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THE INTERNATIONAL SECRETARIAT OF LAWYERS OF PAX ROMANA

EDWARD T. FAGAN*

IT HAS LONG BEEN THE HOPE of many Catholic lawyers in the United States, particularly those connected with the activities of Catholic lawyers' guilds, to establish a national organization to coordinate and advise the multitude of recently founded state and municipal Catholic legal groups. *The Catholic Lawyer*, from its inception, has offered its pages for the publication of articles and materials helpful to the organization and promotion of these guilds.

A national federation of Catholic lawyers' guilds may still be a long way from fruition because of the myriad problems which must necessarily be solved as a preliminary to its successful establishment. The Editors of *The Catholic Lawyer* have long felt that some impetus should be given to the promotion of the idea in this country. A step toward the accomplishment of this end is to publicize the activities of organizations in other countries which have as their purpose the same dominant theme. Therefore, to implement the policy of this publication, we will discuss the organization and activities of one such group—the International Secretariat of Lawyers of Pax Romana. While in the United States we have not developed even a national Catholic legal organization, this federation has transcended the national concept, and is truly international in its scope and operations.

In 1950, a group of Catholic lawyers met in France with the purpose of founding an international secretariat of lawyers as a part of Pax Romana, which is an intellectual and cultural international Catholic movement. In July of the following year, during the Plenary Assembly of Pax Romana in France, the International Secretariat of Lawyers was founded.

The *raison d'être* for the Secretariat is to assist in the attainment of the goals of Pax Romana and in particular:

- a) to probe, according to the Roman Catholic faith and Catholic morality, the human and social problems of special concern to the legal professions;
- b) to facilitate meetings and contacts among the Catholic lawyers

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of every country, and to establish a mutual cooperation and assistance, in order to realize Christian principles in legal science, legislative, judicial and administrative activities, especially with regard to the public and professional life of each country; and

c) to provide an international forum for the discussion of these problems and the realization of these principles.

The International Secretariat of Lawyers has its seat in Rome. Acting from this central location, it provides a link between national associations of Catholic lawyers and assists the activities of already existing organizations. It studies the fundamental principles of law according to Christian thought and proposes Christian solutions to problems raised by the legal professions. The attainment of these ends is often accomplished through meetings and congresses organized by the Secretariat.

An International Committee presides over the Secretariat. The Chairman of this Committee from 1951 to 1957 was Professor Pompe, former rector of the University of Utrecht (in the Netherlands) and professor of penal law. In 1957 he was replaced at his own request by Mr. Richard, barrister at the Appeal's Court in Paris and former Dean of the Faculty of Law of the Catholic University of Paris. The International Chaplain is the Rev. Fr. Faidherbe, a Dominican from Paris, whose article on the French Federation of Catholic Lawyers' Guilds appeared in the Winter 1956 issue of *The Catholic Lawyer*.

When a national association of Catholic lawyers is established in any country, a representative from that country can be sent to the International Committee to participate in discussions and planning. The Committee meets about every third month in Rome, Paris, Brussels and, on

occasion, in other cities, which in the past have included Rheims, Montreal, Beirut, Vienna, Louvain, Luxembourg, Bonn, Bochum and Dublin. In addition to the quarterly Committee meeting, the Secretariat has already organized four international congresses and three regional meetings.

The first congress in October 1955 at the old abbey of Royaumont and Paris studied "The Family in the Legal Order." At that congress were gathered ninety-eight lawyers from fourteen different countries. Unfortunately, only two non-European countries, Lebanon and Venezuela, were represented. In consonance with the topic under consideration at the congress, a number of reports were presented, which included: "The Government of the Family" by Professor Santoro Passarelli of Rome; "Divorce and Annulment of Marriage" by Professor Henri Mazeaud of Paris; "Children Born in the Family and Adopted Children" by Professor Klein of Germany; "Government Allowances and Financial Rights of the Family" by Professor Wortley of England and Mr. de Las Cases, barrister at the Appeal's Court of Paris.

The second congress, which took place in Rome and Ostia in October 1956, was centered on "Respect for the Human Person in the Application of Penal Law." In attendance at this congress were over one hundred Italian lawyers as well as one hundred lawyers of thirteen other nations, including Argentina, Peru, Colombia, South Vietnam and Indonesia. The first report of the congress was delivered by Professor Pompe, on "The Human Personality in Penal Law." Professor Peters of Germany spoke on "Respect for Human Personality in Legal Procedure," which was further explored by Professor Delitala

of Italy in his discussion of "Respect for Human Personality in the Application of a Sentence." In contrast to these dissertations on penal law in the free world, Mr. Pettiti enhanced the symposium with his presentation of "Penal Law in Russia and in Eastern Popular Democracies." This was supplemented by a report on "Penal Law in Bolshevik China" which was rendered by Rev. Fr. Bonnichon, former Dean of the Faculty of Law of Aurora University at Shanghai.

The texts of the report and discussions of these two congresses have been published in the review of the French Catholic lawyers, *Les Cahiers du Droit* (Centre Saint Yves, 15 rue Gay Lussac, Paris Vè.).

The third congress, in Luxembourg in September 1959, chose as its theme the important question of "Law and World Peace." It brought together twenty lawyers from Luxembourg and one hundred other lawyers from twelve different countries, such as Lebanon and Poland. It was the first time that a country behind the iron curtain was able to send delegates. It was also the first time that the congress was attended by unofficial delegates from the United States. A report on "Information of Christians about International Institutions and Problems" was presented by Professor Geiger of Germany. Mr. Brochard and Mr. Dufaux, both from Paris, compared "The Causes and Means of War" according to Marxist and to Catholic doctrines. The third report was made by the chairman, Mr. Richard, then Dean of the Faculty of Law of the University of Paris. Lastly, Professor Sperduti of Italy spoke on "Human Personality and International Law." *Les Cahiers du Droit* published only the French reports presented at this congress and at the two subsequent congresses.

The fourth international congress of the Secretariat was convened at Bochum, Germany in September 1962. The theme was "Law and Social Peace" and 130 lawyers of eleven nations were present. Dr. Jonkers of the Netherlands delivered the first report entitled "What is Social Peace? What is the Relationship Between Social Peace and Law?" Mr. Thiébauld, a Belgian barrister at law, presented the second address on "The Rights and Obligations of Property." "Social Peace and Industry" was the theme of the lecture of Professor Abraham of Germany; and the last report by Professor Fogarty of Wales concerned "Social Peace and Social Security."

The most recent international function of the Secretariat was a Franco-Italian meeting of Catholic lawyers in Italy. The three lectures delivered at this congress were: "Authority in the Church and the Freedom of Christians" by His Excellency, Msgr. Parodi, Bishop of Savona, Italy; "Authority of the State and the Freedom of Citizens" by Mr. Nicolas Jacob, barrister at law, secretary general of the Catholic Federation of French Lawyers; and "Authority of the State and the Freedom of the Church" by Professor Trotabas, Dean of the Faculty of Law and Economics of Nice, France.

The programs of these former congresses have been outlined primarily to bring to the attention of our readers the significance of the subject matter discussed and to introduce the program of the coming congress which will take place in September 1965 in Salamanca, Spain. The opening address will be given by a theologian on the subject of religious freedom as a philosophical and theological concept. Reports will then be submitted by delegates

from each attending country on the following themes:

1. Religious freedom with regard to thought, expression and communication in those countries represented at the conference.
2. Rights of parents over religious education of their children.
 - a) Public law: Rights and obligations of parents and the State.
 - b) Private law: Potential conflicts in the exercise of the right to determine education.

The following questionnaire is being sent by the Secretariat to Catholic lawyers' federations and to individual lawyers in countries where no national organizations have been formed. The questionnaire is to be used in conjunction with the discussions on the general theme of the congress. It is hoped that the resolution of these problems will be facilitated by a volume response from Catholic lawyers throughout the world.

Questionnaire

Liberty of Religion

I. *The beneficiaries of religious freedom*

1. Is everyone entitled to religious freedom? Are parents considered to have a primary right to determine the religious education of their children?
2. Has religious freedom a corollary—the right to provide religious education to those preparing for the ministry? In the event of there being a shortage of vocations, is there a right to bring into the country priests who are foreign nationals?
3. Has religious freedom another corollary—the right to prosely-

tize? Are there any restrictions on missionary activity?

II. *The contents of religious freedom*

4. Does religious freedom include the right to change one's religion?
5. Does religious freedom include the right to demonstrate one's religion individually or collectively by creating religious associations?
6. Has everyone the right to exercise his religion in public and in private:
 - by attending services;
 - by teaching;
 - by participating in religious ceremonies or following religious instruction?
7. Is there complete freedom with regard to acts prescribed or recommended by a religion (such as attending churches, pilgrimages, processions, etc.), or is there any restriction in this field? If there is any restriction, please indicate its extent, taking as an example any restriction on the right to hold religious processions.
8. Is there any special legal protection for religious buildings, or for the objects of religious veneration?

III. *Limits of religious freedom*

9. What is the principal object of such restrictions as may fetter complete religious freedom? Protection of public order? Protection of public morals? Regard for the harmony of the wider community?

10. Does the system of economic controls and in particular, nationalization, impose any indirect but nonetheless important restriction on religious freedom?

IV. *Protection of religious freedom*

11. Is the protection of freedom of religion a part of the constitution, or is it to be found in the ordinary laws, or is it a matter for judicial discretion?
12. What are your views about the international protection of religious freedom? Which of the texts set out below do you prefer as a definition of religious freedom?

V. *Liberty of religion and the State*

13. What legislation is there in your country on the subject of the rights and prerogatives of religion? Is there a State Religion, or a predominant religion which, in fact, is the State Religion? Are the Churches all separate from the State? What is the financial and tax status of the Churches? Does any church receive a direct or indirect subsidy?
14. Are there any regulations which favour one church in preference to another? Do the public authorities concentrate on assuring general religious freedom or is their principal concern the predominance of a particular religion, or denomination?
15. Is the legislation relating to personal status (marriage, family, etc.) based on certain religious postulates, and to what extent does this legislation conform to

the moral teaching of a particular religion?

Texts

Encyclical "Pacem in Terris": 11 April 1963.

Everyone has the right to honour God according to the just dictates of his conscience and to profess his religion in public and in private. Lactance has said with perspicacity: "We receive life in order to render to God, who gives it to us, just homage which is due to Him; in order to comprehend Him and Him alone and to follow no one but Him. This obligation of filial piety enchains us to God and links us to Him; hence the name of religion."

On the subject, our predecessor of immortal memory, Leo XIII, affirmed: "This true freedom, the proper due of God's children, which rightly safeguards the nobility of human personality, prevails against all violence and all unjust attempts; the Church has always insisted upon it, it has never had anything which it has held more important. Continuously the apostles claimed this freedom, apologists have justified it in their writings, numberless martyrs have consecrated it with their blood."

Universal Declaration of Human Rights: 10 December 1948.

Article 18.

"Everyone has the right to freedom of thought, belief and religion; this right includes freedom to change his religion or belief, as well as freedom to manifest his religion or conviction, alone or with others, privately or publicly, by teaching, practice, worship, or ritual."

Drafted United Nations Covenant on Civil and Political Rights.

Article 18.

1. "Everyone has the right to freedom of thought, belief and religion; this right includes freedom to adhere to or change his religion or belief, as well as freedom to manifest his religion or conviction, alone or with others, privately or publicly, by worship, ritual, practice or teaching.
2. No one shall be subjected to any restraint with respect to his right to adhere to or change his religion or belief.
3. Freedom to manifest religion or conviction may only be restricted in accordance with law and with the need to protect national security, public order, public health, or the morals or fundamental freedoms of others."

European Convention of Human Rights: 4 November 1950.

Article 9.

1. "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedom of others."

American Declaration of the Rights and Obligations of Man: 1948

"Everyone has the right freely to profess a religious belief, and to manifest and practice it in public or in private."

Draft Inter-American Convention of Human Rights.

Article 9.

1. "Everyone has the right to freedom of belief and religion; this right includes freedom to adhere to one's religion or beliefs, to change them, and freedom to manifest one's religion or beliefs alone or with others, publicly or privately.
2. No one may be the object of coercive measures designed to interfere with his freedom to adhere to his religion or beliefs, or to change them.
3. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary for national security, public order, health or morals, or for the protection of the rights or freedoms of others."

Education of Children

Until the advent of totalitarian regimes claiming for themselves the key to world salvation, liberalism in government and institutions had reached such a degree of perfection that freedom of opinions and belief was an inherent part of society.

Only religious freedom was in dispute, not as a principle, for no one dared contest it, but in its application. Insistence on establishing a framework which would contain various denominations ended by confusing freedom of religion with freedom of denomination. As a result there have been considerable difficulties of which the consequences are visible not only in positive law but also in the jurisprudence of the courts and of administrative tribunals.

However, the Universal Declaration of the Rights of Man, which John XXIII considered "as a step towards the establishment of a juridical-political organism for a world community" (*Pacem in Terris*), and which has been signed by all the member-States of U.N.O. goes certainly

further when it proclaims in Article 26(3) that parents have a prior right to decide the type of education to be given to their children. The declaration of the rights of children voted at the plenary session of the 14th Assembly of U.N.O. on 20 November 1959 may have somewhat limited the rights of parents; it is a matter to be considered.

The first Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950) is more precise in this respect. Article 2 of the protocol provides: "No person shall be denied the right of education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the rights of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions." Even though it has not been ratified, has not this article considerable moral authority at least in the countries which have signed the protocol?

Constitutions usually guarantee freedom of religion and proclaim the State's neutrality in the matter of religious education. The application of these two principles is very difficult because the State "cannot impose on the whole nation a system of education which is based on the complete exclusion of religious instruction, when this exclusion, the numbers attending church schools show, is rejected by a considerable number of families" (P. H. Simon—*Le Monde*. 16 April 1959).

There is also the delicate question of the content of the neutrality of religious education, of the right of families to supervise this neutrality inside the universities, of the position of university chaplains and of religious instruction.

The religious education of the child, which causes problems in the field of human rights and in the relationship of the family with the State, also provokes difficulty in the domain of paternal responsibility.

One must first determine whether the choice of education forms part of paternal responsibility or whether it is to be considered as something "sui generis."

Should there be an age of religious majority distinct from the age of civil majority?

What value should be given to undertakings given at the time of marriage between parents of different religions about the education of future offspring?

After separation or divorce, there are frequently disagreements between the parents; how is the judge to determine what is in the best interest of the child with regard to religious education?

Should the parents' rights in these matters be subject to challenge by third parties, such as godparents or ministers of religion?

Finally, should the local authority have regard to the religion of the parents when it determines to make a grant to assist the child's education?

The Catholic Lawyer presently plans to translate and publish portions of the reports which will be presented at this coming congress. In the interim, those readers who are interested in responding to the questionnaire may send their replies to *The Catholic Lawyer* for transmission to the Secretariat, or responses may be mailed directly to:

Avv. G. Cassano
Secretary General
International Secretariat of

Lawyers of Pax Romana
4d, Via della Conciliazione
Rome

While in the United States there is no national federation of Catholic lawyers'

guilds, perhaps many lawyers would like to participate, as individuals, directly on an international level, in this field. If so, such an opportunity is presented by the questionnaire.

FULLER

(Continued)

Any inadequacy in Professor Fuller's approach seems to lie precisely in the area where he confesses his greatest weakness—the "forbidden territory" of metaphysics and ethics.¹⁶⁰ What do we mean by right? What is the purpose of human existence? What is the metaphysical foundation of natural law? This is the forbidden territory that Professor Fuller insists the legal philosopher must not be afraid to enter. For if we do not know what we mean by right, how can we arrive at a just law? If we do

not have some idea of human purpose, how can we know what law is good for man? If we do not have a metaphysic of natural law, how can natural law be grounded in nature and rationally intelligible?

It is in the forbidden territory of metaphysics and ethics, on the other hand, that the Aristotelian-Thomistic approach can make perhaps its strongest claim. The conclusion is clear: a truly cooperative venture between the integrative jurisprudential scholar and the Thomist might do much to advance the "collaborative articulation" needed for the more effective elaboration of natural law theory and its application to the complex problems facing our developing society.

¹⁶⁰ See pages 106-09 *supra*.