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PRESENTAZIONE

Una raccolta di studi¹ dello stesso autore è molto utile per comprendere appieno i suoi interessi e per assaporare l'unità di fondo che li sostiene. Questo è particolarmente evidente in questa pubblicazione di alcuni saggi del Prof. Luis Navarro. Essi delineano un percorso di pensiero e di attività giuridica, sia teorica che pratica, che affonda le sue radici nel legame stabilito nel 1991 con la disciplina del "Diritto della persona" nel curriculum della Facoltà di Diritto Canonico della Pontificia Università della Santa Croce. L'origine del nome e dell'approccio fondamentale di questa materia canonica risale alla strutturazione dei corsi presso la Facoltà di Diritto Canonico dell'Università di Navarra, dalla quale ha avuto origine quale Sezione romana l'odierna Facoltà dell'Università della Santa Croce. Tuttavia, nel caso del Prof. Navarro, si è verificato un significativo cambiamento: la materia è stata separata dalla "Parte generale", con cui era e rimane tuttora connessa nella Facoltà di Navarra. Ciò ha permesso al professore di specializzarsi in un ambito che nel tempo si è dimostrato estremamente fecondo.

La sua dedizione al "Diritto della persona" ha comportato l'insegnamento di questa materia nel corso di Licenza in Diritto Canonico per oltre trent'anni, da cui è nato il suo manuale "Persone e soggetti nel diritto della Chiesa. Temi di diritto della persona" (2^a ed. del 2017). Parallelamente, ha condotto una costante ricerca in questo ambito, come dimostrano soprattutto la sua monografia sul "Diritto di associazione e associazioni dei fedeli" (1991) e le numerose altre pubblicazioni scientifiche, tra cui alcune sono state selezionate dall'autore stesso per il presente volume in quanto particolarmente significative. Il suo impegno accademico si è esteso alla supervisione di tesi di rilie-

¹Questa raccolta di studi riproduce i testi come furono pubblicati senza alcuna modifica: si mantiene la lingua originale e la normativa allora in vigore. Si è voluto non aggiornarli per rendere più chiara l'evoluzione del pensiero dell'autore. L'ordine di presentazione è quello cronologico. In ogni articolo, nella prima nota in calce, si indicano i riferimenti della pubblicazione originale [NdE].

vo, all'organizzazione di convegni e incontri di studio e alla curatela degli atti, oltre che all'istituzione di corsi monografici e a numerosi interventi in diversi Paesi, agevolati dalla sua competenza linguistica.

Questo lavoro accademico è stato svolto a stretto contatto con la vita di numerose realtà ecclesiali che hanno beneficiato del suo consiglio. In questo modo si è realizzato un reciproco arricchimento tra insegnamento e ricerca, da una parte, e redazione di statuti e consulenza su questioni giuridiche emerse in associazioni e movimenti, dall'altra, emergendo così come una figura di giurista integrale. Allo stesso tempo, ha lavorato molto al servizio della Curia Romana in questa materia, prima come consultore dei dicasteri che si occupano dei laici, e poi, nel 2023, come membro del Dicastero per i Laici, la Famiglia e la Vita. Va inoltre ricordato che tutto questo impegno è stato reso compatibile con un lungo impegno nel governo universitario, sia come Decano per otto anni che come Rettore per altri otto, con una partecipazione attiva nelle associazioni canonistiche, soprattutto come Presidente della "Consociatio Internationalis Studio Iuris Canonici Promovendo", e con un lavoro interuniversitario, specialmente come Presidente della Conferenza dei Rettori delle Università e delle Istituzioni Pontificie Romane.

Per evidenziare l'importanza del suo lavoro nel campo del "Diritto della persona", è sufficiente considerare che nella Chiesa il principale soggetto di diritto è proprio la persona umana, i cui diritti e doveri all'interno della comunità ecclesiale, sia individualmente che come membri di associazioni, sono al centro del diritto canonico. Senza entrare nel merito delle posizioni e delle proposte dell'autore, è possibile evidenziare alcune caratteristiche essenziali del suo approccio.

Negli studi raccolti in questo volume, incentrati per lo più sui movimenti e i loro carismi, emerge soprattutto il suo sforzo costante per assecondare con l'opera del giurista il soffio dello Spirito Santo. Ne deriva il realismo metodologico con cui affronta tutte le questioni. Navarro tiene costantemente presenti i fedeli e le istituzioni reali, che gli stanno a cuore per comprendere ciò che è giusto nella loro vita. È completamente estraneo a un approccio metodologico che piega la realtà alla letteralità di qualche norma positiva; al contrario, interpreta sempre le norme alla luce delle esigenze di giustizia inerenti alle realtà ecclesiali coinvolte. Pertanto, evita soluzioni e schemi generali aprioristici e rigidi, concentrando l'attenzione nell'affrontare in modo giusto

le situazioni concrete. Si tratta di un atteggiamento particolarmente necessario in un ambito in cui c'è una grande varietà carismatica, che va accolta con la prudenza di un vero giurista amante della giustizia.

Un'evidente manifestazione di questo realismo è la sua capacità di confrontarsi in modo creativo con le problematiche di ogni momento storico, spesso caratterizzate da attualità e complessità. Senza voler fare un elenco esaustivo, si possono citare questioni come l'articolazione tra doni gerarchici e carismatici, la configurazione giuridica dei movimenti, l'organizzazione del loro governo, i rapporti con le parrocchie e le diocesi, la situazione canonica dei chierici nei contesti associativi, con particolare riferimento alle modalità della loro incardinazione, la distinzione tra associazioni private e pubbliche, i rapporti dei movimenti carismatici con la vita consacrata e il riconoscimento della secolarità dei laici, la partecipazione delle famiglie in tali realtà, i diritti dei membri, la situazione giuridica del loro lavoro all'interno delle comunità, i rapporti tra governo e accompagnamento spirituale, le realtà carismatiche in cui uomini e donne operano insieme, la risposta alle situazioni di abuso all'interno dei movimenti ed associazioni, eccetera. Su tutti questi aspetti, e su altri ancora, troviamo in queste pagine riflessioni serene e ponderate, sempre attente all'ecclesiologia del Concilio Vaticano II, compiute con un profondo desiderio di servire anche giuridicamente i doni dello Spirito Santo alla sua Chiesa.

Il realismo comporta inoltre un forte impegno interdisciplinare, che vede il canonista aprirsi costantemente alle basi teologiche coinvolte e al ricco magistero ecclesiastico in materia. Per quanto riguarda i movimenti, i corsi e i convegni promossi dal Prof. Navarro negli ultimi tempi sono stati organizzati in collaborazione con colleghi teologi ed esperti in ambito spirituale, pastorale, psicologico, eccetera.

In conclusione, il lavoro canonistico del Prof. Navarro testimonia un profondo amore per la Chiesa e per le anime, che non nasconde i problemi - le tensioni, le incertezze, gli abusi - ma pone soprattutto l'accento sulla fecondità dell'azione divina nelle persone e nelle loro aggregazioni nella Chiesa, lasciando sempre un messaggio di speranza fondata.

Carlos José Errázuriz

NEW ECCLESIAL MOVEMENTS AND CHARISMS: CANONICAL DIMENSIONS¹

SUMMARY: 1. Introduction. 2. The Holy Father and the new ecclesial movements; 2.1. Papal addresses to the ecclesial movements; 2.2. The post-synodal apostolic exhortation *Christifideles laici*. 3. The function of Canon Law in relationship to ecclesial movements. 4. The canon lawyer and the movements. 5. Main canonical questions dealing with movements; 5.1. The configuration of movements as private associations of the faithful; 5.2. The movements and the particular Churches. 6. Other issues related to ecclesial movements; 6.1. Incardination movements and the formation of candidates to the priesthood; a) Incardination; b) The formation of candidates to the priesthood; 6.2. The movement and consecrated life; a) Membership in a movement; b) The movement source of vocations for institutes of consecrated life; c) "Consecrated life" in the movement; 6.3. Mixed communities. 7. Conclusion.

1. INTRODUCTION

While reflecting on the canonical dimensions of new ecclesial movements and charisms, the Pentecost 1998 Meeting of Ecclesial movements and communities in Rome came to mind. One aspect that was evident in that meeting was the great variety of groups present for those days in Rome².

The spectrum was large: it ranged from those groups more known internationally such as *Comunione e Liberazione*, Focolare Movement, Charismatic renewal, Neo-catechumenal Way, S. Egidio Community, to others who are present only in few countries³. Some of them have already received approval from the Holy See, while others have not⁴.

¹Published on *Philippine Canonical Forum*, 4 (2002), p. 37-74.

²For the list and a brief description of the ecclesial movements and communities participating in the meeting, cfr. *L'Osservatore Romano*, special issue 29 May 1998, p. 9-15.

³That was the case of the Nazaret Movement (present in 5 countries), the Light-Life movement (5 countries), and the Seguimi-Gruppo Laico (6 countries).

⁴When that Meeting took place some movements like Couples for Christ, the Community of the Beatitudes, and the Community Pope John XXIII were not recognized by the Holy See, but have received the recognition later. Other groups, also present in that Meeting, still do not have that recognition from the Holy See (like the Neo-catechumenal Way or El-Shaddai).

Most of these groups are associations of the faithful, but some claim that they are not⁵. The variety therefore is already great; however if we examine them from the point of view of their spirituality, apostolic methods, activities, membership, etc., then this variety becomes even greater. This variety is one of the most relevant obstacles to a consistent canonical approach to these realities.

A further obstacle is constituted by the fact that in the legal norms there are no specific references to movements. All of this certainly makes it difficult to speak about the canonical dimensions of ecclesial movements. However even if it is difficult, it is not impossible. A way to reach this aim is to look at the reality of these movements and communities and detect what juridical elements are consistently present. For this task, a good help is provided by the Magisterium of the Roman Pontiff. This is not because the Magisterium contains a juridical treatment of these realities, but rather because the Magisterium is where we find answers of the Church to the challenges placed by something new. Canon Law relies upon these answers.

This study follows the following structures: first, it will present some highlights of the *Magisterium* of John Paul II on ecclesial movements. From these teachings It will underline only those aspects that contribute to a canonical reflection on the ecclesial movements. Because of the importance given to them by the Pope, these should be considered as the foundation on which the building has to lay.

Second, it will describe what is *the mission of Canon Law* in dealing with these realities. This will lead to a presentation as to what an ecclesial movement can expect from the Law of the Church. Connected to that is the task of the canon lawyer with regards to these movements.

Finally, third, it will point out some *open issues and new challenges*. In some cases it will suggest solutions to some real problems that the movements and the hierarchy are facing.

As I write this I am aware that my reflections will have a temporary value, because ecclesial movements are a fluid reality and in almost constant evolution. Therefore, after some years some problems will disappear or present other signs, and other new ones will inevitably follow.

⁵ Although in this paper I will deal with aspects related to all these realities, this does not mean that all have the same juridical configuration: most of them are associations of the faithful in the technical sense (see can. 298-329), but others can be of different juridical configurations.

2. THE HOLY FATHER AND THE NEW ECCLESIAL MOVEMENTS

This section will analyze two aspects. First it will concentrate on the different *published* addresses, messages or homilies of John Paul II to international gatherings of ecclesial movements, organized, directly or indirectly by the Pontifical Council for the Laity. And second, it will recall some important teachings found in the 1988 apostolic exhortation *Christifideles laici*.

2.1. *Papal addresses to the ecclesial movements*

The first international meeting was held in Rome in September of 1981. The second took place also in Rome in March of 1987. The third was more recent and more well known to everybody. This was the meeting and congress on ecclesial movements held in Rome in 1998⁶. And the fourth and last, was held in Speyer (Germany) in June of 1999⁷.

This study will also take into account the Pope's address to another meeting dealing with movements, held in 1999⁸. This meeting was different because it was not held with representatives of movements but rather it was a meeting of Bishops. The aim of the organizers of this meeting is evident in its title: "The ecclesial movements in the pastoral solicitude of the Bishops".

⁶ JOHN PAUL II, *Homily*, 27 September 1981, in *L'Osservatore Romano*, Weekly English edition, n. 40, 5 October 1981, p. 1; IDEM, *Address*, 2 March 1987, in *L'Osservatore Romano*, Weekly English edition, n. 11, 16 March 1987, p. 12; IDEM, *Message*, 27 May 1998, in PONTIFICIUM CONSILIIUM PRO LAICIS, *Movements in the Church. Proceedings of the World Congress of the Ecclesial Movements*, Vatican City 1999, p. 15-19; IDEM, *Address*, 30 May 1998, in PONTIFICIUM CONSILIIUM PRO LAICIS, *Movements in the Church*, cit., p. 219-224.

In 1991 April 1-4, another meeting was held, in this case in Bratislava. The aim of the meeting was to make some suggestions to the Synod of Europe. The Pope sent a written message, read by Bishop Cordes (Vice President of the Pontifical Council for the Laity) dated in the Vatican, 24 March 1991, but it was not published. There is short literal quotation of it in *Il Regno Attualità*, 10/1991, p. 278. On the eve of this meeting an article was published by J. CORDES, *Stagione aggregativa dei laici per una nuova evangelizzazione*, in *L'Osservatore Romano*, 29 March 1991, p. 6.

⁷ This meeting, just a year after the one held in Rome in the Pentecost Vigil, was a manifestation of communion between the movements in order to share the gifts received by each one, helping each other and cooperating in the evangelization. The Pope has sent a message, 3 June 1999, in *L'Osservatore Romano*, 9 June 1999, p. 9.

⁸ JOHN PAUL II, *Message*, 18 June 1999, in *L'Osservatore Romano*, Weekly English edition, 14 July 1999, n. 28, p. 9.

Even though the Pope has spoken many times to the different ecclesial movements in special audiences, or in others events, I have chosen to concentrate on those I have mentioned, because they reflect the approach of the Pope to these realities in a general way (he is not speaking to a specific ecclesial movement), and because through these teachings we can observe John Paul II's thought on this topic over a long period of time (more than 18 years).

From the study on the Pope's teaching the following conclusions can be drawn:

First conclusion

The importance of the ecclesial movements for the Church.

It is obvious that John Paul II truly appreciates the new ecclesial movements. The fact is already apparent in that he has received them in several occasions, but more obvious is his understanding of the *importance* of these movements for the Church. This awareness of their importance seems to have grown over the years. In 1981, the first time he encountered these movements, his words could be considered as a generic encouragement. Later on in 1987 he spoke of the great apostolic dynamism that is present in the ecclesial movements⁹. Eleven years later, in 1998, he goes further and affirms that the movements "represent one of the most significant fruits of that springtime in the Church which was foretold by the Second Vatican Council"¹⁰.

These movements, he said, "have a *very precise* – we can even say *irreplaceable* – function in the Church"¹¹. More recently he has presented these movements as a "new Pentecost in the Church", and that they are a cause of hope for the missionary action of the Church¹².

⁹ "The great blossoming of these movements and the manifestations of energy and ecclesial vitality which characterize them are certainly to be considered one of the most precious fruits of the vast and profound spiritual renewal promoted by the last Council". JOHN PAUL II, *Address*, 2 March 1987, cit., n. 1, p. 12.

¹⁰ JOHN PAUL II, *Message*, 27 May 1998, cit., n. 2, p. 16.

¹¹ JOHN PAUL II, *Address*, 2 March 1987, cit., n. 3, p. 12.

¹² Cfr. JOHN PAUL II, *Message*, 18 June 1999, cit., n. 3, p. 9. In his encyclical letter about the missionary activity of the Church, John Paul II manifests a deep appreciation of the movements, because they are "a true gift of God both for the new evangelization and for missionary activity properly so-called". JOHN PAUL II, encyclical letter *Redemptoris missio*, 12 December 1990, n. 72. This dimension of the ecclesial movements is stressed by J. GONZÁLEZ, *Movements of Hope – Signs of Hope in our Contemporary Church*, in *Boletín eclesialístico de Filipinas*, 74 (1998), p. 34-41.

It is clear that the Pope has very attentively followed the evolution of the movements and also the fruits of renewal that through them the Holy Spirit is granting to the Church.

However, his understanding of their importance is based not only on the recent history of the Church. He has tried always to present these realities as something deeply rooted in the Church. Even as early as 1981 he applied the term “movement” to the Church: “as you know the Church herself is a ‘movement’ ”¹³. With this image he wanted to indicate the intimate dynamism of the Holy Trinity and of God’s redemptive and creative action: “The Church herself is “a ‘movement’. And above all she is a mystery: the mystery of the eternal Love of the Father, of his fatherly heart, from which the mission of the Son and of the Holy Spirit begin”¹⁴. The Church is “a ‘movement’ which penetrates into hearts and consciences. She is a ‘movement’ which takes its place in the history of man-person and of human communities”¹⁵. Later he explained the relationship between this doctrine and the movements: “ ‘Movements’ in the Church must reflect the mystery of that love from which she was born and is continually being born”¹⁶. In 1998, he came back to the same idea: the Church, “in a certain sense may be called a ‘movement’ herself, since she is the realization in time and space of the Father’s sending of his Son in the power of the Holy Spirit”¹⁷.

Second conclusion

The fundamental role of the charism in the movements.

At the origin of the ecclesial movements there has always been a *charism* given to a founder. This charism, if it is shown true, contributes to the richness of the Church. Every charism is a gift freely granted by the Holy Spirit for the good of the Church.

This is why the Roman Pontiff insists on the fact that there can be no opposition between *charism and institution*. Rather, there is a complementarity between them: “[movements] are founded on those “charismatic gifts” which together with the “hierarchical gifts” – that is the ordained ministries – belong to those gifts of the Holy Spirit

¹³ Cfr. JOHN PAUL II, *Homily*, 27 September 1981, n. 2.

¹⁴ *Ibidem*.

¹⁵ *Ibidem*.

¹⁶ *Ibidem*.

¹⁷ JOHN PAUL II, *Message*, 27 May 1998, cit., n. 5, p 19.

which adorn the Church, the Bride and Christ. Charismatic gifts and hierarchical gifts are distinct but also *mutually complementary*". He concludes: "In the Church, both the institutional and the charismatic aspects, both the hierarchy and associations and movements of the faithful, are co-essential and share in fostering life, renewal and sanctification, though in different ways"¹⁸. In 1998 he recalled the same idea, saying, "both are co-essential to the divine constitution of the Church founded by Jesus, because they both help to make the mystery of Christ and his saving grace present in the world"¹⁹.

Third conclusion

The charism lead to form groups of faithful.

Charisms takes root in groups of faithful who later on usually become an association.

Charisms would not be operative if there were not external manifestations of each movement. The power of the charism tends to reach out to other people, and lead them to unite themselves forming groups. The Pope describes this reality saying, "in the Church's history we have continually witnessed the phenomenon of more or less vast groups of the faithful, which, under a mysterious impulse of the Spirit, have been spontaneously moved to join together in pursuit of certain charitable or sanctifying ends. This has come about in relation to the particular needs of the Church in their day, or even involved collaboration in the Church's essential and permanent mission. This right to gather in groups is openly recognized in the new Code of Canon Law, which speaks of "associations which serve charitable or pious purposes or which foster the Christian vocation in the world" (can. 215): words which we can certainly apply to ecclesial movements as well"²⁰.

In these new ecclesial entities it is not the will of each faithful which constitutes the movement (as happens in many associations of the faithful), but it is the impulse of the Spirit plus the agreement of the will of the faithful which creates the movement. Also in the establishment of the movement, the founder and his or her spiritual life take on a special role, inspired by God: "the passage from the

¹⁸ JOHN PAUL II, *Address*, 2 March 1987, cit., n. 3, p. 12.

¹⁹ JOHN PAUL II, *Message*, 27 May 1998, cit., n. 5, p. 19.

²⁰ JOHN PAUL II, *Address*, 2 March 1987, cit., n. 2, p. 12.

original charism to the movement happens through the mysterious attraction that the founder holds for all those who become involved in his spiritual experience"²¹.

Fourth conclusion

The importance given to the ontological condition of the baptized.

A common aspect that can be found in the new movements is that all of them give a special relevance to what it means to be a *baptized person*: "Even in the diversity of their forms, these movements are marked by a common awareness of the 'newness' which baptismal grace brings to life, through a remarkable longing to reflect on the mystery of communion with Christ and with their brethren"²². This characteristic is due to the fact that the spirit of these movements gives sense to the *whole Christian life of the faithful*. This can also be traced to the words of the Pope: the "members of the Church who find themselves in associations and movements seek to live, under the impulse of the Spirit, the Word of God in their concrete historical circumstances. They do so by stimulating, with their witness, constantly renewed spiritual progress, by evangelically vivifying temporal realities and human values, and enriching the Church through an infinite and inexhaustible variety of initiatives in the realm of charity and holiness"²³. These movements therefore do not affect only partial aspects of Christian life, but are new ways of living the Christian message.

Fifth conclusion

The need to be in the communion of the Church.

Because the Pope has been aware that in the last decades not all in the movements has been good, he has often stressed the need for communion. To emphasize this need, in the largest of the gatherings of ecclesial movements, which was held in St. Peter's Square, he pro-

²¹ JOHN PAUL II, *Address*, 30 May 1998, cit., n. 6, p. 222.

²² JOHN PAUL II, *Message*, 27 May 1998, cit., n. 2, p. 16.

²³ JOHN PAUL II, *Address*, 2 March 1987, cit., n. 3, p. 12. In his 1998 address the Pope indicates: "True charisms cannot but aim at the encounter with Christ in the sacraments. The ecclesial realities to which you belong have helped you to rediscover your baptismal vocation, to appreciate the gifts of the Spirit received at Confirmation, to entrust yourselves to God's forgiveness in the sacrament of Reconciliation and to recognize the Eucharist as the source and summit of all Christian life". JOHN PAUL II, *Address*, 30 May 1998, cit., n. 7, p. 223.

claimed the identification between maturity in the Church and communion: "Today a new stage is unfolding before you: that of ecclesial maturity. This does not mean that all problems have been solved. Rather is a challenge. A road to take. The Church expects from you the "mature" fruits of communion and commitment"²⁴.

One year later, in a written message to the Bishops, the Pope explained this critical path: "This journey requires of movements an ever stronger communion with the Pastors God has chosen and consecrated to gather and sanctify his people in the light of faith, hope and charity, because "no charism dispenses a person from reference and submission to the Pastor of the Church" (*Christifideles laici*, n. 24)"²⁵.

It is a communion to be lived not only in relation to the Roman Pontiff, but also and chronologically first in the particular Church, because it is here where the initial discernment of the charism is done. And this discernment is essential. In fulfilling that task the Bishops are called "to show fatherly magnanimity and far-sighted charity"²⁶. This means that not everything is achieved immediately in the movements. Therefore the hierarchy has to be patient: every growth needs time.

The concern of the Pope is that the local Churches should receive these gifts of the Holy Spirit, in their fullness, with all the power which is proper to them.

After presenting these characteristics, examining the *description of ecclesial movements* as presented by the Pope in 1998 can help to understand better what are these movements in the Church. This is a key point in the Pope's teaching, because it constitutes the summary of his understanding of these realities:

"The term [movement] is often used to refer to realities that differ among themselves, sometimes even by reason of their canonical structure. Though the term certainly cannot exhaust or capture the wealth of forms aroused by the life-giving creativity of the Spirit of Christ, it does indicate a concrete ecclesial reality with predominantly lay membership, a journey of faith and a Christian witness which bases

²⁴ JOHN PAUL II, *Address*, 30 May 1998, cit., n. 6, p. 222.

²⁵ JOHN PAUL II, *Message*, 18 June 1999, cit., n. 3, p. 9.

²⁶ "Dear Brothers in the Episcopate, I ask you, whose task is to discern the authenticity of charisms in order to make the best use of them within the Church, to show fatherly magnanimity and far-sighted charity (cfr. 1Cor 13,4) towards these realities, because every human achievement requires time and patience for its proper and indispensable purification". JOHN PAUL II, *Message*, 18 June 1999, cit., n. 3, p. 9.

its own pedagogical method on a precise charism given to the person of the founder in specific circumstances and ways"²⁷.

In this description therefore, we find these elements:

1. A movement is a concrete *ecclesial* reality. Therefore its reason for existing is in the communion of the Church. If it loses this ecclesiality, it will die.
2. The ecclesial movements are composed mainly by *lay people*, even though other faithful can also be members. This aspect will be reflected in the spirituality: it will be usually a secular one.
3. Every movement constitutes *a way* of faith as well as a Christian witness in the Church and in society.
4. In every movement we can find a *charism* given to the founder at its base.

2.2. *The post-synodal apostolic exhortation Christifideles laici*

In the apostolic exhortation written by John Paul II after the 1987 Synod of Bishops (dedicated to the lay people in the Church and in the world), we find relevant interventions of the Pope with regard to ecclesial movements. These interventions deal with their institutionalization, the criteria for discerning their ecclesiality, and with their fruits.

Because these movements and realities are something new in the Church, and therefore do not follow traditional models, the Pope has asked these ecclesial realities (especially those whose activity goes beyond the diocesan level) to seek institutionalization: "It is exceedingly opportune that some new associations and movements receive official recognition and explicit approval from competent Church authority to facilitate their growth on both the national and international level"²⁸.

²⁷ JOHN PAUL II, *Message*, 27 May 1998, cit., n. 4, p. 18.

²⁸ JOHN PAUL II, Ap. ex. *Christifideles laici*, 30 December 1988, n. 31. The need to find a juridical configuration has been stressed by the Pope also in relation to concrete ecclesial realities. See his call to the Neo-catechumenal Way to elaborate their own Statutes and to present them for approval, in *Address to the Neo-catechumenal Way*, 24 January 1997, in *L'Osservatore Romano*, 25 January 1997, p. 4 and his *Letter to Cardinal Stafford on the Neo-catechumenal Way*, 5 April 2001, in *L'Osservatore Romano*, 17-18 April 2001, p. 4 (English version in https://www.vatican.va/content/john-paul-ii/en/letters/2001/documents/hf_jp-ii_let_20010417_pc-laici.html).

His most significant contribution is found in his listing of the criteria of ecclesiality which each movement should have in the Church.

In a brief summary these criteria are:

- The primacy given to the call of every Christian to holiness.
- The responsibility of professing the Catholic faith.
- The witness to a strong and authentic communion.
- Conformity to and participation in the Church's apostolic goals.
- A commitment to a presence in human society²⁹.

²⁹ "The following basic criteria might be helpful in evaluating an association of the lay faithful in the Church:

- *The primacy given to the call of every Christian to holiness*, as it is manifested "in the fruits of grace which the spirit produces in the faithful" and in a growth towards the fullness of Christian life and the perfection of charity.

In this sense whatever association of the lay faithful there might be, it is always called to be more of an instrument leading to holiness in the Church, through fostering and promoting "a more intimate unity between the everyday life of its members and their faith".

- *The responsibility of professing the Catholic faith*, embracing and proclaiming the truth about Christ, the Church and humanity, in obedience to the Church's Magisterium, as the Church interprets it. For this reason every association of the lay faithful must be a forum where the faith is proclaimed as well as taught in its total content.

- *The witness to a strong and authentic communion* in filial relationship to the Pope, in total adherence to the belief that he is the perpetual and visible center of unity of the universal Church, and with the local Bishop, "the visible principle and foundation of unity" in the particular Church, and in "mutual esteem for all forms of the Church's apostolate".

The communion with Pope and Bishop must be expressed in loyal readiness to embrace the doctrinal teachings and pastoral initiatives of both Pope and Bishop. Moreover, Church communion demands both an acknowledgment of a legitimate plurality of forms in the associations of the lay faithful in the Church and at the same time, a willingness to cooperate in working together.

- *Conformity to and participation in the Church's apostolic goals*, that is, "the evangelization and sanctification of humanity and the Christian formation of people's conscience, so as to enable them to infuse the spirit of the gospel into the various communities and spheres of life".

From this perspective, every one of the group forms of the lay faithful is asked to have a missionary zeal which will increase their effectiveness as participants in a re-evangelization.

- *A commitment to a presence in human society*, which in light of the Church's social doctrine, places it at the service of the total dignity of the person.

Therefore, associations of the lay faithful must become fruitful outlets for participation and solidarity in bringing about conditions that are more just and loving

A study of these criteria makes easily imaginable that when John Paul II established them, he had these new ecclesial movements mainly in mind. In fact, there is no doubt that all these criteria will be found in any movement having the characteristics we have deduced from the Pope's teaching (his addresses, messages and homilies to the movements).

The same can be said with regard to the fruit that, according to the Pope, should be present in each association. These fruits are signs that the movement is truly in the Church. All of them belong to the experience of the movements. The Pope says:

"The fundamental criteria mentioned at this time find their verification in the actual fruits that various group forms show in their organizational life and the works they perform".

Among these fruits he speaks of: "the renewed appreciation for prayer, contemplation, liturgical and sacramental life, the reawakening of vocations to Christian marriage, the ministerial priesthood and the consecrated life; a readiness to participate in programs and Church activities at the local, national and international levels; a commitment to catechesis and a capacity for teaching and forming Christians; a desire to be present as Christians in various settings of social life and the creation and awakening of charitable, cultural and spiritual works; the spirit of detachment and evangelical poverty leading to a greater generosity in charity towards all; conversion to the Christian life or the return to Church communion of those baptized members who have fallen away from the faith".

From all this, we can conclude that the ecclesial movements constitute a new phenomenon that is *still in evolution*. In the last decades there has been a clear progress in their theological understanding, and in their acceptance by the People of God³⁰. However, almost assuredly,

within society". JOHN PAUL II, Ap. ex. *Christifideles laici*, 3 December 1988, n. 30. For a commentary on these criteria, see R. PAGÉ, *Note sur les "critères d'ecclésialité pour les associations de laïcs"*, in *Studia Canonica*, 24 (1990), p. 455-463.

³⁰ Cfr. among the most relevant articles on the theological understanding of the ecclesial movements, see J. RATZINGER, *The Ecclesial Movements: A Theological Reflection on Their Place in the Church*, in PONTIFICIUM CONSILIUM PRO LAICIS, *Movements in the Church*, cit., p. 23-51 (also published as *The Theological Locus of Ecclesial Movements*, in *Communio*, 25 [Fall 1998], p. 480-504), and A. CATTANEO, *I movimenti ecclesiali: aspetti ecclesiologici*, in *Annales Theologici*, 11(1997), p. 407-427.

more progress has to come. Therefore, considering the great variety of movements and communities, it is difficult to place them inside rigid borders. Their constant evolution and their variety are the reasons why there is not a definitive definition (those that have been proposed necessarily have the risk of not being adequate after some years)³¹.

The definitions that have been used until now have the tendency of describing the phenomena. As a clear sign of the provisional character of the definition these descriptions have to speak of movements both in a strict sense and in a wide sense³².

³¹ The definition proposed by Feliciani is in a sense outdated, because nowadays the movements are not so reluctant to have statutes or internal norms: "la caratteristica specifica ed esclusiva dei movimenti propriamente detti sembra (...) da identificarsi in quella natura eminentemente carismatica e spirituale che li porta talvolta a evitare la compilazione di statuti scritti e ne impedisce, comunque, un inquadramento adeguato ed esauriente in strutture giuridico-formali come quelle previste dalla normativa del Codice". G. FELICIANI, *I movimenti ecclesiali*, in *L'année canonique*, 36 (1993), p. 81. For Beyer, the ecclesial movements are "quelli che annoverano e radunano ogni genere di fedeli, per vivere pienamente la vita della Chiesa nel suo mistero, alla luce di vari elementi scelti fra i più importanti, come la Parola di Dio, la comunione ecclesiale, l'azione comune anche specifica, il dono e la testimonianza dell'amore divino". J. BEYER, *Il movimento ecclesiale: questioni attuali*, in *Vita consacrata*, 26 (1990), p. 484. This description is proposed just after explaining that there are other associative realities that *are not* ecclesial movements. He calls them *lay movements and spiritual movements*: "Laicali sono i movimenti che raggruppano laici perché nel laicato agiscono in veste di laici, e promuovano i laici una vita cristiana più piena, nella Chiesa e nel mondo. Spirituali sono i movimenti non solo di laici, ma anche di altri fedeli cristiani che intendono condurre una vita spirituale più profonda; tra i loro aderenti contano laici, religiosi e sacerdoti, anche diocesani". *Ibidem*, p. 483-484. The proposed definition nevertheless is not good enough because it is too large (it does not indicate what is specific in goals, and action of the ecclesial movement) and, as the other elements can be common to other ecclesial realities, what becomes characteristic is that all kind of faithful belong to the movement. Following Beyer, Zadra considers that in the "ecclesial movements" "il carisma comunione di tali movimenti è espresso dal fatto che vi fa parte una rappresentanza di tutto il popolo di Dio: sacerdoti, religiosi, laici, famiglie, bambini, ecc. che vivono ogni momento della loro vita illuminati da tale carisma, non da soli, ma uniti spiritualmente a tutti i membri del movimento". B. ZADRA, *Tipologie ed esemplificazioni dei diversi movimenti*, in *Quaderni di diritto ecclesiale*, 11 (1998), p. 16. It could be objected that *not all* ecclesial movements must have as members all kind of faithful, especially because in the Pope's description and also in reality, the movements are mainly lay groups.

³² Some authors follow the classification suggested by Beyer and develop some of its elements. They distinguish also lay movements, spiritual movements and ecclesial

What can be said is that the new ecclesial movements do not follow traditional forms that were present in the Church. That is why the Pope distinguishes between the movements, new communities, and the normal associations of the faithful.

3. THE FUNCTION OF CANON LAW IN RELATIONSHIP TO ECCLESIAL MOVEMENTS

In the People of God some faithful, not excluding some founders and leaders of ecclesial movements, have a negative understanding of Canon Law. It seems that, for them, norms are something that cannot be avoided. They seem a burden imposed on them by the Church, and an element that will reduce their freedom, and hinder their charism. In other cases, some do not even understand why there is need of Law in the Church. They ask, is it not the Spirit the one who governs the Church?

Even if some founders would prefer not to have anything to do with the law, inevitably they decide to consult a canon lawyer because they discover that some advantages for the movement can be found making use of the Law of the Church. In fact, as they become aware

movements. "I primi – laicali – raggruppano per lo più laici che desiderano vivere pienamente la loro vocazione e missione nella Chiesa (è il caso, ad esempio, dell' Azione Cattolica). I secondi – spirituali – tendono piuttosto a promuovere una più profonda vita spirituale nei confronti dei fedeli che ne fanno parte (molti dei terzi ordini appartengono a questa categoria). Infine ci sono i movimenti propriamente "ecclesiali", i quali si caratterizzano per il fatto che a essi partecipano le varie categorie di fedeli e i vari ordini di persone. Questi ultimi si distinguono inoltre per un'azione e una testimonianza pubblica, coinvolgendo la vita dei propri membri in una dimensione che non è solo spirituale, ma ingloba precise strutture di vita. Il movimento ecclesiale nasce attorno a un carisma specifico che ne rappresenta l'idea-forza attorno a cui si strutturano vari stati di vita. C'è una dimensione unificante che determina, pur se a vari livelli di appartenenza secondo le differenti vocazioni, una certa comunione di beni, una certa sottomissione a una autorità, una partecipazione alla missione della Chiesa secondo il carisma del movimento. Questa dimensione unitaria-comunionale vede riuniti nel movimento membri di tutto il popolo di Dio, che partecipano alle varie vocazioni e ai vari ministeri. Si può per analogia parlare di una "micro-ecclesia" riunita attorno a un carisma fondazionale che ha una sua fisionomia, una particolare spiritualità, fini propri perseguiti sia congiuntamente che separatamente secondo i vari *status* delle persone". S. RECCHI, *Per una configurazione canonica dei movimenti ecclesiali*, in *Quaderni di diritto ecclesiale*, 11 (1998), p. 58-59. A different description of the essential elements of a movement can be founded in C. HEGGE, *Il Vaticano II e i movimenti ecclesiali. Una recezione carismatica*, Roma 2001, p. 88-94.

that one day they will die and that others will need to take their place, they tend to find it convenient that Canon Law provides basic and solid points which will grant the continuity of the movement. Without it, there is a clear risk that everything could get lost. Realizing the bigger picture they determine that Canon Law would be only a minor evil.

This is a negative understanding of Canon Law and unfortunately this mentality is quite far spread in the Church. It reflects an *utilitarian mentality* of the Law: the Law exists to obtain aims, and principally to have a just social order. Respecting the norms will help the faithful to live better in the Church. In this perspective Law would be an instrument completely external to the social relationships in the Church. It would be like an umbrella which covers a person. It gives shadow, and protects from the rain, but remains external to the person who is holding it. Law would be something that you need sometimes, but not always. If I can get something positive from the Law, I'll accept it, but if I cannot get any advantage, I'll refuse it.

Instead, if we have a more realistic outlook, Law is different. The reality of ecclesial life points out that Canon Law responds to the inner demands of justice present in interpersonal relationships. The law determines to whom things belong (*ius suum cuique tribuendi*). However these are not external rules, given by an external will or agent. Law flows from the same relationships, from their demands of justice. The law is based on reality, and the more it is attached to reality, the more rational it will be³³.

With this perspective the role of Canon Law with regard to movements and charisms is to grant the juridical configuration which is better adapted to the *real substance of each movement* and therefore to the inner demands of justice. The rights and duties flow from the charisms, not from an external agent. This means that Canon Law is an instrument at the service of charisms, because it will allow every movement to preserve their charism, respecting their original demands. It

³³ For the realistic outlook of the Law see J. HERVADA, *Natural right and natural law: a critical introduction*, Pamplona 1987 (Spanish edition: *Introducción crítica al Derecho Natural*, 5° ed. corregida, Pamplona 1988). He has applied this approach to Canon Law: see *Pensamientos de un canonista en la hora presente*, Pamplona 1989, p. 11-79 and *Coloquios propedéuticos sobre el Derecho Canónico*, Pamplona 1990. For the different ways of understanding Canon Law and its relation to the Church, and for a development of the realistic perspective see C.J. ERRÁZURIZ, *Il diritto e la giustizia nella Chiesa. Per una teoria fondamentale del diritto canonico*, Milano 2000.

will help the movement to keep its identity independently of the time elapsed since the movement started to exist in the Church. The normal renewal of members (some will die, others will abandon the movement, etc.) will not affect the charism or the spirit of the movement. In this way, Canon Law will help to keep the ends and aims of the movement consistent.

In this realistic prospective of Canon Law it can be easily understood that the existence of a concrete charism in the Church, demands that the charism's bearer be not impeded in sharing it with other faithful in the Church, and that the ecclesiastical authority examine it attentively, with respect and with due attention to the new charism, and in the end declare its conformity with the teaching of the Church. There is no canon in the Code which establishes this explicitly, however, this does not prevent recognizing the existence of juridical obligations and rights deriving from juridical relations born around a charism³⁴.

This realistic outlook will also help to place the movement in the communion of the Church. Therefore the movement will be able to contribute in a better way to the good of the whole Church.

4. THE CANON LAWYER AND THE MOVEMENTS

What is the task of canon lawyers? Their main duty is to help these movements to achieve the juridical configuration that better reflects their substantial reality. This means that their task will be to help to prepare the Statutes and By-laws of these movements well.

In doing this, canon lawyers should avoid certain dangers that can be easily present: the first is to have a set model of statutes and then to attempt to apply them to all these realities. But this would be unjust because the statutes will not fit to what the movement is.

The second one is to reduce their task to obtaining what the founder or the moderators desire from the ecclesiastical authority for the movement. The process would be the following: after listening to the founder or moderators, the canon lawyer presents things in such a way, using the canons with such ability, that the competent ecclesiastical authority will satisfy the moderator's desire. The role of canon lawyers would be to process the request of the movement.

³⁴ Cfr. P. LOMBARDÍA, *Relevancia de los carismas personales en el ordenamiento canónico*, in *Ius Canonicum*, 9 (1969), p. 101-119.

The canon lawyer would be a technician who knows how the machine works and how to fix it, but does not ask himself what is the use of the machine.

To do the job properly canon lawyers are called to truly know what the movement really is. For that we need to know their history, their development, their spirituality, and the elements that configure the charism. This implies reading the writings that have inspired the movement, and also knowing the life of the movement. The canon lawyer needs to listen to the founders, moderators, and attempt to understand what they want, and perhaps more important why they want it.

Only after having a clear picture, can the canon lawyer suggest and explain the different technical options that can be applied to the movement, helping the leaders to make good choices. After that, his task will be to translate into juridical norms what is already juridical in the movement.

It is at this stage that the canon lawyer adopts a more active role: his mission will lead him or her to guide the moderator or founders. In many instances he is called to help the movement to improve: once he has really understood what the charism is, the aims, and the spirit of the movement he can help to improve it in order to implement the criteria of ecclesiality. Besides, he should contribute: a) to protect the rights of the members by indicating them and establishing, at least, that the superiors of the movement must respect them; b) to determine that the same superiors cannot act against the legitimate ecclesiastical authority; and c) to protect the same movement by preventing that their leaders could withdraw from the foundational spirit. The drafting of the Statutes and By Laws, or their renewal is a unique moment in which canon lawyers exercise a real ministry of service. By doing this well, they can help the movement to be more ecclesial and therefore to serve the whole Church better.

5. MAIN CANONICAL QUESTIONS DEALING WITH MOVEMENTS

5.1. *The configuration of movements as private associations of the faithful*

Most of the movements present in Rome during the 1998 meeting are actually international private associations of faithful. In canonical doctrine some hold the opinion that this configuration is not good

enough, especially because, they say, it cannot guarantee the unity of the movement (some parts will have another canonical configuration, like a Society of Apostolic Life for the priests members of the movement, or a religious institute for those who follow consecrated life, etc.).

To resolve this concrete problem some have suggested the creation of a new legal frame for the ecclesial movements. It would be a special law for all these realities³⁵. Jean Beyer goes further, suggesting the creation of a new dicastery for movements and ecclesial communities³⁶.

Nevertheless, the actual solution (to recognize them as private associations) can be considered a wise one and most probably the one that at the present time can be granted. In fact, the majority of these ecclesial movements are essentially associations of the faithful. Therefore the solution is fitting to their nature³⁷. Even though it is true that in some cases different canonical configurations have been given to different parts of a single movement, this does not mean that the

³⁵ For Beyer and Ghirlanda there is a need of a special law for the movements. Cfr. J. BEYER, *Il rinnovamento del diritto e del laicato nella Chiesa*, Milano 1994, p. 167; IDEM, *I movimenti nuovi nella Chiesa*, in *Vita Consacrata*, 27 (1991), p. 63; and G. GHIRLANDA, *I movimenti nella comunione ecclesiale e loro giusta autonomia*, in *Christifideles laici: spunti per uno studio*, I laici oggi (P. Consiglio per i laici), 32-33 (1989-90), Città del Vaticano, p. 57 and IDEM, *Charism and Juridical Status of the Ecclesial Movements*, in PONTIFICIUM CONSILIUM PRO LAICIS, *Movements in the Church*, cit., p. 135. See also C. HEGGE, *Il Vaticano II e i movimenti ecclesiali. Una recezione carismatica*, cit., p. 116. In his book this author suggests two possible juridical configurations for the movements: as public associations of the faithful or a new solution inspired on can. 605. Cfr. *ibidem*, p. 97-120.

³⁶ Cfr. J. BEYER, *Il movimento ecclesiale: questioni attuali*, cit., p. 485; IDEM, *I movimenti nuovi nella Chiesa*, cit., p. 75 and C. HEGGE, *Il Vaticano II e i movimenti ecclesiali. Una recezione carismatica*, cit., p. 114. Ghirlanda suggest the creation of a permanent inter-dicasterial commission for movements. Cfr. G. GHIRLANDA, *I movimenti nella comunione ecclesiale e loro giusta autonomia*, in *Christifideles laici: spunti per uno studio*, cit., p. 57.

³⁷ Examining the praxis of the Pontifical Council for the Laity, Feliciani explains: "Alla luce di tale normativa, che non appare destinata a subire nel prossimo futuro significative evoluzioni, e considerata la effettiva realtà dei movimenti ecclesiali quale si presenta *hic et nunc*, si può ritenere che per queste aggregazioni è di norma preferibile un riconoscimento come associazioni private, conformemente alla prassi adottata dal Pontificio Consiglio per i Laici". G. FELICIANI, *I movimenti ecclesiali e i compiti del vescovo diocesano*, in *I movimenti ecclesiali nella sollecitudine pastorale dei vescovi*, Città del Vaticano 2000, p. 213. Martínez Sistach is also of the opinion that actually it is not convenient to give a new legislation for the movements. Cfr. LL. MARTÍNEZ SISTACH, *Las asociaciones de fieles*, Barcelona 2000, 4^o ed., p. 136.

unity of the movement cannot be guaranteed. For example, in the case of a movement organized as a confederation of juridical persons, if it is established that the general Statutes in which the charism is described and protected, are applied to all the entities that form the confederation, then the unity of the movement can be preserved³⁸. In the case of an international movement adopting this system, the unity will not be affected by the fact that different dicasteries of the Roman Curia will be competent to deal with the different branches of the movement, because some interdicasterial commissions can be established.

Taking into account the great diversity of movements in the Church and that most of them are still in a stage of development of their charism, it seems difficult to give them a common legal status, which perhaps will appear inadequate in a few years. However to create a new legislation for the movements is also premature because movements are among themselves very different. Most of them are still defining their charisms, and have not yet reached the stability typical of maturity. If they were placed now in a legal framework it may become an obstacle to their development and their freedom. This new legal framework could place some movements into a too strict and narrow model that is not fitting to them³⁹, or, even worse, it could change their nature if the new law would pretend to “unify” the movements through some elements not fundamental for them (for instance, the evangelical counsels, when the reality of the movement is to be a composed union of very different elements: secular faithful, celibates, married, consecrated). The alternative is the associative frame which seems to be a good step, because it is very wide and flexible and it allows the possibility of creating statutes fitting to each movement.

³⁸ In some movements there are general Statutes for the whole movement and particular Statutes for each section. The general Statutes logically are applied to each section. On this topic, see S. RECCHI, *Per una configurazione canonica dei movimenti ecclesiali*, cit., p. 61.

³⁹ As Ratzinger has pointed out, a certain level of institutionalization is necessary, but there is also a danger of an excess of institutionalization, and to create that proposed new legislation could be one. These are the words of Ratzinger: “una certa istituzionalizzazione è inevitabile. Dobbiamo però essere molto attenti per evitare che l’istituzione diventi un’armatura che alla fine schiaccia la vita e fare il possibile perché l’elemento istituzionale resti per così dire semplice, in modo che non spenga lo Spirito”. J. RATZINGER, *Dialogo*, in *I movimenti ecclesiali nella sollecitudine pastorale dei vescovi*, Città del Vaticano 2000, p. 229.