

# Why is Opus Dei a personal prelature?

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## 1. Background to the question

Opus Dei has been a personal prelature since its establishment as such by the Apostolic Constitution *Ut sit* of John Paul II on November 28, 1982, which was executed on March 19, 1983. The statutes of the Prelature open with this clear statement: "Opus Dei est Prelatura personalis [...]" (n. 1 § 1).

In these two simple facts we can find an initial answer to the question posed in the title of this communication. The establishment of the prelature came about by virtue of a decision of the Supreme Authority of the Church, which applied, to the reality founded by Saint Josemaría on October 2, 1928, the institutional configuration of a personal prelature for carrying out particular pastoral tasks, as foreseen by the Second Vatican Council in the Decree *Presbyterorum ordinis*, n. 10. However, the question that concerns us here is more specific, since it focuses on the verbal form "is": in what sense can it be said that Opus Dei is a personal prelature?

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PONTIFICAL UNIVERSITY OF THE HOLY CROSS, *Studies on the Prelature of Opus Dei, on the twenty-fifth anniversary of the Apostolic Constitution Ut sit*, translated and edited by Paul Hayward, Gratianus Series, Montréal, Wilson & Lafleur Ltée, 2008 pp. 155–172.

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To this question we could give a reply that seems to resolve the problem: Opus Dei is a personal prelature from the juridical standpoint, that is to say, within the ambit of canon law. That is a perfectly true and obvious statement. Yet the real meaning and significance of such a statement are far from obvious.

The main difficulty stems from what is generally understood by the “juridical” existence of any social reality, in both the canonical and the civil sphere. There is a widespread feeling, which coincides with many theoretical disquisitions on law, that juridical existence is something separate from the real life of people in society. Law, as a system of social norms capable of being imposed in an effective way within a given area, undoubtedly structures the social reality in some way, regulating and guiding conduct, and creating institutions that help coordinate the activities of individuals. However, this legal order is generally perceived as being extrinsic to the individuals involved and to their real interpersonal relations. Social realities in themselves are one thing; quite another is the way in which they feature in the juridical system. Although the latter is recognized as having the capacity to influence social realities, law is not seen as intrinsic to them, but rather as an instrument for changing them.

If we apply these considerations to our question, it is easy to acknowledge that Opus Dei has entered into a new juridical configuration on being established as a personal prelature, with the result that it is now subject to the norms laid down by the Church for this kind of institution. What is more difficult to assert without qualification is that the new juridical configuration is perfectly suited to the reality of Opus Dei. Most difficult of all is to understand how it can be said that *being* a personal prelature relates precisely to the reality of Opus Dei—bearing in mind that the figure of the personal prelature is, like others in the juridical world, seen as being an “instrument” of the legal system. Another reason is that Opus Dei is clearly a reality linked to the charismatic life, under the impulse of the Holy Spirit in the Church, which suggests that it cannot consist of a juridical form that is merely a creation of the canonical legal order. The best proof of this, some would claim, is the simple fact that prior to its establishment as a personal prelature, Opus Dei already existed, and was the object of a series of different canonical configurations (which, while clearly inadequate as compared

to the definitive configuration, were just as extrinsic—as “juridical”—as the definitive one). Consequently, the statement “Opus Dei is a personal prelature” would not seem to correspond to the reality founded by Saint Josemaria in 1928.

In these pages I intend to demonstrate that the statement that Opus Dei is a personal prelature expresses an intrinsic and essential aspect of the charismatic reality. Above all I will apply a “realist” vision of law to the concept of personal prelature; and I will then attempt to explain why this concept is appropriate for the reality of Opus Dei.

## **2. Realist understanding of the juridical concept of personal prelature**

The concept of law as a normative order extrinsic to the social reality, to which it is applied and imposed in a coercive manner, affects the way all juridical concepts are understood, both in the civil and in the ecclesial sphere. Even those concepts that clearly transcend law, such as that of the person, tend to be considered as creations of a particular legal order, arrived at in pragmatic fashion in order to determine the ambit within which a law has force. According to this approach, the juridical concept of person does not correspond to what the human person actually *is*, intrinsically (as in the philosophical concept of person), but is simply a human point of reference to enable the legal system to determine the scope of its own laws. In the case of concepts developed within the legal order itself, such as that of the personal prelature, the technical–operative approach is even more obvious: the concept is seen as a kind of conventional artifact shaped by legal norms, by which social relationships are classified in a way that is useful for the achieving of certain practical ends.

From this perspective, the personal prelature appears as a juridical classification that brings with it a number of juridical consequences: attribution of competences, rights, obligations, sanctions, etc. Thus from the juridical standpoint, when a concrete social reality such as Opus Dei is configured as a

personal prelature, it is a personal prelature only because that happens to be the name given to it within the canonical order, as a result of which certain consequences follow. Thus the juridical reality tends to be regarded as nothing more than a name—a name that is simply an instrument for attributing certain effects of positive law to the social reality. Juridical positivism is linked to nominalism: if the reality in question is treated as not having any juridical importance in itself, and if the law comes to it from “outside”, then juridical concepts are simply legal devices, instruments—just like the laws that shape them and make use of them.

To break out of this vicious circle we have to ask ourselves once more what the law *is*: what does it mean to say that something is “juridical”? This is not an easy task, since deep-rooted mental habits of positivism also affect the way ecclesial law is looked at; and the “extrinsic” concept of law has profoundly marked the attitudes both of specialists and of ordinary people. It is necessary to overcome this approach: suffice it to consider how law is discredited when it is seen as a purely pragmatic way of ordering life, particularly as it can be used to achieve any social objective, given that—according to this way of thinking—it consists of merely consensual and relative solutions sustained by nothing but *de facto* interests and powers.

The classical Christian tradition of law offers, with a variety of shades and meanings, a response that is fundamentally opposed to this approach. Perhaps the simplest and most effective way of understanding this response is to present it from the point of view of the relationship between law and justice. Justice is the virtue of giving each one his due, according to the definition attributed to the Roman jurist Ulpianus and accepted by many legal thinkers up to our own times; and it is intrinsically linked to and presupposes each one’s “right”. In its turn, right is defined as the object of justice, so that right and justice are inseparably linked. A “right” is therefore “what is just”: i.e. a reality, a good, which belongs to someone insofar as it is owed to him

by another. This includes rights that are intrinsic to the person (life, liberty, etc.), as well as external goods that are the object of interpersonal relations. It is in this that what is truly juridical—truly just—consists, whether considered from the point of view of the person and personal relationships, or from that of human freedom which shapes and determines relationships of justice between individuals and with society.

These are the essential considerations that allow us to reach a proper understanding of any juridical concept—which in every case will be a concept relating to what is just, i.e. to real relationships between persons in respect of real goods. Returning to the example of the juridical concept of person: when laws or other juridical acts speak of “the person”, they refer to the same substantial reality as common sense understands by that name, the same reality that philosophers study. The juridical importance of the concept of person derives from its relationship with what is “right” in interpersonal relationships. But this relationship with what is right—which is specifically defined through the juridical use of the concept of person—is possible and necessary precisely because human beings are persons. Only if someone is a person can he be the holder of the title to a good which is “his”, and which is therefore owed to him. Only a person is capable of owing something to someone else in justice.

An institutional concept such as that of personal prelature must also be understood in this light. A personal prelature, like a diocese or any other ecclesiastical circumscription, is not a superstructure which for organizational or functional purposes is imposed extrinsically on the ecclesial reality formed by the life and activity of the faithful and their Pastors. If that were to be the case, the fact of being a personal prelature would be of little relevance, and would lack importance and interest for all except a few experts—canonists, those involved with the technical aspects such as procedures, practices, formal acts, and external designations.

What the concept of personal prelature really signifies is an interpersonal reality that shares in the very being of the Church of Christ. It is a community of faithful, hierarchically structured around a Prelate, in whose ministry priests and deacons collaborate, with a personal sphere of activity and a specific mission complementary to that of the dioceses in which it is present. In short, it is a part of the Church, as real and as living as the Church herself.

It is true that the concept is an institutional one, referring directly to the unitary and permanent aspect of the personal prelature, which transcends the individual members who happen to form it and who may come and go over the course of time. Nevertheless, it is an institution composed at any given moment of real faithful, without whom it would be nothing more than a theoretical possibility. Hence a true understanding of the concept leads us to conclude that a personal prelature, like a diocese, is a real group of persons—a concrete expression of hierarchical communion among the faithful—and not simply a bureaucratic apparatus or an extrinsic official classification.

Since it is a juridical concept, we should bear in mind that in speaking of a personal prelature we are looking at the external aspects that can be the object of relationships of justice: the institutional relationships of the prelature with other ecclesiastical and civil subjects, and relationships of justice existing within the institution itself (among the faithful of the prelature, and between the faithful and their Prelate). If the concept of personal prelature is taken in a realist sense, this focusing on the external dimension of justice (which is of course an essential dimension of the Church in her earthly pilgrimage) should not lead us to forget that the ecclesial reality is made up above all of vertical and invisible communion with the Blessed Trinity and the mystery of the communion of the saints. It is not a question of isolating what is juridical, but rather of looking realistically at its specific characteristics, so as to be able to show how it fits within the supernatural mystery of the Church, and to demonstrate the intrinsic link (arising by virtue of the

sacramentality of the Church) between “what is just” and salvation. The rights of the faithful involve above all a relationship with the salvific goods (especially the word of God and the sacraments); while the duties of the sacred ministers to impart such goods, and the duty of all the faithful to live in ecclesial communion, are demands of justice geared to the personal sharing of the individual in Christ’s salvation.

What we have said up to now does not ignore the historical aspects of the concept of personal prelature. The personal prelature is a specific way in which the Church organizes herself, and to which she gives concrete form by means of positive canonical laws and ecclesial practice. The name itself, while reflecting the substance of the concept, is obviously determined by convention. But this does not affect or in the slightest way diminish the realism of the concept in the sense already explained. Every ecclesial reality is manifested in history and possesses “contingent” aspects, but the fundamental aspects of the institution reflect the essential characteristics of the Church: the fundamental equality of the faithful, its hierarchical constitution, etc. In the specific case of Opus Dei the key factor is a charism, a divine gift demanding fidelity. I will now go on to set out precisely why fidelity to this charism means that there needs to be a personal prelature.

### 3. The ecclesial reality of Opus Dei as a personal prelature

To understand why Opus Dei is a personal prelature, we need to grasp not only what a personal prelature is, but how this reality is present in Opus Dei itself. From a realist point of view its establishment as a prelature was not an external adornment or the attribution to it of some novel feature. The establishment signifies that Opus Dei is really and intrinsically a personal prelature.<sup>1</sup>

1. For a realist view of the juridical dimension of the Prelature of Opus Dei, cf. J. HERVADA, “Aspetti della struttura giuridica dell’Opus Dei”, *Il diritto ecclesiastico*,

We immediately come up against a difficulty that seems to oppose the realist view of the "prelature" aspect in Opus Dei. It is clear that before being configured as such by means of a pontifical act, Opus Dei was not a personal prelature. In relation to this act there is clearly a "before" and an "after". Hence it could be argued that to be a prelature is something extrinsic, extraneous (no matter how fitting or opportune) to the ecclesial reality of charismatic origin that came into being on October 2, 1928.

Certainly the establishment of the prelature was not simply a recognition by the Papal authority of the existing reality. Something new affected this reality. The faithful incorporated in Opus Dei began to be faithful of a prelature, with the corresponding bonds of communion among themselves and with their prelate; the one who was at the head of Opus Dei in 1982, Msgr. Alvaro del Portillo, became prelate of a personal prelature, with the hierarchical power proper to him; the clergy of Opus Dei began to be the *presbyterium* of the prelature. All this is new as regards the previous situation.

However, it does not mean that from 1928 Opus Dei was essentially different from the prelature established in 1982. This point requires greater attention, since the successive approvals of Opus Dei (as pious union, society of common

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July–December 1986, 3–4, pp. 410–430. For an examination of the debate among canonical authors on personal prelatures from a realist point of view, cf. E. BAURA, "Le attuali riflessioni della canonistica sulle prelature personali. Suggestimento per un approfondimento realistico", in S. GHERRO (ed.), *Le prelature personali nella normativa e nella vita della Chiesa* (Padua, 2002), pp. 15–53.

Certainly Opus Dei is not *only* a personal prelature, since it transcends its institutional configuration as a prelature. In the first place, there is another institutional reality which also has the full right to call itself Opus Dei: the Priestly Society of the Holy Cross, an association of clerics inseparable from the prelature. More radically, the entire life of the faithful of the prelature should be Opus Dei, not only their relationship with Opus Dei as an institution (such relationship being precisely for the purposes of that life). Moreover, its apostolic impact goes beyond the sphere of activities connected with the prelature, and reaches many people and ecclesial activities in all sorts of different ways. Finally, even though the prelature is of this world, Opus Dei has a clear eschatological dimension.

life without vows, and secular institute) treated it as though it were an ecclesial institution of an associative nature, such as the faithful might set up in order to achieve some common ecclesial aim. There were also some other extremely important reasons why these canonical configurations were unsuited to the charismatic reality of Opus Dei, above all the fact that the secularity of its faithful did not in any way come within the sphere of the state of perfection or consecrated life through the profession of the evangelical counsels. However, what is of interest to us at this moment is the other, equally essential, aspect already mentioned: the supposedly associative nature of Opus Dei.

A historical consideration of Opus Dei will help us delve further into its true nature. I will limit myself here to giving some essential data, which I believe to be of particular significance.<sup>2</sup>

In the first place it should be pointed out that Saint Josemaria's vocation in the Church was a vocation to the priesthood, with a specific horizon that would be revealed only later, when he saw Opus Dei.<sup>3</sup> From 1928 on, the Founder's vocational horizon is essentially priestly, that is, it comes within the sphere of the ministerial or hierarchical priesthood. Saint Josemaria was called to the priesthood precisely in order to found Opus Dei, and he founded Opus Dei precisely as a priest. Since it is an institution dedicated to the sanctification and apostolate of the lay faithful, on the basis of their common priesthood as baptized persons and their secular condition, it might seem paradoxical that the Founder should be a priest. The most radical solution to this paradox is the consideration that in the Church the fundamental equality

2. For a deeper study of these essential data, of great importance are the biography by A. VÁZQUEZ DE PRADA, *The Founder of Opus Dei*, 3 Vols. (Princeton/New York, 2001–2005), and in the specifically juridical sphere, A. DE FUENMAYOR, V. GÓMEZ-IGLESIAS and J.L. ILLANES, *The Canonical Path of Opus Dei. The History and Defense of a Charism* (Princeton/Chicago, 1994).

3. Regarding this aspect, cf. A. ARANDA, "Sacerdote de Jesucristo. Sobre la misión eclesial del Beato Josemaria Escrivá Fundador del Opus Dei", *Romana. Boletín de la Prelatura de la Santa Cruz y Opus Dei* 17 [1993], pp. 307–327.

of the faithful, and the Church's own hierarchical constitution, are both essential features. The Lord wished to raise up a priest for the laity whom he was to call to Opus Dei. To this priest he entrusted a truly priestly ministry, calling him to be the one who would unify and head this supernatural family. This ministry was to extend through time, and would pass to the Founder's successors (and it is highly significant that the familiar way in which the head of Opus Dei is addressed—"Father"—is also perpetuated through time).

We should also note that on October 2, 1928 Saint Josemaria was the only one who saw Opus Dei.<sup>4</sup> He always considered it to have been founded that day: later on there would be other complementary factors and insights, but the reality was already essentially complete. In this "seeing"—which was the verb he used—there was the personal reality of those who would come later. Those people were not yet present, but Opus Dei already existed. It was not something that would result from the combined efforts of all, but was a divine task that the Founder received. The freedom of all those who were to come would certainly have to coincide, but Opus Dei would not be the fruit of the union of their wills, for the simple reason that the new reality occupied a place in the Church—within its communitarian-hierarchical structure—that exceeded the power of the faithful in the associative sphere. Opus Dei was not born when another member of the faithful joined the Founder, but when God aroused it in Saint Josemaria and made clear to him the specific meaning of his hierarchical priesthood in the Church (which, as with every ordained faithful, presupposes the common priesthood received at baptism). The very absence of other faithful at the foundational moment helps to highlight the non-associative nature of the foundation.

4. Cf. J.L. ILLANES, "Dos de octubre de 1928: alcance y significado de una fecha", in *COLLECTIVE WORK, Monseñor Josemaria Escrivá de Balaguer y el Opus Dei* (Pamplona, 1985), pp. 65–107.

From the outset Saint Josemaria saw that there would be other priests apart from himself in Opus Dei. Later on he understood that these priests would have to come from among the lay faithful of Opus Dei. Both these aspects are highly important for our subject. The plurality of priests in Opus Dei became necessary for a well-defined ministerial purpose: that of offering pastoral assistance to the faithful of Opus Dei and all who approached its apostolates, collaborating in the same hierarchical mission that the Founder had been carrying out from the beginning. The ministerial-hierarchical relationship with the lay faithful is thus confirmed as an essential structural characteristic of the reality of Opus Dei.<sup>5</sup> The fact that the priests dedicated to the specific pastoral task of Opus Dei should come from the laity of Opus Dei (even though the charism may spread to other priests incardinated in the dioceses) is a particularly clear example of what tends to occur naturally in the Church, namely that priestly vocations arise from within the community of faithful to which their ministry will be dedicated.

At the same time, the Founder was always profoundly aware that, as part of the charism, the vocation to Opus Dei was essentially the same for him as for his children, for priests as for laity, for men as for women, for celibate people as for married. This awareness of their fundamental equality cannot be explained on the basis of the variety of their ecclesial functions, or by their degree of availability for institutional activities. It can be understood only in the light of the equal baptismal dignity of all the faithful, which is what Opus Dei brings into active operation. It makes specific their vocation and the manner in which they belong to the Church, confirming and strengthening the place of each one in the Church and in the world. Equality of membership and the hierarchical diversity of the faithful are two characteristics that have coexisted in

5. In this regard, cf. the chapter by P. RODRÍGUEZ, "The Place of Opus Dei in the Church", in P. RODRÍGUEZ, F. OCÁRIZ and J.L. ILLANES, *Opus Dei in the Church* (New York, 2003), pp. 17-98.

Opus Dei from the very start, in the same simple harmonious way as they do in the Church, while they also shape the essence of the institution and its charismatic patrimony.

In addition, Opus Dei's institutional activity is exclusively concerned with the salvific goods, especially the word of God and the sacraments. Saint Josemaria liked to present this activity as a "great work of teaching".<sup>6</sup> Institutional activity is clearly distinguished from that which is carried out by the faithful of Opus Dei, whether personally or in conjunction with others. This distinction also holds for initiatives promoted together with others in the areas of education, health, social care, etc., in which Opus Dei offers pastoral assistance, at times also offering institutionally an ecclesial guarantee that such initiatives are in conformity with the Gospel. The distinction between institutional activities and personal activities is fundamental for grasping the exclusively ecclesial nature of Opus Dei as an institution, above all because what is at issue is the lawful freedom that the faithful of Opus Dei enjoy in the temporal sphere, in the same way as other Catholics. Only on the basis of personal freedom and responsibility are they able to strive to remain completely faithful to the Church's teaching while sanctifying all their activities in the world, turning them into a means of personal apostolate and true Christianization.

The successive canonical approvals came in response to institutional needs arising out of Opus Dei's development (first in the diocesan sphere, and later at international level, also taking into account the question of priest members), but none of these captured the reality of Opus Dei. Beyond the great differences existing among them there is a very significant characteristic uniting them. Pious union, society of common life without vows, and secular institute, are all juridical concepts referring to ecclesial realities of an associative nature. This is the reason for their profound incapacity to

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6. Cf. interview with the *ABC* newspaper, Madrid, March 24, 1971.

reflect what Opus Dei is—a community of faithful which is intrinsically conformed to the hierarchical structure of the Church herself.

What made it particularly hard to understand this communitarian–hierarchical, non-associative nature was the fact that Opus Dei arose out of the charism received by Saint Josemaria and those who came afterwards, and that this charism involved a personal, essentially spiritual and apostolic, vocation on the part of the faithful concerned (some of whom, including the first ones, also having the charism of apostolic celibacy). On the basis of long ecclesial experience, both of these aspects were regarded as being the domain *par excellence* of the religious life, which meant that secular vocations tended to be thought of by way of analogy with those of religious. The secularity of the faithful of Opus Dei could certainly not be understood through such an analogy; but at an even deeper level what could not be understood was that fact that they constituted a community not because they came together for a specific “associative” initiative, but rather by virtue of the concrete bonds of ecclesial communion existing among them. As in any hierarchical community of faithful, those bonds implied an essentially hierarchical structure, with a Pastor at the head, and other priests collaborating with him.

Nor was it possible to gain a proper understanding of how the same institution of charismatic and vocational origin could include both men and women. The fact that there was separation in the life and apostolate of the men and women faithful of Opus Dei could be distorted when considered in terms of associative categories, and could lead to the idea that they were really two institutions accidentally united. In fact there was always profound unity between the men and women of Opus Dei, belonging to the same communitarian–hierarchical ecclesial reality.

The canonical steps taken in relation to the membership of priests and the attribution of power to the head of Opus Dei

were also viewed within an associative, not a communitarian-hierarchical, context. Undoubtedly these came in response to the demands of the charism, but they were inadequate: the profound unitary reality of Opus Dei continued to be reflected in a very imperfect way, since at root it was conceived of structurally as an associative institution. Priests and laity were seen as linked to the same charismatic institution, but not essentially linked between themselves. Hence the fundamental equality among them as faithful, and their mutual relationship, were placed in a setting that failed to embrace the essence of the institution. Furthermore it was thought that the power of the head was linked to the clerical associative aspect, so that the person who exercised that power was a member of the association, not the holder of hierarchical power in a community of the faithful. That was why it was hard to understand the difference between priests who came from among the laity of Opus Dei and who dedicated their ministry to Opus Dei, and priests incardinated in the dioceses who received the same vocation to Opus Dei to sanctify themselves through their ministry in the diocese itself, without thereby being incorporated in the prelature or its *presbyterium*.

With the establishment of the personal prelature, the process of recognition and response by the Church as an institution to the demands of the charismatic reality came to an end. It did not involve any genetic mutation, but the full development of the organism born in 1928 which had spread to every continent. What the Church's law enacted was what the charismatic patrimony of Opus Dei itself required—a patrimony which, as befits the Church, is not only spiritual but also involves and demands external expression, inseparable from that spirit.

This also provided confirmation of the Founder of Opus Dei's lively and penetrating juridical, and particularly canonical, formation and mentality. On the basis of his legal studies, which he saw through to completion following the advice his father gave him just after he had discovered his

priestly vocation, Saint Josemaria placed his own professional juridical talents at the service of the foundational mission that God had entrusted to him. Thus he also sanctified himself and contributed to the good of the Church as a jurist. The Lord granted him abundant lights all along Opus Dei's canonical path. What stands out particularly is the foresightedness with which he immediately grasped the essential nucleus of the definitive juridical solution, for which he worked so hard, offering the fact that he was unable to see it achieved during his lifetime. His successor, Bishop Alvaro del Portillo, in a letter written on the occasion of the establishment of the prelature, decided to begin the account of the juridical path with an anecdote from 1936 which shows how the Founder was very soon aware of the need for an ecclesiastical jurisdiction of a personal nature.<sup>7</sup> The Prelature of Opus Dei was something that Saint Josemaria desired and sought with all his soul in order to fulfill the divine task of October 2, 1928, precisely because it lay at the very heart of that task.

Perhaps the best way of understanding this juridical process is to think of the *implantatio* of the Church in a new territory or social context where the word of God, the sacraments and the other goods of salvation have just arrived. What is totally new is that in the case of Opus Dei we have the implantation of an ecclesial reality that is hierarchically structured thanks to a charism. Furthermore, it is an ecclesial reality that in no way intends to supplant the dioceses but rather to live and operate within them, with a lawful autonomy whose exclusive purpose is to serve them and the whole Church. It never wishes to become a local Church, since its own charism leads it to confirm its faithful as faithful

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7. Standing in front of two tombstones of prelates who had held a particular and very wide-ranging jurisdiction of a secular and personal nature, in the church of Saint Elizabeth in Madrid, Saint Josemaria said to a son of his, Pedro Casciaro, "There you have the future juridical solution of the Work." Cf. the text of the *Letter* of November 28, 1982, in A. DEL PORTILLO, *Rendere amabile la verità. Raccolta di scritti di Mons. Alvaro del Portillo* (Vatican City, 1995), pp. 64–65.

of the local Churches to which they belong. However, over and above these differences there is also a similarity: the establishment of any ecclesiastical circumscription takes place within a pre-existing communitarian-hierarchical reality, which requests such establishment. This is what happened with Opus Dei in 1928. Thus the attribution to it of the juridical concept of personal prelature is something totally real: Opus Dei *is* a personal prelature.