

CMO 46 s. 2012 Violates Academic Freedom of Catholic HEIs

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CMO 46, s. 2012 violates academic freedom. It violates especially of the academic freedom of private higher education institutions (HEIs), including Catholic HEIs. Since this is a gathering of Catholic Educational Association of the Philippines (CEAP) educators, I wish to focus on how it violates the academic freedom of Catholic HEIs.

First, some quick historical remarks: After the Philippine Accrediting Association of Schools, Colleges and Universities (PAASCU) General Assembly of Nov 23, 2012 asked CHED through a formal resolution to postpone the approval of its proposed outcomes- and typology based quality assurance program, the Board of Trustees of the Catholic Educational Association of the Philippines resolved similarly on December 11, 2012 to request CHED to postpone the approval of the program.

Both PAASCU and CEAP member schools wanted to focus on the implementation of K-12. The PAASCU request was rejected by Dr. Patricia Licuanan, Chair of CHED, in a letter to its President, myself. The CEAP's request was ignored, as pointed out by Fr. Greg Bañaga, President of CEAP in his letter to Dr. Licuanan. Either it was too late to merit the reconsideration of the Commissioners. Or, when it arrived its request was already moot and academic.

For on the same date the CEAP issued its request to postpone, the CHED approved Memorandum Order 46, "Policy-Standard to Enhance Quality Assurance (QA) in Philippine Higher Education through an Outcomes-Based and Typology Based QA" (CMO 46 s. 2012, or: CMO 46). At least that is what we must construe from its publication in the official CHED Website with the signature of Chair Patricia Licuanan. Normally, the Commission on High Education is a collegial body, a validly approved CHED policy carries the signatures not only of the Chair but of the other Commissioners.

The PAASCU objects to CMO 46 both as a violation of the academic freedom of Philippine HEIs and as a disaster for Quality Assurance (QA) in the Philippines. Fr. Ranhilio Aquino explains to us today the infirmity of the CMO 46 from the viewpoint of the Constitution and the law. Chita Pijano explains why CMO 46 is a quality assurance debacle. Through CMO 46, CHED intends to subject all accreditation to its senselessly cumbersome and globally unprecedented vertical-and=horizontal system. In fact, we submit, that it does not enhance QA in the Philippines. It harms it.

But let us now focus on CMO 46 and Catholic Higher Education. CEAP objects to CMO 46 primarily as a violation of its academic freedom guaranteed by the law that creates the CHED (RA 7722). CHED is mandated to “ensure and protect academic freedom” (Sec 2). It is to implement the law which guarantees: “Nothing in this Act shall be construed as limiting the academic freedom of universities and colleges” (Sec. 13). Instead, in CMO 46 it violates this. Why?

CMO 46’s Mantate to HEIs Illegitimate

- FIRST, the CMO arrogates to itself a definition of the mandate of all HEIs in the Philippines.

In CMO 46, “QA” or Quality Assurance is a shibboleth whose invocation magically allows it to do many remarkable things. In Art. I, Sec. 1, in the guise of a “Rationale for Enhancing QA,” CHED defines the mandate of all higher education in the Philippines. “Philippine higher education is mandated to contribute to building a quality nation capable of transcending the social, political, economic, cultural and ethical issues that constrain the country’s human development, productivity and global competitiveness” (Sec 1).

The mandate is then broken down into “multiple missions” in Sec. 2:

“— To produce thoughtful graduates imbued with 1) values reflective of a humanist orientation... 2) analytical and problem solving skills; 3) the ability to think through the ethical and social implication of a give course of

action; and 4) the competency to learn continuously throughout life – that will enable them to live meaningfully in a complex, rapidly changing, and globalized world while engaging their community and the nation’s development issues and concerns;

“– To produce graduates with high levels of academic, thinking, behavioral and technical skills/competencies that are aligned with national academic and industry standards and needs and international standards, when applicable;

“– To provide focused support to the research required for technological innovation, economic growth and global competitiveness, on the one hand, and for crafting the country’s strategic directions and policies, on the other; and

“– To help improve the quality of human life of Filipinos, respond effectively to changing society needs and condition; and provide solutions to the problems at the local community, regional and national levels” (Sec 2).

This mandate is only underscored in the “Briefer on CMO 46” recently issued by CHED supposedly to quiet objections raised against CMO 46.. It asks, “Why issue a CMO on (QA) at the same time as other major educational reforms like K-12?” It answers as follows:

“---To get HEIs to contribute more virorously to national development...

“---To regain the Philippines’ competitiveness advantage in Asia...

“---To adopt approaches that will resonate with national needs and international practice.

“---To remain in step with the ASEAN in adopting and substantiating a National Qualifications Framework.

As admirable as this “mandate” may seem, now confirmed in the “Briefer on CMO 46,” and as desirable as the multiplicity of missions may appear, CHED is not empowered by RA 7722 to define this mandate and its

consequent missions. CHED is instead mandated to ensure and protect academic freedom. In defining this omnibus mandate for all HEIs in the Philippines, it re-defines all the missions and visions of the HEIs that guide their program and institutional activity in their exercise of academic freedom. In this single mandate, CHED denigrates all academic activity that falls short of its fulfillment, and disqualifies all academic activities that exceed it. In imposing this mandate on all HEIs, it violates their ability to pursue their own self-imposed, self-mandated missions that is the heart of academic freedom responsibly exercised.

In academic freedom, an HEI does not submit itself to another's mandate; it obeys its own mandate set in academic freedom. It remains free in taking responsibility for the rationality with which sets its own mandate.

CMO 46 mandates all HEIs to “the building of a quality nation.” What the difference between “nation” and “quality nation” is, is unexplained. Is there a “quantity nation” or a “weak nation” or a “nation of shortcomings” that is contemplated in the subjection of all higher education activity to the “quality nation”? Is the notion of transcendence of social, political and cultural issues that hinder human development and global competitiveness to end in the achievement of the quality nation? Is the listing of submissions adequate? As attractive as some may seem, like the production of thoughtful, skilled graduates of a humanist orientation and research for technological innovation, and Filipinos living quality lives responding to social and national needs, is that it? Is that it for higher education in the Philippines?

Is this nondescript “quality nation” adequately the mandate of higher education in the Philippines, even though in history the notion of the “nation” and the “nation-state” – no matter the quality – has been long criticized as militating against the achievement of universal human community? From the Christian, theist position the nation is overcome in the Kingdom of God, from the Hegelian pantheistic position the nation is overcome in concretized Spirit, from atheistic historical-materialistic position the nation is overcome in Communism. In the contemporary notion of the nation-state, what is the “quality nation”? Is this where the “quality” nation is governed by “quality” whites or “quality” browns, where democratic processes can be undermined by the power of certain “quality voters.” Is a nation of quality because of its people's goodness or power? Do quality nations have rights over non-quality nations, so that quality nations are immune from external aggression, internal disintegration, and the

nation-disruptive powers of globalization? Can quality nations exploit the environment more than non-quality nations?

In the absence of clarity in this policy, the doors are wide open for arbitrariness, normally harmful to people.

Catholic HEI Mission Ex Corde Ecclesiae

Many Catholic schools in the Philippines, whose various missions proceed *Ex Corde Ecclesiae*, “from the heart of the Church” (cf. Encyclical of John Paul II, 1990, with same name), not from a CHED Memo, include the service of the nation in their missions, even though this does not exhaust their mission. “Every Catholic University, as a university, is an academic community which, in a rigorous and critical fashion, assists in the protection and advancement of human dignity and of a cultural heritage through research, teaching and various services offered to the local, national and international communities. It possesses that institutional autonomy necessary to perform its functions effectively and guarantees its members academic freedom, so long as the rights of the individual persona and of the community are preserved within the confines of the truth and of the common good” (JP II, ECE, 12). The Catholic understanding of the university and its activity is much larger than CHED’s mandate of all HEIs to a quality nation. The Catholic college or university sets its own mission in exercise of the academic freedom that the Church recognizes in the original essence of the university itself. “Born from the heart of the Church, a Catholic University is located in the course of tradition which may be traced back to the very origin of the University as an institution. It has always been recognized as an incomparable center of creativity and dissemination of knowledge for the good of humanity. By vocation, the *Universitas magistrorum et scholarium* is dedicated to research, to teaching and to the education of students who freely associate with teachers in a common love of knowledge...” (ECE, Intro). Here, the university (*universitas*) is not a bland institution that meets CHED standards, but a community of scholars and teachers who come together in academic freedom to pursue truth.

The Church's respect for the academic freedom of the Catholic University, in my view, proceeds both from deep faith and deep humility. In faith, because it believes that in the end reason can never be incompatible with faith in Jesus, the Way, the Life and the Truth. Understanding seeks faith; faith seeks understanding. In humility, because it knows it itself must deepen its understanding of the Truth revealed to it in Jesus and its relationship to this Truth, in the light of many hard historical truths: corruption and scandal that infected the Church at its highest levels, the sacrilegious commercialization of blessings and indulgences, a Reformation it condemned but brought it back to a deeper appreciation of the centrality of Jesus Christ to its Catholic faith and the indispensable importance of Scripture alongside with its tradition, condemnation of paradigm-shifting scientists such as Galileo, its participation in the Crusades, then in the Wars of Religions, its early acceptance of slavery, its rejection under Leo XIII of human rights, its current openness to the presence of God in diverse cultures and religions, its declaration of religious freedom based on the dignity of the human person, its advocacy of life and the dignity of human life (*Humanae Vitae*) but its disconcerting rejection by so many within the Church, its increasing clerical isolation from the joys and struggles of its laypersons. In all of this, for higher education, the Church provides not a mandate to tow a line (as truthful as the line may be), but academic freedom. None of these areas that call to the Catholic universities for urgent attention seem even remotely relevant to the "quality nation."

In trying to provide a rationale for enhancing its QA in its horizontal and vertical program, it has posited gratis a mandate to all HEIs in the Philippines that violates the mandate imposed on CHED by RA 7722. Where academic freedom precisely affords HEIs the space and privilege to search for truth, to think thoughts yet unthought, to venture "out of the box," to think the systems that have not yet been systematized – the crucial critical activity that preserves humankind from ignorance, bigotry, tyranny, arbitrariness and the arrogance of the powerful! – CHED has locked HEIs into a box of merely its notion of "quality nation" and of "thoughtful graduates" thinking its thoughts and of "ethical systems" and social arrangements and human culture that shall serve the determinations of "the quality nation" powerfully (=arrogantly) set by itself, no more, no less.

This, I contend, is not a venial sin against the essence of higher education. It murders the soul of higher education.

OBE not Universally Applicable

- SECOND, in its insistence on Outcomes-Based Quality Assurance it must insist on outcomes that are meaningful in the context of its re-defined mission of PH HEIs. It cannot thereby systemically recognize and much less evaluate the outcomes that private HEIs in academic freedom may consider valid beyond its definition.

By locking itself in its “quality-nation” box as a “rationale” for enhancing QA through outcomes, it must draw out the desired outcomes of higher education from within that box. The National Qualifications Framework of E.O. 83, that is in fact material for legislation based on widespread consensus, needs to fit this box if it is to influence CHEDs determination of valid outcomes. This involves not only the outcomes of “disciplines of making” (“techne”) such as engineering, nursing, architecture, navigation, which lend themselves easily to outcomes. It also involves disciplines such as philosophy, theology, literature, history, anthropology, political science, developmental studies. It involves not only the outcomes of HEIs in obedience to minimum standards, but the outcomes of HEIs exceeding minimum standards in academic freedom. But when you begin with the general CHED-set mandate to “the quality nation, ” how do you evaluate outcomes of philosophy which demolish the rationality of the nation, or outcomes of theology which advocate a notion of the sanctity of life unacceptable to the profane gods of the quality nation, or outcomes of literature which tell the stories of love and infidelity in love which may be human but have arguably little to do with edifying a quality nation. How do you evaluate outcomes in the arts, in dancing and singing? Are the outcomes such, that we can rejoice in more than the tinkling and the cariñosa? Once CHED has set outcomes in the context of any apriori notion of the end of higher education as the QA basis for higher education programs or institutions, it cannot rationally evaluate outcomes beyond this. What it evaluates as good from within its conceptual box is ultimately arbitrary – since it closes its eyes to the thoughts, insights and reason coming beyond the box which are its ultimate rational justification.

CMO 46 is a Procrustean Bed

- THIRD, there are valid higher education activities that do not end in meaningful “outcomes.”

Not all disciplines lend themselves to evaluation in outcomes, and to force this model on the whole of higher education because it is important for such as engineering, places all of education in this Procrustean bed. When Procrustes, the carpenter, saw that his Prince’s legs were too long for his expertly-crafted bed, he sawed off the protruding lengths of the Prince’s legs, so that he would finally fit in the bed. When one creates a conceptual system and reality doesn’t fit in it, one can insist on the system, destroy reality, and declare, “Too bad for reality!” CMO 46 is a Procrustean bed. Much of higher education just doesn’t fit, despite its 70 pages of implementing guidelines and the “Briefer on CMO 46” that fails even to be brief. The danger is that in the powerful implementation of the imperfect system, higher education will be harmed.

Higher education deals with problem areas whose outcomes are arguably not “outcomes,” but an ongoing attempt to continue a search for truth essentially contested. For example, disciplines which deal with the notions of “the common good.” What are the acceptable learning outcomes for CHED? From the vantage point of “the quality nation” will the acceptable outcome be one who fights coal-fired power plants as harmful for the environment based on the common good, or one who accepts them as necessary today for the economy? Will the acceptable learning outcome be one who preserves the indigenous peoples in the ancestral domains as a cultural imperative of the common good, or one who educates them to be productive in the mainstream of the life of the quality nation? Will the acceptable learning outcome be one who promotes an orderly quality-assured monolithic educational system managed by the State as demanded by the common good, or a system participated in by the State and by private partners in institutions of learning in academic freedom that are complementary to each other.

Because certain concepts like the common good are perennially contested, and one group’s notion of the common good contends against others’, the notion of the common good itself when “right” and backed up by the “might” of arms, becomes a notion that is repressive, coercive and dangerous. As we know, might does not make right, even in its powerful claims to truth. In this context of perennially contested concepts, the presence of HEIs exercising academic freedom is vital to peace, that is achieved and preserved precisely through ongoing discussion of

perennially contested notions.

The mission and vision of Catholic schools which proceed validly *ex corde ecclesiae* have many such perennially contested concepts that cannot be evaluated by a controlling state system committed ideologically to a “quality nation.” These include: “integral human formation” in the Christian community, the pursuit of justice and peace in a global world, environmental stewardship, poverty reduction, transformative education, and the like. Where mission and vision are set by the schools in their exercise of academic freedom, it is also in academic freedom that they must voluntarily assure their own quality. When a government regulative body takes this over, as it seeks to do in CMO 46, it imposes its system, categories and ends on the HEIs, truncating their academic freedom. This is not only inappropriate. It is illegal.