

RELIGIOUS FREEDOM: DOCTRINAL DEVELOPMENT IN VATICAN II

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On December 9th, 1965, in an editorial article, the influential Italian paper LA STAMPA, in Turin, hailed the Declaration on Religious Freedom DIGNITATIS HUMANAЕ as a unique and authentic enrichment; and perhaps the most characteristic doctrine resulting from the Second Vatican Council. As a matter of fact, it must be realized that in no other Second Vatican Council document is it so explicitly stated that the intention of the Council is to 'develop' Catholic doctrine: "Over and above all this, in dealing with the question of religious freedom this sacred Council intends to develop the doctrine of recent Popes on the inviolable rights of the human person and on the constitutional order of society."⁽¹⁾

Up to the early 1950s the "official" attitude of the Catholic Church, as represented in its text-books of Canon Law and even in the unthinking spontaneity of the faithful in general, was, at best, one of religious tolerance. It never countenanced the right of religious freedom in general. The Declaration on Religious Freedom of Vatican II marked a significant stage in the development of the Catholic Church's doctrine on the subject. Especially, it was in Dignitatis Humanae that for the first time a Church document proclaimed the fundamental and equal right of all men to freedom in religious matters. It was in this document as well, where for the very first time in 1965 it was stated that the reason why all men had this right was because of their dignity as human persons.

DIGNITATIS HUMANAЕ grounds the right to religious freedom in men as persons rather than in truth as such. This points to a movement in Catholic theology away from the long held tolerance-theory. Thus, the tolerance-theory, as expressed in the distinction between "thesis" and "hypothesis", whereby the establishment of the Confessional Catholic State claimed to be the transhistorical ideal situation for the Church, has been discarded and a doctrine of religious freedom adopted by Vatican II.

On December 7th 1965, the final formulation of the Declaration on Religious Freedom became a document of the Supreme Magisterium of the Church, and as such, DIGNITATIS HUMANAЕ was sanctioned as a doctrine and

1. For the English version of the Declaration on Religious Freedom (*Dignitatis Humanae*), hereafter referred to as D.H., along with a paragraph number and part, the text in *The Documents of Vatican II*, (ed.) W.M. Abbott, Angelus Book, New York, 1966, pp. 675 – 696, is used. Hence D.H. n.1,c.

“official” position of the Church on the subject of religious freedom. The title itself, *A Declaration on Religious Freedom; on the right of the person and communities to social and civil freedom in matters religious*, points to the intention and scope of the documents.⁽²⁾ From the very start the term ‘tolerance’, implying acceptance of a necessary evil does not appear. Hence this is an indication of a clean break with the ‘thesis-hypothesis’ approach which had dominated so much of the recent Catholic writing on the subject until the early 1950s. The very title of the Declaration implies a genuine right of every person and every community, without invoking the two alleged standards (of a Catholic majority or minority as the case may be) enshrined in the ‘thesis-hypothesis’ teaching. Meanwhile, there appeared straightaway an indication that the question of religious freedom seemed inextricably bound up with the wider issue of the relation between Church and State, between Church and Society.

Religious freedom is the right of man not to be compelled to believe or to act in a manner contrary to his own convictions. Originally this right of man came to be acknowledged in the post-Reformation era as the iniquity of the territorial principle *cujus regio ejus religio*, namely that the religion of the prince is to be the religion of his people, came to be commonly recognized. Historically, however, the right of man not to be forcibly restrained from acting in a manner conformable to his own convictions, in public as well as in private, has not been so readily recognized in the Church. Even among the Conciliar Fathers at the Second Vatican Council, there were those who were still unwilling to recognise this right. They wished to defend the historic religious prerogative of the Catholic State, namely, its right to repress public manifestations of non-Catholic belief and worship in the name of the common good, of which the religious unity of the people is an integral element to be protected by the coercive force of law and government.

The Declaration of Vatican II is the end result of a transition taking place over a relatively short period, whereby the ‘thesis-hypothesis’ theory has become superseded by the doctrine of religious freedom. Bearing in mind that the concept of religious freedom as a human and civil right, personal and corporate, is the product of twentieth century insight into the demands of the personal and political consciousness, however, the historical springboard for the development of the modern notion of religious freedom in the Catholic Church is nineteenth century thought, along with the Church’s magisterium of the nineteenth and twentieth centuries. Recent popes and modern Catholic thinkers have developed a doctrine by which the human person is declared with increasing emphasis to be the foundation, the end and bearer of the whole social life. Inherent in this doctrine concerning the dignity of man as a moral subject is the demand to act on his

2. See E. McDonagh, *The Declaration on Religious Freedom of Vatican II*, Darton, Longman & Todd, 1967, pp. 33 – 37.

own personal responsibility, especially in that vital area in which the sense of his own existence and his necessary pursuit of it are at stake; i.e. especially in matter religious.

Before we proceed any further, however, we would like to clarify three basic terms which are fundamental to our study, namely, religious freedom, freedom of conscience and freedom of worship. There is a vast difference between religious freedom in its contemporary juridical meaning as presented by the Declaration on Religious Freedom of the Second Vatican Council and “freedom of conscience”, and “freedom of worship” in the sense of nineteenth-century continental laicism.⁽³⁾ These latter formulas were not simply juridical; they were ideological. Inherent in them was the moral judgment that the individual conscience is absolutely autonomous, and the further theological-social judgment that religion is a purely private affair, irrelevant to any of the public concerns of the political community.

In the laicist view, freedom of conscience and freedom of worship were instrumental concepts. In that context, however, they were instrumental concepts to an ideological negation of the public status and of the social function of religion. On the contrary, in the contemporary constitutional conception, religious freedom is still an instrumental concept, but instrumental simply to the freedom of religion as a public phenomenon, whose manifestations are of a transcendent order, and consequently of such high personal and public interest that no repressive coercion may be thought to bear upon them, unless there exists some transgression of penal statutes which are necessary for the protection of fundamental social values against abuses of freedom.

Composition and Essential Elements of the Document

The Declaration consists of fifteen sections. The preface starts with the observation that in modern times, because “a sense of the dignity of the human person has been impressing itself more and more deeply on the consciousness of contemporary man”,⁽⁴⁾ the problem of religious freedom is posed in *new* terms. Along with the contemporary rise of man’s consciousness and sense of selfhood the Declaration, showing a sense of history and awareness of the “signs of the times”, also calls attention to the related factor of the rise of man’s political consciousness. This expresses itself in his aspiration to live as a free man under the auspices of a limited government which does not obstruct his pursuit of truth and does not hinder the free exercise of religion in society. More specifically, “this demand for freedom in human society chiefly regards the quest for the value proper to the human spirit. It regards, in the first place, the free

3. J.H. Miller (ed.), *Vatican II: An Interfaith Appraisal: International Theological Conference*, University of Notre Dame Press, Notre Dame and London, March 20 – 26, 1966, pp. 568 – 570.

4. D.H., n. 1.

exercise of religion in society.⁽⁵⁾ In these opening sentences, DIGNITATIS HUMANAЕ is in direct continuity with two fundamental principles established by Pope John XXIII in the encyclical PACEM IN TERRIS: the dignity of the human person and the consequent necessity of constitutional limits to the powers of government.⁽⁶⁾

A very important factor which has pervaded almost every aspect of current Catholic theology, especially over the last thirty or forty years, is a renewed sense of history.⁽⁷⁾ Meanwhile, very significant in terms of the theological development has been the twentieth-century experience of a new sense of awareness of the real nature of the human personality – an awareness far more profound than existed in the nineteenth century. It involves a sensitivity to the rights of conscience; and the idea of a living personal faith as a goal towards which pastoral work had started to be directed within the Catholic Church. There grew also an increasing distrust of coercive methods in matters of religious faith. Constraint in this area of human life also began to be considered in the wider contexts of its sociological and psychological effects. Hence the concept of the “freedom of faith” was demanding a more precise definition and breadth of vision.

In this light, there arose a common realisation that the problem of religious freedom and of the relations between Church and State had to be stated in new terminology. John Courtney Murray⁽⁸⁾ suggested in 1949 that one could see rising in this area the same problem that was central to all other areas of theological thought already, namely, not so much a problem of ‘faith and reason’ but rather one of ‘faith and history’.

It was, therefore, not so much a question of essential categories of philosophy as one of the *existential category of time* that theologians were starting to be preoccupied with. Hence the concrete situation facing theologians in the sphere of religious freedom and consequently Church-State relationships, in the twentieth century, was different from that which the nineteenth century had to confront.

The Declaration on Religious Freedom suggests that since all nations are coming into closer unity and men of different cultures and religions are being brought together in closer relationship, religious freedom becomes an indispensable principle for an orderly way of living with dignity together, both within specific political communities and between them throughout the world at large. It states that “consequently, in order that relationships of peace and harmony may be established and maintained within the whole of mankind, it is necessary that religious freedom be everywhere provided

5. D.H., n. 1a.

6. Cfr. John XXIII, encyclical PACEM IN TERRIS, April 11, 1963: *Acta Apostolicae Sedis*, 55, 1963, p. 279.

7. D.J. O’Hanlon, “Concluding Reflections” in *Current Trends in Theology*, (eds.) D.J. Wolf and J.V. Schall, Doubleday, New York, 1965, p. 271.

8. J. Courtney Murray, “Current Theology on Religious Freedom”, *Theological Studies*, March 1949, p. 422.

with an effective constitutional guarantee and that respect be shown for the high duty and right of man freely to lead his religious life in society.”⁽⁹⁾

DIGNITATIS HUMANAЕ shows the awareness that the human person is entitled to the immunity of conscience from coercion in its internal religious decisions: “The demand is increasingly made that men should act in their own judgment, enjoying and making use of responsible freedom, not driven by coercion but motivated by a sense of duty.”⁽¹⁰⁾ In this sense even the Church, which may have authority to oblige conscience, has no power to coerce it.⁽¹¹⁾ The Church herself has constantly upheld the necessary freedom of the act of faith on the authority of the New Testament.⁽¹²⁾ This has also been enshrined in the old Code of Canon Law.⁽¹³⁾

The Search for Truth

The Declaration makes it clear that where truth is involved external coercion can never be a substitute for internal evidence: “truth cannot impose itself except by virtue of its own truth, as it makes its entrance into the mind at once quietly and with power.”⁽¹⁴⁾ Hence this document reaffirms that the laws governing the relationships among human persons engaged in the search for truth are those of evidence and freedom. In its turn the law of evidence involves the need and duty of communicating truth to others in the same manner that the individual discovers and sees it. So on the one hand one is bound to respect the opinion of others, but gives assent to them, to the extent — and only to that extent — that he considers them to be true.

According to the law of freedom, human persons in their search for truth, even if they are expected to communicate their opinions, demand to be immune from any sort of coercion. Evidently they are aware that outside pressures can in no way contribute towards the discovery of truth. If anything, such pressures could be an obstacle in that direction and a source of reaction. In this sense, evidence and freedom respond to the objective demand that human persons should come to accept truth in a manner that befits their nature as intelligent and free beings.⁽¹⁵⁾ But if every individual is obliged to obey faithfully the decisions of his conscience, it follows that he also has the right to do so, because for every duty that binds a person there arises the right to accomplish such a duty in the face of others, of social groups, as well as of the civil authorities that govern the society to which he

9. D.H., n. 15,d.

10. D.H., n. 1,a.

11. J. Courtney Murray, *The Problem of Religious Freedom*, Deacon Books, London-Dublin, 1965, p. 34.

12. See, for example, Mark 16:16: He who believes and is baptized shall be saved, but he who does not believe shall be condemned.

13. Can. 1351: Ad amplexandam fidem catholicam nemo invitus cogatur.

14. D.H., n. 1,c.

15. P. Pavan, *Libertà Religiosa e Pubblici Poteri*, Ancora, Milan, 1965, pp. 231 – 2.

belongs. In view of this, therefore, every human person is not only duty bound, but also entitled, to the right of following his honestly formed conscience.⁽¹⁶⁾

Freedom of Conscience

It is to be noted, however, that *DIGNITATIS HUMANAE* does not base the right to religious freedom on “freedom of conscience”. The phrase does not appear anywhere in the Declaration. It seems that the document wants to keep clear from the theory for which the term frequently stands, i.e., a person has the right to do what his conscience tells him to do, just because his conscience tells him to do it. Such a theory might favour the notion that in the last resort it is the person’s conscience instead of objective truth which determines what is right or wrong, true or false. This risks the peril of subjectivism. But we need to elucidate further here, regarding the function of conscience.

No one can accomplish a good action unless he is aware that it is so. A person who performs an action on the grounds that his conscience judges it to be morally good, and consequently obligatory, subjectively renders a homage to truth itself, even if his action is objectively in contrast with the objective moral order.⁽¹⁷⁾ Thus it seems that to recognize the right of such person to act on that particular occasion is quite reasonable, since when one renders homage to truth by means of his action he is in keeping with the inborn longing of the human person for truth.

A passage concerning conscience, from the Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*) of Vatican II throws some light on the subjective right of adhering to the voice of one’s own conscience. *GAUDIUM ET SPES* states that: “in the depths of his conscience man detects a law which he does not impose on himself, but which holds him to obedience . . . (this voice of conscience) always summoning him to love and do good and avoid evil”.⁽¹⁸⁾ And according to *DIGNITATIS HUMANAE* this voice pertains to divine law or to just human law, in the sense that “the highest norm of human life is divine law – eternal, objective and universal – whereby God orders, directs and governs the entire universe and all the ways of the human community.”⁽¹⁹⁾ However, there is no divine law or any just human law that can ordain and approve error or evil. In this sense, no person is entitled to any subjective right or any real right of freedom concerning his erroneous actions or wrong-doings. Moreover, no one has any right either private or public, to what is objectively false or wrong.

16. *ibid.*, p. 244.

17. *ibid.*, p. 262.

18. Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*), in *The Documents of Vatican II*, (ed.) W.M. Abbott, Angelus Book, New York, 1966, n. 16. p. 213.

19. *D.H.*, n. 3, a.

“Error has No Rights”

The “thesis-hypothesis” distinction, and the theory of the Confessional Catholic State based on this distinction, appeared to rely quite heavily on the statement – for long considered to be axiomatic – that error has no rights. Meanwhile the obverse of this axiom, namely that truth alone has rights, had been upheld by Catholic tolerance-theorists. The latter axiom, in turn, hinged on the Church’s own conviction that the Catholic religion was the one and only true religion.

The implications of such a conviction would seem to be that since Catholicism is, by divine law, the one true religion, it ought to be, by constitutional law, the one religion of the State. It would follow that no other religion may have, *per se* and in principle, a legal right to public existence and action within society. Hence a religion that has no right to exist *iure divino*, can have no right to exist *iure humano*. It would be expected to follow that, *per se* and in principle, all false religions ought to be in a sense suppressed, perhaps even put beyond the bounds of public life and social action.⁽²⁰⁾ The principle or ‘thesis’ of this attitude would deny the right of those in religious error to profess and propagate those errors publicly in the State. ‘*In hypothesi*’ or the concrete situation where repression of these errors would cause more harm than good, the State might permit their public profession. According to this approach, religious freedom is permitted where it cannot be avoided.

However, it was becoming obvious that one could not simply resort to the elementary generalisation of the axiom – “error has no rights” – in order to suppress error in spite of the efforts of the tolerance-theorists, to settle the question of tolerance toward people of other religious faiths by resorting, more or less, to such statement.

One must point out that the axiom “error has no rights” was put forward as a self-evident and literally true principle. It was also being invoked as a major premise to build an argument against the case for the right to freedom of conscience,⁽²¹⁾ one of the major arguments advanced in favour of the right to religious freedom. But against this tendency, Eric D’Arcy rightly argued that the axiom “error has no rights”, when taken literally, contained a logical fallacy and was an example of a category mistake, because if it was taken strictly as it stood such a sentence was meaningless, and was neither true nor false. He concluded that the predicate “having rights” was properly attributed only to persons. This, he added, could apply to individual persons or to groups of them.⁽²²⁾

20. See J. Courtney Murray, *The Problem of Religious Freedom*, London, Deacon Books, 1965, pp. 10 and ff.

21. See the detailed treatment given to the axiom, “Error has no rights”, by E. D’Arcy in his book, *Conscience and Its Rights to Freedom*, Sheed and Ward, New York, 1961, especially pages 248 – 258.

22. *ibid.*, p. 251.

Thus it was only man, as a human person, who could be the subject of rights, and respect had to be shown to the rights of every individual.⁽²³⁾ More aptly, one had to speak of the rights of the human person who may be in error. Moreover, the new theory proposing a positive right of religious freedom was at the same time implying the right of the individual person to decide on and choose freely his own destiny in accordance with his own conscience. Thus religious freedom was to become a source of action on behalf of the duty and right of the individual to follow his own well-formed conscience.

The Nature of the Right of Religious Freedom

The right of the individual to religious freedom is a fundamental human right exercised in the religious sphere, independent of any distinction of religious belief. Religious freedom is not simply a concession or a privilege, but a true right of the human person. It is mainly for this reason that the Vatican Synod declares that: "the human person has a right to religious freedom."⁽²⁴⁾ The Council further adds that: "every man has the duty and, therefore, the right to seek the truth in matters religious, in order that he may with prudence form for himself right and true judgments of conscience, with the use of all suitable means."⁽²⁵⁾ But men cannot discharge their duty of adhering to the truth in a manner in keeping with their nature unless they enjoy immunity from external coercion as well as psychological freedom. For this very reason the Declaration established that: "this immunity continues to exist in those who do not live up to their obligation of seeking the truth and adhering to it."⁽²⁶⁾

Freedom is essentially social in nature, and a man's religious decisions, however personal, are made in the social context of man's existence. In making them, a man has the right to be free from coercion by any human forces or powers within the social milieu. Society and all its institutions are obliged to respect this right and to refrain from coercion. In this respect coercion involves all manner of compulsion or constraint, whether legal or extra-legal. It includes social and civil discrimination imposed on grounds of religion, as well as coercive forms of psychological pressures.⁽²⁷⁾

However, this right of immunity from coercion is above all required, according to *DIGNITATIS HUMANAЕ*, by the very nature of religious acts. In this connection the document states: "of its very nature the exercise of religion consists before all else in those external, voluntary and free acts

23. Augustine Cardinal Bea, "Verità nella Carità", *Aggiornamenti Sociali*, 14, 1963, p. 136. He says: basta contestare che l'errore non è che qualcosa di astratto e per conseguenza non è soggetto di diritto.

24. D.H., 2a.

25. D.H., n. 3a.

26. D.H., n. 2b.

27. J. Courtney Murray, *The Problem of Religious Freedom*, Deacon Books, London-Dublin, 1965, pp. 24-25.

whereby man sets the course of his life directly toward God. No merely human power can either command or prohibit acts of this kind.”⁽²⁸⁾ This is in view of the fact that religious acts by which men, in private or in public, from personal conviction, direct their lives to God, transcend by their very nature the order of civil and temporal affairs. In fact, civil government would clearly transgress the limits of its power were it to presume to direct or inhibit acts that are religious.

The Object of the Right

The object of the right to freedom in religious matters is the ability of fulfilling, with due dignity and in conformity with the dictates of one’s conscience, all the obligations that one owes towards God. It presupposes freedom of conscience, namely, physical and psychological freedom of thought in what concerns one’s own personal dignity. It consists in the empowerment of the external exercise of religion, without being hindered by any form of coercion, as is demanded by human dignity. Thus, man’s right to religious freedom is based on this dignity as a human being and not on the nature or contents of his religious beliefs and practices. Man still retains the basic dignity whether or not his religious beliefs are objectively true.⁽²⁹⁾ Thus one could say that the real object of religious freedom is the natural right of the human person to free self-determination in religious matters; and in doing so, attests Vatican II, “all men are to be immune from coercion”.⁽³⁰⁾ Certainly in matters religious, if anywhere, the free human person is entitled and has to act according to his own judgment and to assume personal responsibility for his action or omission. A man’s religious decisions, or his decision against religion, are inescapably his own.

Immunity from coercion in the sense of not being constrained to act against one’s conscience, has always been admitted in Catholic tradition, at least on the doctrinal level, and particularly concerning the freedom proper to the act of faith. The idea, however, that this immunity includes the right of not being impeded from acting in conformity with one’s conscience, within due limits, has been admitted only in recent times.⁽³¹⁾

The Subjects of the Right

The primary subject of the right to religious freedom is the human person, in other words, *men in so far as they are persons*. In this manner, all men have this right, whether they are believers or non-believers. The Declaration also indicates that the right of all men to profess their religion

28. D.H., n. 3c.

29. V. Grogan and L. Ryan, *Religious Freedom*, Scepter Books, Dublin, 1967, p. 9.

30. D.H., n. 2a.

31. P. Pavan, “The Right to Religious Freedom in the Conciliar Declaration”, *Concilium*, Vol. 8, No. 2, 1966, pp. 21 – 22.

both as individual and in association with others, in a private manner as well as public, stems from the very nature of human beings. It expresses this in the following manner: "The social nature of man itself requires that he should give external expression to his internal acts of religion; that he should participate with others in matters religious; that he should profess his religion in community."⁽³²⁾

Even if, strictly speaking, the proper subject – and to a certain extent the only subject – to the right to religious freedom is the human person,⁽³³⁾ *DIGNITATIS HUMANAE* considers religious communities as the second subjects of this right. It states: "The freedom or immunity from coercion in matters religious which is the endowment of persons as individuals is also to be recognized as their right when they are in community. Religious bodies are a requirement of the social nature both of man and of religion itself."⁽³⁴⁾ The document further adds that the social nature of man and the very nature of religion afford the foundation of the right of men freely to hold meetings and to establish educational, cultural, charitable and social organizations, under the impulse of their own religious sense.⁽³⁵⁾

The third subject of the right to religious freedom is the family. It is in the family environment that religious life becomes the concern of the parents who, among other things, have the right to decide on the religious education of their children. Thus, for instance, the Declaration asserts that "the rights of parents are violated if their children are forced to attend lessons or instructions which are not in agreement with their religious beliefs . . . or if a single system of education, from which all religious formation is excluded is imposed upon all."⁽³⁵⁾

The Foundation and Basis of the Right

The issue of religious freedom in *DIGNITATIS HUMANAE* came to be posed in new terms. The Declaration put aside the theory of religious and civil tolerance, adopting the concept of religious freedom understood as an immunity from internal and external coercion in religious matters, characterized as a civil right, added to the other fact that public authority is exercised within definite constitutional limits. And this is meant to ensure the greatest possible scope to freedom as an exercise of responsibility. "Injury, therefore," the document says, is done to the human person and to the order established by God for human life, if the free exercise of religion is denied in society when the just requirements of public order do not so require".⁽³⁷⁾

32. D.H., n. 3c.

33. A. Roldan, "La Libertad Religiosa despues del Concilio Vaticano II", *Salmanticensis*, 13, 1966, p. 574.

34. D.H., n. 4a.

35. cf. D.H., n. 4e.

36. D.H., n. 5.

37. D.H., n. 3d.

The dignity of the person is esteemed as a constitutive element of the human being, and DIGNITATIS HUMANAÆ bases the foundation of the freedom of religion in the truth of the human dignity combined with a love of appreciation of the personal dignity of man. This dignity is visible, the document affirms, in man's endowment with reason and free will as part of his nature and, therefore, naturally privileged to bear responsibility in every sphere; and hence also in the religious sphere. Therefore man is responsible for his relationship with God, in the sense that man cannot escape the duty to assume the responsibility of moulding it personally.⁽³⁸⁾

Another source of dignity for man is his relationship to truth. "It is in accordance with their dignity as persons . . . that all men should at once be impelled by nature and also bound by a moral obligation to seek the truth, especially religious truth".⁽³⁹⁾ But truth cannot be known through coercive means. Adherence to the truth is achieved only through an act of love.⁽⁴⁰⁾ For such an act to be valid it must be made freely. Section 2 of the Declaration indicates that incorporation of truth in one's life, speaking from a human point of view, has no perfecting value unless it takes place as a result of personal decisions. However, this may be said of truth in any area, and therefore also of truth concerning religious matters. This of course, recalls the dispute we have mentioned earlier concerning the axiom "error has no rights". It was remarked how once this frame of reference was employed the only satisfactory conclusion was repression of error in principle or *in thesi*, with tolerance made possible in practice or *in hypothesi*. However, we pointed out the fallacy contained in the above cited axiom and argued that rights belonged to persons, not to abstractions such as truth or error.

The Declaration states that the rights to religious freedom is a right in relation to others and consists precisely in an immunity from coercion in religious matters. This immunity is demanded by man's personal dignity as a knowing, free being who is naturally and morally bound to seek the truth, adhering to it as he sees it and living by it. Hence both physical and psychological freedoms are required. Thus it becomes obvious that the right in question will not depend on the person's own subjective dispositions but on his objective nature and dignity which are good and true in themselves.⁽⁴¹⁾ The right to religious freedom is, therefore, not founded on respect for evil or error, but on respect for the dignity of the human person.

A further relationship between man and the personal God himself – the subsistent and transcendent truth – is outlined in the third section of the Declaration. Man acquires knowledge of the true God through personal

38. Cf. D.H., n. 2b.

39. D.H., n. 2b.

40. P. Pavan, "The Right to Religious Freedom in the Conciliar Declaration", *Concilium*, Vol. 8, No. 2, 1966, p. 23.

41. E. McDonagh, *The Declaration on Religious Freedom of Vatican Council II*, Longman & Todd, London, 1967, p. 41.

study, communication and dialogue. More specifically, the document describes the role played by the exercise of religion in this context: “For, of its very nature, the exercise of religion consists before all else in those internal, voluntary and free acts whereby man sets the course of his life directly toward God. No merely human power can either command or prohibit acts of this kind.”⁽⁴²⁾ This last sentence recalls once again the teaching of John XXIII in *Pacem in Terris* (to which DIGNITATIS HUMANAE owes so much), where he attests that since in view of their natural dignity human beings are all equal, none of them can oblige others in the internal forum. Only God can do such a thing, in John XXIII’s view, because He alone sees and judges the attitudes taken in the secrecy of one’s intimate thoughts.⁽⁴³⁾

But whatever is said concerning man’s relationship to truth – namely to truth itself as a spiritual value, to God as subsistent truth or else to revealed truth as manifested in Christ the Incarnate divine Word – man is unable to form and live such relationship in accordance with his nature and dignity as a person – unless he is endowed basically with the right to freedom in religious matters. Hence one is bound to affirm that the right to religious freedom is founded on the dignity of the person and as such is a natural right, despite the fact that only recently has man become fully aware of his own dignity both in the ontological and moral orders.

Government and Religious Freedom

The Declaration states the question of the relationship between the right of persons to freedom in religious matters and civil government in the following manner: “This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed. Thus it is to become a civil right.”⁽⁴⁴⁾ The encyclical *Pacem in Terris* had already paved the way for the above solution in asserting in 1963 that the common good was chiefly guaranteed when personal rights and duties were maintained; and that the main concern of civil authorities ought therefore be to ensure that these rights were recognized, respected, co-ordinated with other rights, defended, promoted, so that in this manner each person could more easily carry out his duties.⁽⁴⁵⁾ DIGNITATIS HUMANAE considers it a function of government “to take account of the religious life of the people and show it favour”, and implicitly affirms that government is bound to acknowledge and respect the right to freedom in religious matters, stating

42. D.H., n. 3c.

43. John XXIII, encyclical *Pacem in Terris*, April 11th, 1963, Acta Apostolicae Sedis, 55, 1963, p. 270.

44. D.H. n. 2b.

45. See *Pacem in Terris*, English Version of Catholic Truth Society edition, London, 1963, n. 60, p. 25.

that government “would clearly transgress the limits set to its powers were it to presume to direct or inhibit acts that are religious.”⁽⁴⁶⁾

The relationship between religious freedom and government originally enunciated in sections two and three of *DIGNITATIS HUMANAE*, is re-stated more firmly and amply in section six of the same document. “The care of the right to religious freedom devolves upon the people as a whole, upon social groups, upon government, and upon the Church and other Religious Communities, in virtue of the duty of all toward the common welfare, and in the manner proper to each.”⁽⁴⁷⁾ It goes on to say that the protection and promotion of the inviolable rights of man ranks among the essential duties of government; and, therefore, government is to assume the safeguard of the religious freedom of all citizens, in an effective manner, by just laws and by other appropriate means. Moreover, government is also to help create conditions favourable to the fostering of religious life, in order that people may be truly enabled to exercise their religious rights and to fulfil their religious duties.

Critical Evaluation in the Light of Development in Recent Papal Teaching

We stated in our introduction that apart from the twentieth-century insight into the demands of the personal and political consciousness and nineteenth century thought, the historical springboard for the development of the modern notion of religious freedom in the Catholic Church is the Church’s magisterium of the nineteenth and twentieth centuries. And here we would like to consider sketchily the theological significance of the Declaration of Religious Freedom in the light of two historical movements of the nineteenth century, both of which appeared to have been bitterly opposed by the Catholic Church, namely, the secularity of Society and the State, as well as historical consciousness.

Well up into the pontificate of Pius IX the Church still held on firmly to the sacral conception of Society and State, which was the heritage of medieval Christendom whereby the Christian world (or at least the Catholic nations) was supposed to be somehow enclosed within the Church. However, the nineteenth century broke away from this conception and saw a movement towards the secularity of Society and State. Pius IX battled with the new ideology which had swept continental Europe with the French Revolution. Amongst human rights, the right to hold and express one’s own ideas and religious beliefs was being proclaimed. Furthermore, civil society was not just being differentiated from religious society. Instead, the two societies were being violently separated. Thus it is in this historical context of the so-called ‘rationalist’ principles of ‘Continental laicism’ that we can

46. D.H., n. 3e.

47. D.H., n. 6a.

consider and qualify the condemnations of the principle of religious freedom by successive popes from Gregory XVI in *Mirari Vos* to Leo XIII.

At any rate, it was not too long before important distinctions and refinements began to occur in the teachings of the popes, starting especially with Leo XIII, who was showing discernment as to the direction in which the deep currents of history were heading.

Certainly those who supported the “thesis-hypothesis” theory did agree that a person who sincerely but erroneously believed that his religion was true could not be coerced into forsaking his own religious beliefs to follow the so-called “true” religion. However, even if this was in agreement with the new theory of religious freedom, already before Vatican II, a growing number of recent Catholic theologians rejected the tolerance theory as expressed in the thesis-hypothesis distinction, by denying especially one of the premises on which it was based, namely that only truth and rights. The proponents of religious freedom as a fundamental human right argued that only persons – individuals or groups – could be said to have rights. These theologians alleged as well that the State had no function in what concerned religious convictions of the citizens. In their opinion the State’s competence was limited to the temporal order.

Within the new conception of religious freedom, the criterion of public order (which was considered to be the purpose of the State) was applied to decide upon a specific constitutional arrangement. Thus it was being contended that, while separation of Church and State was not always necessary, by the same token one could not say that ‘establishment’ was never possible.

The theory of religious freedom was being based on experience, which had not only shown the inefficacy of constraint, but also favoured a disposition to trust the methods of freedom. Forced retention in the Church of people who were in actual fact unbelievers had often led to scepticism, unbelief and even loss of trust in the Church. Those upholding this new attitude of religious freedom and related issues in the Catholic Church were convinced that the Church could achieve far more credit by pledging herself to the freedom of conscience and by a willingness to renounce the method of governmental coercion. It was being realised, perhaps, that at a time when on several levels social environment tended to be intolerant, religious intolerance was seen seriously to threaten authentic human existence. Thus religious intolerance came to be understood as a form of social pressure. In addition, a social order that appeared to discriminate against certain people and made life difficult for them on grounds of religious affiliation was not thought favourable to the spreading of truth. Hence, too, in the light of secular esteem for personal liberty, the concept of religious freedom took on a new hue.

It is true that at the outset of the Declaration on Religious Freedom an open profession of Catholic faith is made: ‘We believe that this one true religion subsists in the Catholic and apostolic Church.’ However, it may be added that this did not in any way damage the spirit of ecumenism which

was so much encouraged by the Council; neither did the principle of religious freedom require that the Church refrain from professing publicly what she believes herself to be. In any event, DIGNITATIS HUMANAE brought to term the progress in doctrine concerning Society and State. The sacrality of these two entities has been transcended. In examining the document one discovers that government is no longer considered as a *defensor fidei*; nor do its duty and right extend to the *cura religionis* (the public care of religion) in the sense of becoming a direct guardian of religion itself and of the unity of the Church within Christendom or the nation-state. The Declaration considers the function of government to be secular, namely confined to the care of the free exercise of religion within Society, expressing itself in the freedom of the Church and the freedom of the human person in religious matters.

DIGNITATIS HUMANAE conceived of society itself as secular. It conceded that society was not only distinct from the Church in its origins and goals; but that it was also autonomous in its structures and processes. However, it was Pope John XXIII's encyclical *Pacem in Terris* which had put in perspective the true Christian understanding of Society and State in their genuine secularity. The Declaration clarifies an all-important detail in this connection, namely that in the secular society, under the secular State, the most important value that both State and Society are asked to protect and favour is the personal and social value of the free exercise of religious communities, availing themselves of their freedom. And by formally settling the minor issue of religious freedom, DIGNITATIS HUMANAE assumed its principal theological significance, for it defined the Church's basic contemporary view of the world, namely, of human society, of its order of human law and the functions of the human powers that govern it.

The Declaration made it clear that the Church would no longer rely on the secular arm, thus accepting the full burden of freedom which she considers to be the only claim she is entitled to make on the secular world. Hence at long last the Church renounces any *auxilium brachii secularis* (as it was put in Canon 2198 of the old *Codex Iuris Canonici*) in principle. Thus the problem of religious freedom and related issues are, after the Declaration on Religious Freedom, posed in new terms.

The Church in the nineteenth, and even for quite a while in the twentieth centuries was against the movement towards what has been called historical consciousness. This meant (in terms of progress of doctrine) moving away from what was termed the "classical position", which maintained a view that truth, precisely because it was objective, existed already out there; and consequently it also existed apart from its possession by anyone. By contrast, historical consciousness of truth, while it certainly holds on to the character of truth as objective is meanwhile concerned with the possession of truth. If one studied the development of the formulation of DIGNITATIS HUMANAE during the various sessions of the Council, one could notice that in spite of opposition from some quarters the type of classicism just described was giving way to historical consciousness.

What is of utmost importance to us however, is the fact that the theological basis on which the Declaration based its development of doctrine was the traditional teaching of the Church, as it was clarified by Pope Leo XIII, concerning the two orders of human life, namely the sacred and the secular, along with the civil and the religious. In a more immediate context the Declaration was basing itself on the new philosophy of State – or rather the teaching on Society and its juridical organization – as reflected in the more recent developments found in Pius XII and John XXIII, who gave this newly developed philosophy a more systematic arrangement in *Pacem in Terris*.

The social, political and theological development effected by Pius XII and John XXIII touched mostly on the nature of the common good, the function of the State and on human dignity and rights. Pius XII (following especially the teaching of Leo XIII), emphasized that man is the foundation of social life and that all social life aims at developing the dignity of man; which principle was made more explicit by John XXIII. It was Pope John who in *Pacem in Terris* subsequently established that it was a fundamental truth that any well-ordered association of men in society must be based on the acceptance of man's dignity as a person. John's basic assertion on this point is that as a free being man has inviolable rights, one of which being the right to be able to worship God in accordance with the right dictates of his own conscience and to profess his religion both in private and in public. Because of this dignity, man was considered to have a right to freedom of action in such a manner that he had to act on his own initiative and conviction and with a sense of responsibility and not be subject to external compulsion. In addition to truth, justice and charity, freedom became a value on which society ought to be based if it is to be well-ordered, creative and consonant with human dignity. In fact, John XXIII had also taught in his encyclical *Mater et Magistra*, in 1961, that the common good had to take account of all these social conditions which favoured the full development of the human personality.

The Declaration also articulated the significant development of doctrine that had taken place in the direction of the relationship between Church and Society. Meanwhile, the issue of Church and State has become a wider proposition of reciprocal co-operation toward the integral good of the same one man, both Christian and citizen, whom they both encounter in the concrete life of society.

Along with *DIGNITATIS HUMANAE*, the Constitution on the Church in the World Today (*Gaudium et Spes*) made a contribution towards the new terms of religious freedom and the related issue of Church and State. Both documents have helped sort out the confusion of the historical with the doctrinal. It becomes clear that the Church's Tolerance-Theory based on the distinction between "thesis" and "hypothesis" had been rejected owing to new theological insights of the pilgrim Church. Of particular significance has been the connection established between religious freedom as a human right and the freedom of the Church. This

connection has matured into genuine and promising development of doctrine in a new direction, the term of which has been the affirmation by the Church of religious freedom as a human and civil right.

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