex Corde Ecclesiae* of 1990 on the Catholic university at the service of culture, of society and of the Church also illustrates admirably the universal vocation of every Catholic institution for education, teaching and research. This apostolic constitution declared that the Catholic university constitutes the first and privileged place of fruitful dialogue between the Gospel and culture.⁷⁶

But the school, and indeed the university itself, are always left behind by culture. In France on the eve of the French Revolution in 1789, there were a number of existing universities, which have often been unjustly denigrated. However, it is true that a number of new intellectual centres had developed outside these universities, and the universities often ignored these new centres. For example, in Paris, knowledge was far more highly developed at the College de France. In fact, throughout Europe in the 18th century a number of academies, scientific centres, or "salons" were created as Professor Jean Gaudemet noted in 1990.⁷⁷ Thus the suppression of the University of Paris on 15 September 1793 passed nearly unnoticed.

In March 1995, the theologian Claude Geffré, working on a definition of culture, wrote:

If culture is invested with such prestige at least in our western societies, it is because it exercises an eminent social and anthropological role, assuming in part the educational role which formerly belonged to religion and the school.⁷⁸

74 Jean-Marie Aubert, "Morale chrétienne et morale laïque", in Jean-Paul Durand O.P. (Dir.), "De la morale laïque", *Le Supplément, Revue d'éthique et théologie morale*, N 164, 1988, pp. 73-82.

75 *La documentation catholique*, N 1766 1979, p. 551.

76 *La documentation catholique*, N 2015, 1990, p. 940.

77 Jean Gaudemet, "Les universités et la vie politique (XIII^e-XVIII^e siècles)", in *I poteri politici e il mondo universitario (XIII-XX secolo)*, Rubbettino, 1994, p. 16. Pour défendre la cause des universités de cette époque: J. de Viguérie, "Quelques remarques sur les universités françaises au dix-huitième siècle", in *Revue historique*, N 262, 1979, pp. 29-49.

78 Claude Geffré "La rencontre du christianisme et des cultures", in *Revue d'éthique et de théologie morale*, "Le Supplément", éd Cerf, N 192, mars 1995, pp. 69-92; Claude Langlois, François Laplanche et Claude Bénichou, *La science catholique: l'Encyclopédie théologique de Migne (1844-1873) entre apologétique et vulgarisation*, coll. Histoire, éd. Cerf, 1992, 286 pages.

Here, I take note of a first challenge for Concordat law⁷⁹ and civil ecclesiastical law.⁸⁰ This challenge arises from the fact that the canonist is no longer in presence of a simple relationship between school and religion, a relationship within which religion has traditionally had to find its own way, its role, its freedom, and its authority. Now it is this very link between school and culture which is undergoing a profound transformation. Another challenge for the canonist consists in the realisation that religion — exactly like the institution of the school — risks to be left behind by culture in the view of many of our contemporaries. At least this is the view of political scientists and ecclesiastical leaders. And the risk is even greater today than in the past that culture will succeed in reducing religion solely to its cultural dimension.

However, rather than denying religious belief, culture could also be seen or understood as a place for religious belief, and of its inheritance. We know that there is no religion without culture, no Christianity in fact without culture. A Christianity empty of culture or separate from culture has never existed. This dialogue with the theologians will continue. Claude Geffré has written that “every culture necessarily has a privileged link with life, history, ethics and religion”.

For its part, rather than denying culture, Catholic education acknowledges the human being as the way of the Church. A document from the dicasteries dated 22 May 1994, on the subject of *The presence of the Church in the University and in University Culture*⁸¹ insists on the ecclesial dimension, recalling the proper responsibility of the bishop, and of the pastoral support of the parish priest, both of whom are directly concerned with Catholic universities which are present on their diocesan and parish territories. Without promoting proselytism, it is a question of insisting on an ecclesial presence at the heart of the university institution and at the heart of the university culture, which are still subject to a number of crises. Here again, the Church wants to make a contribution to university culture so that the latter will be enabled to regain its intellectual, moral, physical and spiritual health. The Church's concern for the university cannot help but reflect also on the school. On this point, the Roman Congregation for Catholic Education spoke clearly in 1977, stating that the school should be understood as a place for humanisation and not simply as a place for the assimilation of culture, without encouraging the faithful to develop a critical sense with respect to culture itself.⁸²

79 Rolland Minerath, *op. cit.*

80 Francis Messner, *op. cit.*

81 *La documentation catholique*, N 2097, 1994, P. 609; Pierre Eyt, “Le ‘caractère propre’ de l’enseignement catholique dans la société civile et dans l’Eglise”, in *ECD*, 1862, 1993, pp. 13-20.

82 *La documentation catholique*, N 1725, 1977, p. 708. Un exemple d’attachement particulier à l’école: André Lanfrey, *Les catholiques français et l’école (1902-1914)*, éd. Cerf, 1990, 2 vol.

It is in the educational field that the canonical status for the protection of culture best demonstrates the links that need to exist between the Church and its own religious culture, which should not be confused with catechesis. The Church considers religious culture to be a part of culture as a whole. She therefore engages in dialogue with religious culture and may have the duty to criticise it using the appropriate cultural tools. This cultural dimension also stimulates the Church to deepen her religious education as well as her catechetical teaching, her sacred sciences and her magisterium. The Church can only benefit from this dialogue with the different cultures.

Canon law distinguishes the teaching of religious culture from that of catechesis and the sacred sciences, even if the difference is not always clearly established when two or even three kinds of teaching are given by the same canonically appointed teacher. Canon law, as we know, carefully and strictly protects the status of catechisms. Similarly, nor can the Church remain indifferent to the teaching of non-catechetical religious culture. The Church has always had the duty to research the canonical and civil means which will permit her to guarantee as far as possible the doctrinal correctness of her religious catechetical teaching. This duty also extends to the field of non-academic religious culture as well as the teaching of university level sacred sciences in institutions which the Church has not created, and does not direct herself. Here also, depending on the pedagogical and academic culture of a region, the gap or distance varies to a greater or lesser extent between the upper classes of secondary schools and the lower classes of a university.

In any case, only a catechesis in organic communion with the bishops concerned can be considered to be Catholic. This principle applies *a fortiori* to the teaching of religious culture, and still more to the university-level sacred sciences. We will not discuss in this paper the specific problems posed by university teaching and research in the sacred sciences. Having said that, however, Church doctrine, as taught in schools, seminaries and universities, must also be understood first of all as a cultural discipline. However, this cultural approach does not allow the Church to abdicate its pastoral and doctrinal responsibilities, once the doctrinal content has become the object of an educational, pedagogic, or scientific treatment. We know how much the canon law wishes to protect the confessional status of the Church's doctrine, without this protection in any way denying the cultural dimension.

According to the cultural areas of different regions of the world, attention needs to be paid not only to linguistic differences, but also to possible disparities between the typologies of categories, such as those concerning the catechesis of children, adolescents, students and adults. Attention also needs to be paid to the differences between non-confessional religious cultures, or between non-

university and university religious cultures, etc. These organic developments have been studied by Professor Giorgio Feliciani in the review *Ius Ecclesiae* in 1994. Before developing this reflection further, it would also be necessary to establish classifications of these typologies, and to compare them in the light of geographical or cultural areas.

CONCLUSION

Professor Giorgio Feliciani has deplored the absence in canonical doctrine of studies bearing on the nature of the teaching of Catholic religion. His recent (June 1994) article in the review *Ius Ecclesiae* has contributed to enlighten us on the canonical aspects of this question. Thus, I have chosen not to return to this point in detail, except in so far as this question concerns the links between the school and culture.

It was necessary in the first part of this presentation to situate school education within the context of the whole education system, which led me to emphasise the need for parental mediation. In the second part, I did not wish to deal with the epistemological problems involved with particular aspects of university teaching and research of the sacred sciences. Rather, granted that catechesis and seminary training has already been well-studied elsewhere, my point was to examine the links between the aspects of culture which are confronted in the field of education and properly religious culture.

It was necessary to take note also of the fact that the distance or separation between the school and the university varies according to different cultural traditions present throughout the world. Subject to this reservation, I have presented the Catholic school in so far as it impinges directly on culture.

But we also noted that the Church has addressed itself to schools of non-Christian culture in order to recall the place that the Church asks them to reserve to Christian culture. This intervention by the Church sought to guarantee the possibility of Catholic education in those places where the parents are required to make use of public schools. As Pope John Paul II has remarked in the Constitution *Ex Corde Ecclesiae*, this approach needs to be seen as part of a disinterested search for the truth.

Canon 797 of the Latin Code spoke of asking for subsidies, or a share of resources, from each civil society concerned. Rector Patrick Valdrini, president of the Catholic Universities in France, as well as Monsieur Pierre Daniel, the secretary-general of Catholic Education in France for school affairs, have both necessarily supported this claim for assistance, but from different civil juridical viewpoints. This is because free or private secondary education does not have

the same juridical status in France as free or private higher level (university) education.

Here we can see again the influence of a nation, a state, a people and its history. The State, taking its position from its anti-clerical past, will still in principle protect the youngest pupils at a public “lay” school from religious influences, for example, while senior (university level) students will be left to decide for themselves. In any event, subsidies come in the first instance from a law in favour of school education.

In the second instance, however, subsidies are seen as relatively discretionary grants in view of the public interest that the presence of a confessional university level theology is held to represent in a country like France.

Rector Valdrini, in his inaugural speech opening the 1994 academic year, wanted to go beyond this single dimension of support of the public general interest in theology. He preferred instead to emphasise the fact that the Catholic university, including the school of chemistry, provides a total educational environment. According to the argument of Rector Valdrini, it is this whole (and original) environment which provides a global criterion that could be of interest to a government, a Parliament, or public opinion. These partners would then perhaps become more open to being convinced of a duty also to support a “private” initiative such as a Catholic university (even if canon law still considers such an initiative as belonging to public law).⁸³

As for schools in charge of young pupils, the dialogue with culture continues: pedagogical culture, political culture, social culture, culture of the mind, religious culture.

In France once again, a recent issue has been the expulsion from lay public schools of young girls wearing the so-called Islamic veil. Monsieur Pierre Daniel issued a statement to the effect that a circular from the Minister of National Education, Monsieur François Bayrou, issued 20 September 1994, did not concern Catholic teaching institutions.⁸⁴ The reasoning here corresponds to the culture of the civil juridical system. French law introduces controls solely with respect to the teaching programme of Catholic institutions, and not on their internal organisation and life. It is the classes and not the establishments themselves which form the object of the contracts in force since 1959 between the State and each Catholic school establishment. The confessional specificity—the specific character—of the educational community takes its form by means of the free organisation of the establishment as a free or private school. On the

⁸³ *Revue de l'Institut catholique de Paris*, N 53, 1 et 3 1996, pp. 159-162.

⁸⁴ *Le Monde*, 7 novembre 1994, p. 8.

other hand, secular teaching must obey the criteria of republican neutrality and “laicity” from the religious point of view.

It is up to the school in its global pedagogy to offer a framework for dialogue with culture, and especially with the different secular sciences, as well as with other philosophical and religious traditions. Religious culture and catechesis, in these conditions, have a tendency to separate themselves to a certain extent, but this is by no means the rule in Catholic schools under the French law of 1959. In this context, the Catholic school has been better able (than the State school) to handle the problem of the Islamic veil. There is no insuperable problem in receiving Muslim girls in Catholic private schools, provided that they have not been expelled from a public establishment for wearing ostensible signs, which would imply a lack of discretion when they seek to enrol in the free school.

I will finish this presentation with the remark of a high ranking magistrate of the republican tradition, a remark which in fact is not out of line with the Catholic ethic concerning culture. The then Vice-President of the Council of State, Monsieur Marceau-Long, wrote in 1994 with respect to the Islamic veil:

How can one say that the veil is ostentatious, but that the Kippa, the cross or the crucifix, often of large dimensions according to modern fashion, are not? The Council of State has always refused to interpret religions. If it is compelled to define the notion of ostentatious, this definition will apply to all religions, and not just to one of them.⁸⁵

⁸⁵ *Le Monde*, 20 décembre 1994, p. 14.