

INTRODUCTION TO THE TEXTS

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There are many texts issued by the Magisterium of the Church on the topic of religious freedom. Too many in fact to have them all here. We chose to present hereafter a selection of recent texts that shows the entire journey travelled up since *Dignitatis Humanae*, the Second Vatican Council's main document on religious freedom (1965). The result is quite impressive. It shows how the notion has evolved in half a century, perhaps not so much in itself but rather within the shifting social and political context. Whereas the Council was mainly concerned with recognising *religious freedom* as a truly universal human right (by a Church that had not always been so kind as to recognise it to other religions), the modern texts are mainly concerned with the social and political *preconditions of its recognition*: the transcendent nature of human dignity, the universal search for truth, a state true to the common good, the full recognition of religious freedom, the meaning of secularity, etc. What was assumed by the Council to be a broad and strong international consensus it had to join, instead turned out to be more of a dwindling social consensus over the past years, especially under the

growing influence of non-western cultures in the international agenda and the rise of secularism in Europe. Positively, the change brings along in the Church an effort to deepen our understanding of the full scope of religious freedom and its relations to the state and other human rights. It brings therefore a new awareness of its social and political importance to the Church. Equally positive is the constant universality of the Church's advocacy for religious freedom. The documents never stop at Christians in defending religious freedom but contemplate all religions. More difficult, however, is that the focus on defending religious freedom may bring back the impression of a Church reverting to the anti-modernist battle of the early XX century, defending a religious Citadel against a secular society (an *outsider perception* as well as an *insider perception, both prone to extremists views*).

In the following pages, we shall try to outline the main features of the Catholic position on religious freedom emerging from these more recent texts, classing them under four headings: I. The concept of religious freedom; II. Religious freedom as a human right; III. Secular state, civil society, rule of law; IV. Violations and respect of religious freedom.

¶ *The concept of religious freedom*

Human Dignity. Following Vatican II, all documents recognise human dignity as the foundation and basis of religious freedom¹. However, the recent documents put emphasis on the recognition of the “transcendent nature of human dignity”², in line with the Council’s reference to the *imago dei* in *Dignitatis Humanae*. The *freedom* involved in “religious freedom” points to human nature’s openness to God. If there must be a recognition of a specific freedom related to religious belief, it is because human flourishing doesn’t stop at the borders of States or even the limits of the world, but goes beyond, opens to transcendence. By refusing to acknowledge the crucial importance of the transcendent nature of human dignity, we refuse any other horizon to human flourishing than the ones dictated by a secular society.

The search for truth and the ethical standing of human rights. Indeed, Benedict XVI, in its crucial 2011 address to the diplomatic corps, establishes a strong link between the search for truth, seen by the Council as the basis for the universality of a right to religious freedom³, and the ethical standing of human rights⁴. It is human reason’s shared capacity for truth that gives moral claims a grounding different from the mere solipsism of individual preferences or a standing other than a broad – and transient – social consensus. Only a firm recognition of the reason’s capacity for the universal, of the human quest for truth, may grant human rights the

moral intangibility we claim they have, says the Magisterium. Therefore, the renouncement of the social value of truth also leads to a forfeit of religious freedom, for the two are linked.

Violence and coercion. It is the same capacity for truth that excludes coercion in matters of belief and religion. Neither the state nor religions may impose a faith by force. Only truth can bind and impose itself to human conscience⁵. Freedom of conscience, freedom of belief, freedom of religions therefore form a thick cluster of human rights which promotes the transcendent nature of human dignity and *excludes* violence from religions. Recent texts put great emphasis on this mutual exclusion and take ground on it decrying the instrumentalization of religion to justify violent behaviours and breach of religious freedom by religious fundamentalist or secular activists⁶.

A shared good among religions. Following the Council’s teaching, the recognition of religious freedom is in no way, says the Magisterium, a renouncement to the claim of the Christian pre-eminence on religious truth, but an acknowledgement that there is some truth in other religions⁷. So the search for truth is not about looking beyond the Christian revelation but the recognition that all religions share the same quest for truth⁸. And such common ground is the bedrock of their commitment to religious freedom. Religious freedom is indeed a recognition of the value of the religious quest for truth and the necessary protection of such

a quest from any forms of coercion.⁹

The State's role regarding religious freedom. What *Dignitatis Humanae* asked from government was mainly to grant constitutional recognition of religious freedom, ensuring that it also becomes a civil right and actively enforcing it¹⁰. This was done in keeping with the existing definition of religious freedom by the Universal declaration of Human rights, that is, extending beyond individuals to religious communities: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance." All religious groups therefore have the right to appoint their own ministers, buy property, erect buildings, teach publicly, communicate freely, and engage in all those activities that constitute the exercise of their religion. In that understanding of the term, the state's obligations toward religions were intended to promote, within its own tendency toward the common good, the religious quest for truth and human flourishing¹¹. The state is thus not seen as a referee or judge among quarrelling religions, but rather as the promoter of the legal framework protecting religious freedom of both individuals and communities from undue interventions, first of all by the state's own agencies (school, syndicate, health service, social services, etc.). Special attention is given in that respect to the private sphere

and to the role of families, especially in raising their children according to their religious beliefs¹².

Whereas *Dignitatis Humanae* responds to the early 20th century debate on the relationship between Church and state, the more recent texts focus much more on the secularity of the state, introducing the distinction between a positive secularity and aggressively anti-religious forms of secularity that tries to ban the religious element from the public squares.

Recent texts are adamant to show the necessity of a positive secularity as a precondition to the full recognition of religious freedom. What this positive secularity might look like exactly is largely left open, but some fixtures are quite clear. In negative terms: the secular state should not ideologically exclude religions from the public square; it should not deem tolerance toward religion to be identical to religious freedom; it should not regard itself as a neutral referee among religions; it should not consider equality as the only approach to religion in the public sphere. In positive terms: theological reason is part of public reasoning. The state should promote religious faiths and should regard religious freedom as one of the founding stones of political freedom and one of its achievements, that is to say, it should actively promote the freedom which is brought by religions. The state should recognize religious freedom as a path to peace and an essential element to further democracy; the state should protect religious minorities and promote religious peace.¹³

This positive conception of religious freedom is accounted for in the following definition given by Benedict XVI:

*“Religious freedom expresses what is unique about the human person, for it allows us to direct our personal and social life to God, in whose light the identity, meaning and purpose of the person are fully understood. To deny or arbitrarily restrict this freedom is to foster a reductive vision of the human person; to eclipse the public role of religion is to create a society which is unjust, inasmuch as it fails to take account of the true nature of the human person; it is to stifle the growth of the authentic and lasting peace of the whole human family.”*¹⁴

¶ *Religious freedom as a human right*

As in the previous section, we shall draw a parallel between *Dignitatis Humanae* and the more recent interventions regarding the human right to religious freedom.

The Council had been adamant: religious freedom is a human right: *“This Vatican Council declares that the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits (...) This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right”*.¹⁵ Such a right, says the

Council, is directly founded on human dignity, expressed as *imago dei* and its universality is to be found in the universal search for truth by human reason. Following international definitions¹⁶, the Council emphasized the dual dimension of this right, both an individual right and a collective one, clearly stating that religious communities must be allowed, under this freedom, to assemble, worship, educate, organise social services and announce their faith as faith communities¹⁷. Thus religious freedom entails another separate set of closely connected rights, such as freedom of conscience, freedom of speech, right to gather and create association, etc. A special mention is given to the role of religious education as being part of religious freedom and to the right of parents to choose to raise their children in a given faith.¹⁸

Altogether the human right to religious freedom in *Dignitatis Humanae* can be summarized as stating: a) that religious freedom expresses the transcendent dimension of human dignity; b) that religious freedom protects religions from undue interference by the state or from any forceful intervention by social actors. c) that the right to religious freedom entails other human rights and therefore is latched to a recognition of their indivisibility; d) that religious freedom is as much an individual right as a collective one.

Recent documents repeatedly quote and recall the Church's strong engagement in favour of religious freedom. However, in doing so, they also draw attention to some notions

that were not at the forefront of the Council's text.¹⁹

First of all is the insistence that the right to religious freedom is not quite the same as any other human right. Without breaching the indivisibility of human rights, some sort of pre-eminence must be recognised to religious freedom, which is variously said to be the "source" or "foundation" of other human rights²⁰. Much has been said along the lines of John Paul II's quote concerning religious freedom being the "litmus test" of human rights assessments²¹. Indeed religious freedom is ever more closely linked with human dignity, understood as being transcendent *in nature*. Religious freedom doesn't only express the transcendent dimension of human dignity, but also accounts for its transcendent origins.²²

Secondly, these texts react strongly against certain interpretations of the right to religious freedom. Religious freedom is not, for instance, to be confused with, *tolerance* for individuals faith practices or of faith communities²³; it is a *freedom* that must be allowed to flourish; it is not to be assimilated to *non-discrimination of religions*, for that would coerce religions to blend in the public space in a relativistic melting pot to accommodate the call for equal footing²⁴; neither should religious freedom be assimilated with *blasphemy laws*, for they too often and too easily may be used against religious freedom to terrify other religious communities²⁵; it must not be restricted to acts of worship, but also include the right to express one's faith trough

act of charity and social service.²⁶

The third point stressed by more recent documents, and perhaps the most important, insists that we should not consider the negative, defensive role of religious freedom. It is not merely a right protecting practices, but it is a freedom that must be acknowledged in its positive dimension. Religious freedom is a responsibility for the full flourishing of human freedom: "Religions are communities based on convictions and their freedom guarantees a contribution of moral values without which the freedom of everyone is not possible."²⁷

D*ignitatis Humanae* globally takes a positive stance toward the liberal state. The state's sovereignty and autonomy is acknowledged by the Church as a necessarily condition of the sound government of the public sphere. The relationship between Church and state is best understood within the common recognition of their respective autonomy. Religious freedom is precisely the notion Vatican II uses to outline the reciprocity existing between state and Church. Whereas the state, on the one hand, respects the religious freedom of the Church; the Church on the other hand keeps itself under the rule created and enforced by the state²⁸. As such, *Dignitatis Humanae* was thought to settle and overcome the bitter fight between Church and state that had raged from the XVIII century up to the beginning of the XX century. The overriding conception of religious freedom

¶ *Secular state, civil society, rule of law*

as protecting the Church from the state's interference or even coercion in matters of faith (worship, conscience, family right to educate their children, the independence of cult ministers, religious education, Christian syndicates or social services from the Church) bears evidence of the past feud and reasserts points that were acrimoniously contested between the state and the Church.

The call to respect the rightful autonomy of religions within the state rule finds in the *right* to religious freedom a *legal expression*. A notion that is first and foremost a human right, and then, only as such, a civil right: as a human right, religious freedom is part of the state's unconditional source of moral legitimacy; a right it must acknowledge and enforce or see its moral standing as sovereign state be compromised.

More recent documents convey a different historical experience – that of post-modern, secularized western societies on one hand and, on the other, ever more globalized societies – and therefore identify other topics as being relevant to the question. Most interesting is the fact that *Dignitatis Humanae's* assumption about the rightful autonomy of the state – that is, its secularity – has proven to be overly unspecified to confront the new situation. The recognition of the secularity of states was interpreted differently in different countries; states having widely varying understandings of what their own secularity might entail for their relationship to religions. *Dignitatis Humanae* proved

not to be the endpoint of a disputed question, as the Church had hoped. More, seemingly, had to be added. The Church, in fact, when recognising the secularity of the state has in mind a very specific form of secularity, hence it rejects other forms deemed not in keeping with authentic religious freedom.

True to the Council, the Church asks from the secular state to recognise religious freedom as a limit of its sovereignty. However, this does not only refer to the one drawn by the free individual, that is the limit of the private sphere (the sphere of free thoughts and conscience). The state must also recognise religious freedom as the upper limit of its sovereignty, that is the limit determining what is beyond the state (human flourishing, the common good, human dignity *and religious freedom*), as the source of its moral authority and real legitimacy²⁹. In this perspective, religious freedom is not only a restrictive right, limiting the state's interference, but a right which the state must promote in order to stay true to its own end³⁰. Rather than seeing religions as posing problems for and a threat to the secularity of state, we should instead see the blossoming of religious freedom as part of the achievement of the state's goals. Religions represent the path to peace and democracy says Benedict XVI³¹. This implies a secularity which is positive toward religions and which sees their participation in the public square as sound and useful to the public interest.

But such a conception is neither

dominant not shared by most states today. The documents presented do not attempt to give a systematic view of the different understandings of the state's secularity. But we can confidently see at least two practical models that are criticized.

The first model, whatever its motive might be, sees religions as not belonging to the public square. Religions are private matters that are at best cultural affairs, but that should not play an active part in social, or even worse, political process. Public reasoning, it is argued, should be free of religious interference and the secular state, accordingly, should guarantee that religions do not enter the public square. The Church claims that this concept of the state's secularity is unwarranted. The exclusion of religions from the public sphere is ideological (aggressive secularism), non democratic (why religious communities and not football clubs), not sensible (most people *are* religious) and certainly not politically wise (religion do matter in politics (9/11, etc.)). The prohibition of religious symbols and the overriding of conscience objection by the state are signs of this understanding of secularity.³²

The second interpretation of secularity targets states – mostly Muslim but not only - that are only too prone to recognizing religion to be part of their own moral legitimacy. Blasphemy laws and the prohibition of conversion, for example, are features of such states.³³ The classic difficulty is then religious minorities and how the dominant religion is balanced by the state's true secularity in order

to guarantee religious freedom to all religious communities. The Church has nothing against the recognition of a prevalent religion. It does not think of equality in terms of equal recognition of each religious community by the state. Instead it asks the state to guarantee the rule of law and therefore the full and true right to religious freedom for each religious community and individual.

D*ignitatis Humanae* makes no reference to specific, historical violation of religious freedom. However the document's entire approach to this right shows that it is built upon an awareness of such a possible violation³⁴. Indeed, all the focal points refer to well-known historical areas of conflict and violation – from the believer's point of view – of the right to religious freedom: the individual's right to choose his religion, the right of a family to determine the religious education of their children, or that of the Christian community to be able to worship and express its faith in public, the clergy's right to be independent of the state, and the organization of Christian social services, etc.

In more recent times and in the texts we are presenting hereafter, the attention of the Magisterium changes and explicitly exposes some violations of religious freedom. It does so on the heels of a worrisome and well-documented recent trend, at the international level, which has seen an *increase* of gross violations of religious freedom³⁵. The Pew Forum of Religions, quoted in the docu-

¶ Violations and respect of religious freedom

ments, signals for example that over 70% of the world population today lives in countries with some kind of restriction to their basic religious freedom, especially for Christians (an even more worrisome trend considering that religious freedom is today a well asserted human right in international documents).³⁶

The Magisterium obviously denounces as gross violation of religious freedom the bombing or destruction of churches occurring in Iraq, Malaysia, Sudan, Nigeria, etc. The texts however are very careful not to blame Islam but fundamentalists groups that do not abide by the common recognition by religions of the principle of religious freedom. The Magisterium asks for all states to fully apply and enforce religious freedom, especially where religious minorities are under threats.³⁷

The Magisterium also pinpoints the *European cases* brought to court regarding religious symbols in public spaces. They represent the growing pressure exerted by aggressive secularists to banish all religious symbols from the public square. A dangerous and regressive trend, in the eye of the Magisterium, that cannot be justified either from the point of view of democracy or history. The decision by the European Court to allow religious symbols but only on their ground as cultural legacy is not considered enough of

a recognition of religious freedom.³⁸

The case of *blasphemy laws* in Islamic countries is interesting, for it may be seen at first precisely as part of the protection of religious identities. However, the Magisterium condemns these laws as being too easily manipulated against religious minorities. The case is made that the right to religious freedom is in itself sufficient to protect religious identities, even more so, that only the full recognition of religious freedom may indeed truly preserve peaceful coexistence of religions.³⁹

Recent legislation passed in the US *seeking to impose on catholic institutions the mandatory delivery of health care* that is contrary to their faith has brought back up the question of objection of conscience. That this move by the state comes on matters of sexual ethics is of no surprise. It is part of the supposed new political “consensus” that establishes the prevalence of individual autonomy and freedom of choice as the new core element of human rights. In this case, the Church demands the respect of the right to objection of conscience, that is, for the recognition that a given government cannot impose its own vision of ethics as being mandatory to religious communities. The full dimension of religious freedom must be acknowledged by the state.⁴⁰

NOTES

1. *Dignitatis Humanae*, § 2.4.7.
2. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, § 2. Card. Tarcisio Bertone, Address to the congress on religious freedom. A milestone of the new Europe, 19 October 2007, § 2.
3. *Dignitatis Humanae*, §3.
4. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, § 3.12.
5. “The truth cannot impose itself except by virtue of its own truth, as it makes it entrance into the mind at once quietly and with power.” And further on “Man’s response to God in faith must be free: no one therefore is to be forced to embrace the Christian faith against his own will. (...) The act of faith is of its very nature a free act”. *Dignitatis Humanae*, §1.10
6. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, § 8.
7. *Nostra Aetate*, 1-2.
8. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, § 11. Mgr Erwin Josef Ender, Statement to the Conference regarding discrimination against Christians organized by the Russian patriarchate, 30 November 2011.
9. Benedict XVI, Message of his holiness for the celebration of the world day of peace, January 1, 2011, §6.11.
10. *Dignitatis Humanae*, §7.
11. *Dignitatis Humanae*, §6.
12. *Dignitatis Humanae*, §5.
13. Mgr. Silvano M. Tomasi, Statement at the 16th Ordinary Session of the Human Right Council, 2 March 2011.
14. Benedict XVI, Message of his holiness for the celebration of the world day of peace, January 1, 2011, §1.
15. *Dignitatis Humanae*, §2.
16. *Dignitatis Humanae*, §15; John Paul II, Address to the parliamentary assembly of the Organization for security and cooperation in Europe, 10 October, 2003, §1; Benedict XVI, Message of his holiness for the celebration of the world day of peace, January 1, 2011, §5.
17. *Dignitatis Humanae*, §4.
18. *Dignitatis Humanae*, §5.
19. See for example this statement on religious freedom and compare it to *Dignitatis Humanae*: “The religious dimension of the human person, his attitude before transcendence and the consequent ethical demands, make up a concrete and fundamental manifestation of his or her capacity of free auto-determination. It is a basic reference point of personal and social behaviour. Religions can offer, and in fact do offer, a solid foundation for the defence of the values of personal and social justice, for respect of others and of nature”. Mgr. Silvano M. Tomasi, Address to the Ordinary session of the United Nations Human Rights Council on Religious Freedom, 22 March 2007, §1.
20. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, §5. Card. Tarcisio Bertone, Address to the congress on religious freedom. A milestone of the new Europe, 19 October 2007, § 1. Mgr. Silvano M. Tomasi, Statement at the 16th Ordinary Session of the Human Right Council, 2 March 2011, §1.

21. John Paul II, Address to the parliamentary assembly of the Organization for security and cooperation in Europe, 10 October, 2003, §1.
22. Benedict XVI, Message of his holiness for the celebration of the world day of peace, January 1, 2011, §1-2.
23. Card. Tarcisio Bertone, Address to the congress on religious freedom. A milestone of the new Europe, 19 October 2007, §3.
24. Erwin Josef Ender, Statement to the Conference regarding discrimination against Christians organized by the Russian patriarchate, 30 November 2011, p.2.
25. Mgr. Celestino Migliore, Statement at the 64th Session of the UN General Assembly, 26 October 2009.
26. Mgr. Silvano M. Tomasi, Statement at the 16th Ordinary Session of the Human Right Council, 2 March 2011, §5.
27. Mgr. Silvano M. Tomasi, Statement at the 19th Ordinary Session of the Human Right Council, 1 March 2012.
28. Pius XI, *Mit brennender Sorge*, §3.5.25. Pius XII, Radio-message, 15 June 1941, §15. *Dignitatis Humanae*, §4s
29. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, §2-3.
30. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, §4.
31. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, §1.10.15.
32. Mgr. Silvano M. Tomasi, Statement to the 13th session of the Human Right Council, 23 March 2010 ; Mgr Silvano M. Tomasi, Statement at the 16th session of the Human Right Council, 2 March 2011. Mgr. Silvano M. Tomasi, Statement at the 19th session of the Human Right Council, 1 March 2012. Erwin Josef Ender, Statement to the Conference regarding discrimination against Christians organized by the Russian patriarchate, 30 November 2011.
33. Mgr. Celestino Migliori, Statement to the 64th Session of the UN General Assembly, 26 October 2009.
34. *Dignitatis Humanae*, §8.
35. See for example Mgr Celestino Migliori, Statement to the 64th Session of the UN General Assembly, 26 October 2009.
36. Mgr. Silvano M. Tomasi, Statement to the 19th session of the Human Right Council, 1 March 2012.
37. Benedict XVI, Message of his holiness for the celebration of the world day of peace, 1 January, 2011, §1.
38. Erwin Josef Ender, Statement to the Conference regarding discrimination against Christians organized by the Russian patriarchate, 30 November 2011.
39. Mgr. Celestino Migliori, Statement to the 64th Session of the UN General Assembly, 26 October 2009.
40. Mgr. Silvano M. Tomasi, Statement at the conference on international religious freedom, 12 September 2012.