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**SOME CONSIDERATIONS OF THE SPANISH BISHOPS  
AGAINST THE LAWS RELATING TO PERSONAL IDENTITY,  
FAMILY AND EDUCATION**

**Abstract**

The paper discusses the opinions of Spanish bishops concerning a number of selected laws passed in Spain with respect to the identity of an individual, family, and education.

**Key words**

Spain, law, Catholic Church, individual identity, family, education

The Spanish bishops have the responsibility and the right to propose moral precepts derived from following Christ.

In recent times, there has been a deep crisis of conscience and moral life of the Spanish society. This crisis not only affects the social custom, but also the criteria and the guiding principles of moral conduct.

Therefore, Spanish bishops offer a number of observations to all citizens, observations which concern the effect of legislation on the moral state of society, and encourage social expression of views on the “values” of political interest.

Thus, in connection with a decree or draft law submitted by the legislator, Spanish bishops state in their “notes” or “declarations”:

We want to publicise our assessment in order to contribute to the necessary and deliberate public debate on a matter of such importance, and help Catholics and all those who wish to listen so that they can form a considered judgement in accordance with the Gospel and with basic human rights<sup>1</sup>.

In my opinion, these “values” have emerged with the enactment of new laws or legislative changes in three key areas: personal identity, family and education, thus affecting the fundamental right to life, the right to freedom of education and rights of the family, the right to non-discrimination and the so-called right to sexual and reproductive health.

## 1. PERSONAL IDENTITY

Several laws have been passed in this respect:

– Law 13/2005<sup>2</sup> of July 1<sup>st</sup>, which amends the Civil Code regarding the right to marriage, also known as the right to “same-sex marriage”. For the Spanish bishops, the consideration of marriage as the legal union between two people of the same sex has destroyed the traditional concept of marriage and the family<sup>3</sup>.

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<sup>1</sup> Spanish Episcopal Conference, CCXX Permanent Commission, Declaración con motivo del “Proyecto de Ley reguladora de los derechos (rights) de la persona ante el proceso final de la vida”, June 22, 2011.

<sup>2</sup> Cf. Law 13/2005, July 2, 2005, B.O.E. 157: 23632-23634.

<sup>3</sup> Cf. Spanish Episcopal Conference, Nota de prensa ante la aprobación del Anteproyecto de Ley que equipararía las uniones homosexuales al matrimonio, October 1, 2004; Nota de prensa ante la eliminación del matrimonio del Código Civil en cuanto unión de un hombre y una mujer, y su reducción a mero contrato rescindible unilateralmente, June 30, 2005.

– Law 3/2007<sup>4</sup> of March 22<sup>nd</sup>, regarding the Effective equality between women and men, in the paragraph regarding change of sex to be recorded in a Registry Office when “it does not correspond to the individual’s gender identity”.

With respect to the above, it may be concluded that the enactment of these laws shows that physiological identity is considered independent of psychological identity, in a way that the human being acts as the constructor of their own sexual identity, independently of their physiological identity.

– Organic Law 14/2006, of 26<sup>th</sup> May, on Assisted Human Reproductive Technology<sup>5</sup> deals, in my opinion, a decisive blow to the right to life of the unborn child. There is no protection for the artificially conceived child in favour of the defence of a true “right to motherhood” for single women aged 18 and above. Spanish Law allows the use of advanced techniques for single women, women who have already completed their reproductive life, for married and unmarried couples, and for post-mortem fertilisation.

Indeed, Spanish Law 14/2006 does not regulate the matters of infertility treatment but gives preference to the interests of the mother, to the extent that it sets up a new subjective right: the right of a woman to reproduction (single, married, homologous or heterologous fertilisation, post-mortem, homosexual, one mother married to another from whom she receives the eggs, insemination of two women with semen from a single donor), to the detriment of the protection of the artificially conceived child.

Also, Law 14/2006 allows the production of embryos for research and, for the first time in Spain, the genetic selection of embryos or “donor-babies” has been authorised.

– Law 14/2007 of July 3<sup>rd</sup> on Biomedical Research<sup>6</sup> ratifies the unfreezing and use of surplus embryos from in vitro fertilisation for purposes related to the procurement, development and use of embryonic stem cell lines.

It prohibits the creation of embryos for research purposes, but allows the activation of oocytes through nuclear transfer in order to obtain embryonic stem cell lines. In other words, it is forbidden to create human embryos for research, unless it is done by nuclear transfer for experimental or therapeutic

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<sup>4</sup> Cf. Organic Law 3/2007, March 23, 2007, B.O.E. 71: 12611-12645.

<sup>5</sup> Cf. Organic Law 14/2006, May 27, 2006, B.O.E. 126: 19947-56. Spanish Episcopal Conference, LXXXVIII Plenary Assembly, *Algunas orientaciones sobre la ilicitud de la reproducción humana artificial y sobre las prácticas injustas autorizadas por la Ley que la regulará en España*, March 30, 2006.

<sup>6</sup> Cf. Law 14/2007, July 4, 2007, B.O.E. 159: 28826-28848.

purposes, in which case it is allowed. Under this provision, approval is given, for the first time in Spain, for the possibility of producing embryos by means of so-called “therapeutic cloning”, under the formula of “activation of oocytes through nuclear transfer“.

– Organic Law 2/2010 of March 3rd, on Sexual and Reproductive Health and Voluntary Interruption of Pregnancy<sup>7</sup>, otherwise known as the Abortion Law. It considers abortion as one of the new reproductive and sexual rights of women without any restrictions concerning the type, because motherhood is considered as a burden, “a reproductive chore”<sup>8</sup> that society has imposed on women in order to subdue and imprison them in a private environment<sup>9</sup>.

Organic Law 2/2010 is a recognition of the right to free abortion up to the fourteenth week of pregnancy when the unborn child, from my point of view, is dependent solely on the will of its mother, as if it were just another part of her body.

Also, in my opinion, with the current law on abortion, adequate effective protection of the embryo recognised in Spanish constitutional jurisprudence is left entirely to the discretion of the pregnant woman as an absolute right<sup>10</sup>.

– Proposed Law on the rights of a person before the end of life<sup>11</sup>. This Proposed Law, which had not been approved due to the political change that took place in Spain in November 2011, provides, from my point view, for the elimination of the *lex artis* as a specific limit to the anticipated wishes of patients; a maximalist conception of patient autonomy; autonomy from the health professionals does pose certain questions. It was not clearly stated who decides when palliative sedation is necessary and timely, which healthcare interventions could be rejected and which could not; it did not define the relationship between human dignity and quality of life, and specify the place of conscientious objection<sup>12</sup>.

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<sup>7</sup> Cf. Organic Law 2/2010, March 4, 2010, B.O.E. 55: 21001-14.

<sup>8</sup> A term coined by Carolyn Hannan, former Director of the Division for the Advancement of Women of the United Nations.

<sup>9</sup> Cf. Spanish Episcopal Conference, CCXIII Permanent Commission, Declaración sobre el Anteproyecto de “Ley del aborto”: atentar contra la vida de los que van a nacer, convertido en “derecho”, June 17, 2009 and Ante la entrada en vigor de la nueva Ley del aborto, 5 July, 2010.

<sup>10</sup> Cf. Constitutional Court, 53/1985, April 11, 1985.

<sup>11</sup> Cf. Boletín Oficial de las Cortes Generales, Serie A, 132-1, June 17, 2011.

<sup>12</sup> Cf. Spanish Episcopal Conference, CCXX Permanent Commission, Declaración con motivo del “Proyecto de Ley reguladora de los derechos (rights) de la persona ante el proceso final de la vida”, June 22, 2011.

## 2. FAMILY

Moreover, according to the Spanish bishops, we are witnessing a radical legislative transformation of Rights of the Family, as laws passed do not protect it, but rather create and reinvent it. In general terms, it is the law, without any regard for natural reality, which defines and decides the nature of marriage, the meaning of family and fatherhood<sup>13</sup>.

As previously mentioned in connection with Law 13/2005<sup>14</sup> of July 1<sup>st</sup>, (which amends the Civil Code concerning the right to marriage to accommodate homosexual unions), marriage, in the opinion of the Spanish bishops, as the permanent union of a man and a woman open to life, no longer exists in our legal system. Marriage is seen as a social invention that changes and adapts to historical circumstances.

The purpose of this law, from my point of view, is not the recognition of a range of rights of people of the same sex, as these were already recognised in Spain in couples or de facto unions, but rather social recognition of homosexuality and the possibility of adoption, this being understood as a right of homosexual couples.

– Law 15/2005, of July 1<sup>st</sup><sup>15</sup> (which amends divorce that is unilateral and without cause) or the “express divorce”.

In my opinion, if each person constructs and “invents” themselves, and can build their relationship as they wish, then they must also recognise the ability to destroy this relationship at will.

According to the Spanish bishops, the background message being conveyed is that marriage is not important, that a marriage contract holds less value than a commercial contract. If one spouse wants to break their marriage, this wish must be realised without further consideration.

## 3. EDUCATION

– Organic Law 2/006<sup>16</sup> about Education (LOE), of May 3<sup>rd</sup>, as mentioned in the Preamble, where it describes the purposes of education as, among

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<sup>13</sup> Cf. Spanish Episcopal Conference, Nota de prensa ante la eliminación del matrimonio del Código Civil en cuanto unión de un hombre y una mujer, y su reducción a mero contrato rescindible unilateralmente, June 30, 2005.

<sup>14</sup> Cf. Law 13/2005, July 2, 2005, B.O.E. number 157: 23632-23634.

<sup>15</sup> Cf. Law 15/2005, July 9, 2005, B.O.E. number 163: 24458-24461.

<sup>16</sup> Cf. Organic Law 2/2006, May 4, 2006, B.O.E. number 106, pp. 17158-17207.

others points, the development of the student's emotional abilities, their recognition of emotional and sexual diversity, as well as the critical assessment of inequalities, in order to overcome sexist behaviour.

The Spanish Government, with the enactment of the 2006 Organic Law regarding education, introduced into the Spanish educational system the compulsory subject known as Education for Citizenship, EfC, articulated in the Royal Decrees on Minimum Teaching of December 7th, 2006 and January 4<sup>th</sup>, 2007.

– “Education for Citizenship”. The Council of Ministers of the EU Member States (16/10/02) encouraged the promotion of “education for democratic citizenship”.

EfC is presented as a “neutral” subject, which respects the opinions of the students and fosters a minimum common ethic acceptable for all. Its mandatory nature comes from the belief that, beyond the different traditions of religion, ideology or thought (that the student receives in his/her family), there are common values and common criteria, which come before these traditions, that turn the student into a citizen.

However, in my opinion, the idea of neutrality is, at best, clearly naive. In reality, it hides behind the desire to create a new mindset that is unifying rather than neutral. Citizenship is not a given and timelessly human condition, as if citizens could survive segregated from the contexts of nation, state culture and religion. Furthermore, if a person is no more than a citizen, then the last moral reference is made up of decisions of political power.

For the Spanish Conference of Bishops<sup>17</sup> the subject of EfC means compulsory formation of the moral consciousness of the student and implies, given the terms in which it has been approved, serious damage to the original and inalienable right of parents<sup>18</sup> and the school, in collaboration with the latter, to choose the moral education they wish for their children.

For these reasons, the teaching of Catholic Religion and Morality, as Spanish bishops point out, should be and is optional for students, because it has to be the parents who determine the kind of religious and moral education they wish for their children. This is their fundamental right, it is irreplaceable and inalienable. Therefore, the State cannot legitimately impose any educa-

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<sup>17</sup> Cf. Spanish Episcopal Conference, Comité Ejecutivo preocupado por la clase de Religión y la Educación por la Ciudadanía, December 14, 2006; Spanish Episcopal Conference, Permanent Commission, Nueva declaración sobre la Ley Orgánica de Educación (LOE) y sus desarrollos: profesores de Religión y “Ciudadanía”, June 20, 2007.

<sup>18</sup> Cf. Spanish Constitution, art. 27.3, B.O.E. 311, December 29, 1978.

tion of the moral conscience on students outside of their parents' choice. If the educational system forced one to receive another education of moral conscience, this would violate the will of the parents and implicitly asserts that the choice made by them in the exercise of their rights is not considered valid by the State.

And this is precisely what the State does with the EfC. If the wording of the Law left some room for doubt, the Decrees that implement it expressly stipulate that these lessons aim to teach, in an obligatory manner, "civic and moral conscience" to all students in all schools. Hence, the evaluation criteria are concerned not only with content, but also with personal attitudes and habits, whose constitution is always based on the vision of life that informs the conscience (see, in particular, the Decree of 29 December 2006 on Secondary Education). Students will therefore be trained and evaluated in terms of moral conscience, regardless of the will of their parents.

It is true, in my opinion, that the education of conscience should not be excluded from the educational curriculum. But lessons aimed at educating the moral conscience – both in the "personal" and "social" context – are not the responsibility of the State. The public authority cannot impose any morals on everyone: not even on a purported majority, Catholic or otherwise. It would infringe the rights of parents and/or of the school that was freely chosen by them in accordance with their convictions. It is the parents and the school, as a partner of the parents that have the right and the duty to educate consciences, without any limitations other than those derived from the dignity of the person and from just public order.

Therefore, what the bishops denounce is that some specific teachings under the name of EfC constitute a serious infringement of the right of parents to determine the moral education they want for their children<sup>19</sup>; teachings that also appear as scheduled, meaning the imposition of relativism and gender ideology. It is precisely what the European bodies suggest to Member States. This is not the right way to deal with the pressing need of a comprehensive education of the young for coexistence in truth and justice, with positive attitudes that contribute to the creation and consolidation of peace in families, schools and society.

If this were the purpose and content of the subject, there would be nothing to object to as it would contribute to the objective knowledge of the constitutional principles or civil rules of coexistence.

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<sup>19</sup> Cf. Spanish Constitution, art. 27.3, B.O.E. 311, December 29, 1978.

All in all, the State, in my opinion, with the approved content of the subject assumes a role of moral educator, which is not the task of a democratic State. We are talking about this particular “EfC”. A different one, one which would not invade the field of education of the conscience and would comply with the explanation of the constitutional order and universal declarations of human rights, would be acceptable and even desirable.

From my point of view, undoubtedly the common denominator of all these laws is the introduction and implementation of Gender Ideology that has been one of the objectives of the legislative reforms that have taken place in Spain. Gender Ideology aims to establish a society in which all individuals are “equal”, a society without gender differences between the sexes in which every single person, regardless of the biological characteristics they are born with, can choose their own gender identity and sexual orientation. Roughly, this ideology means, as expressed by Spanish bishops, the rupture of anthropological unity between the corporal-physical, and the psychological-mental being. This ideology forms the roots of a true anthropological “revolution”, in view of the enactment of e.g. Organic Law 1/2004, of December 28<sup>th</sup><sup>20</sup>, on Integral Protection Measures against Gender Violence. In this law, the relationship between a woman and a man is defined as “necessarily conflictive”, which denotes inherent antagonism and rivalry.

As the Spanish bishops observe, “gender” has been adopted as a cultural term for socio-cultural differences between men and women. It is therefore necessary to distinguish between what is “given” by the biological nature (“sex”) and what is due to cultural constructs “made” depending on the roles and tasks assigned to each sex (“gender”):

One can say that the core of this ideology is a pseudoscientific “dogma” according to which the human being is born “sexually neutral”. An absolute separation between sex and gender is argued. Gender would have no biological basis: it would be merely a cultural construct. From this perspective, sexual identity and roles that people of both sexes play in society are cultural products, without any basis in nature. In each of the situations of their lives, everyone can be the desired gender, regardless of their corporeality. Consequently, “man” and “male” may designate both a male and female body; and “woman” and “female” may signal both a female and male body. Other “genres” are distinguished as well: the male, the female, the male homosexual, the female homosexual, bisexual, transgender, etc. The community attributes

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<sup>20</sup> Cf. Law 1/2004, December 29, 2004, B.O.E. 313: 42166-42197.



the role of male or female through the process of socialization and family education. The decisive factor in shaping the character would be that each individual had a choice of their sexual orientation, based on their preferences. With such an approach, it is not surprising that the rights of each and every “sexual gender” must be recognized. Failure to do so would be discriminatory and not respectful of their personal and social value<sup>21</sup>.

## CONCLUSIONS

According to the Spanish bishops, the Government has enacted laws authorizing morally illicit actions. Therefore, some consider such legally permitted actions moral. However, my opinion is that legal order must not be confused with moral order. Although some things may be legally permitted, that does not mean they automatically become moral, and vice versa. I think the moral sphere is broader than the legal one.

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### Streszczenie

W ostatnim czasie według biskupów hiszpańskich wystąpił głęboki kryzys świadomości i życia moralnego społeczeństwa hiszpańskiego. Kryzys ten wpływa nie tylko na zwyczaje, ale także na kryteria i podstawowe zasady postępowania moralnego. Wspomniany kryzys pogłębiło wprowadzenie nowych ustaw lub modyfikacji w trzech kluczowych obszarach legislacyjnych: tożsamości jednostki, rodziny i edukacji, które dotyczą głównie prawa do życia, wolności edukacji, rodziny, niestosowania dyskryminacji i rzekomego prawa do zdrowia seksualnego i reprodukcyjnego.

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<sup>21</sup> Spanish Episcopal Conference, XCIX Plenary Assembly, April 26, 2012, “La verdad del amor humano. Orientaciones sobre el amor conyugal, la ideología de género y la legislación familiar”. 18. Spanish Episcopal Conference, Instrucción Pastoral sobre la conciencia cristiana ante la actual situación moral de nuestra sociedad, November 20, 1990.

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