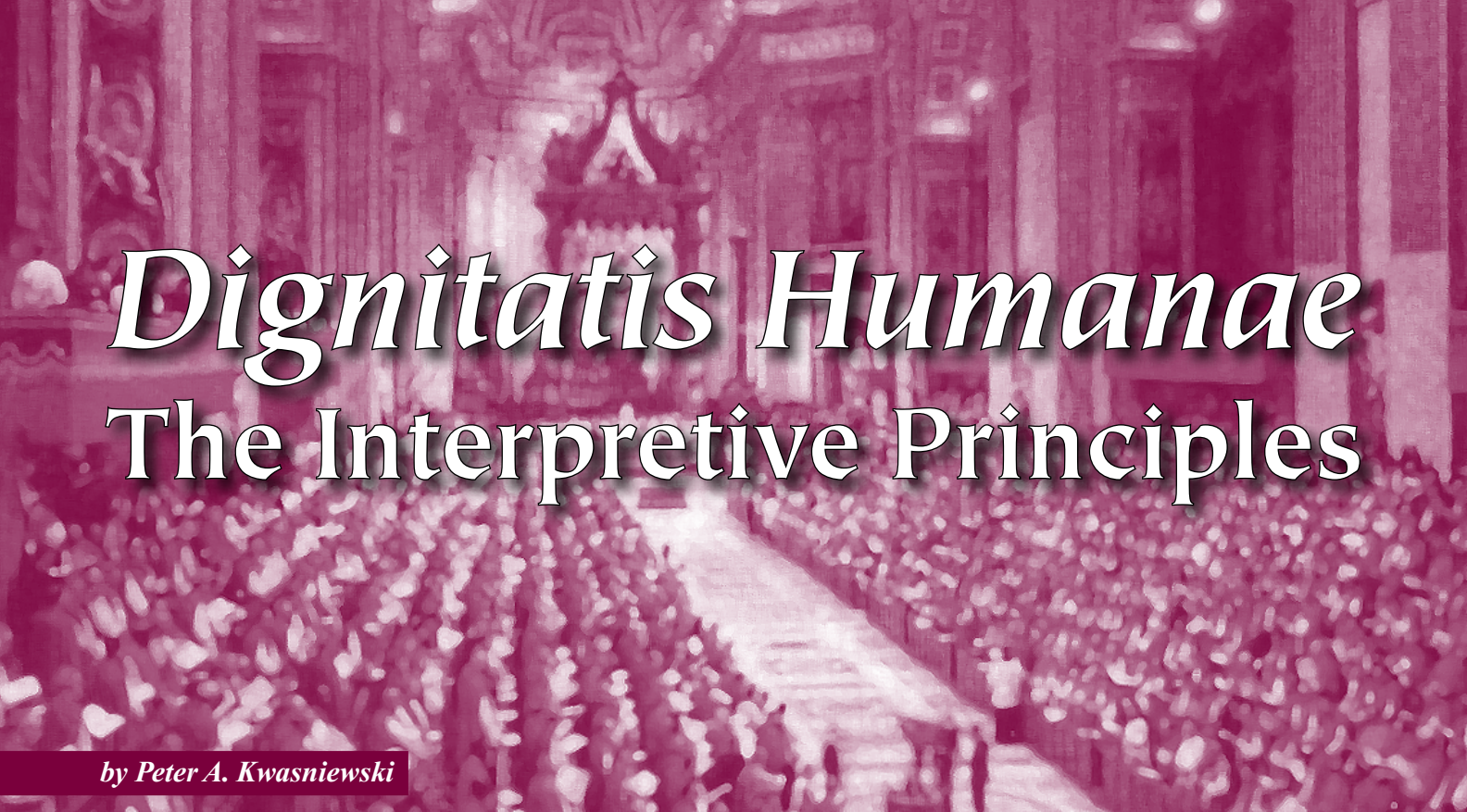




Dignitatis Humanae The Interpretive Principles

by Peter A. Kwasniewski

In the history of the Church no magisterial document has generated as much controversy and contradiction among its interpreters as the Second Vatican Council's Declaration on Religious Liberty *Dignitatis Humanae*. By some it has been exalted as the Council's choicest fruit, by others condemned as a flagrant departure from preconciliar teaching. It has been reviewed, analyzed, critiqued, and defended in countless books and articles.

What business is it of mine, then, to dare to add another essay to this ever-growing pile? The answer is this. Most treatments begin from such an entrenched predisposition of favoritism or antagonism that they fail to come to grips with perennially valid interpretive or hermeneutical principles that a reader must bring to the document if it is to be read as a magisterial text, that is, one that must be in harmony with the Catholic tradition rather than in opposition to it (whether the rupture be rejoiced in or lamented). Put differently, what is lacking is a clear introduction to the *method of interpretation* of this conciliar document. My goal, therefore, is both modest and ambitious. I do not attempt a detailed interpretation; thus for modesty. But I do offer a perspective according to which *Dignitatis Humanae* can, without intellectual contortions, be seen by anyone as a logical extension of the preconciliar Magisterium on the question of a man's right to pursue the truth in freedom; thus for ambition.

Preambles to magisterial interpretation

We must begin with certain preambles without which any attempt to understand an ecclesiastical document will falter.

1. The fundamental principle of all magisterial interpretation, especially when it comes to the Second Vatican Council, is what Pope Benedict has called a "hermeneutic of continuity," in contrast to a "hermeneutic of discontinuity and rupture."¹ One always grants the benefit of the doubt, so to speak, to any substantive doctrinal assertion in a document that is promulgated by legitimate authority—that is, one *presumes* its continuity with the preceding tradition even where this is not apparent, or where the opposite seems apparent. One then endeavors to understand the later teaching in continuity with preceding tradition, as part of a larger tradition that encompasses it, and in light of analogous, parallel, or subsequent texts which flesh out the meaning. No text is to be read in a vacuum, since there is a tradition that serves as *context*; no merely circumstantial evidence (e.g., what so-and-so, when interviewed, says is the meaning of a certain statement) is to be taken as definitive; preference is given to clearer authoritative expressions of doctrine, earlier or later.

2. The Church, in the person of her legitimate pastors, is the living agent of interpreting her own Magisterium. There is no detached, "scientific" perspective outside of her, on the basis of which the Magisterium can be determined apart from its own self-elucidation. However, as Pope Benedict has also stressed, the Church is a servant of revelation and in no way its author or final measure; the Holy Spirit abiding in the Church is the font of all authentic interpretation. This opens up the real possibility of greater or lesser fidelity, clarity, and competence on the part of pastors, even the Supreme Pastor. While error in faith and morals is categori-

cally excluded, no such guarantee of Divine assistance extends to inappropriate silence or omission, ambiguity or vagueness, insufficient elaboration, and so forth. Because the Church's understanding of her teaching is always expressed at specific historical moments with specific intellectual resources, an ongoing process of reflection and clarification will be desirable, even unavoidable. Finally, as we know, individual Bishops can falter and require correction—and even the Pope, in regard to prudential applications or personal opinions.²

3. While it does not address every difficulty that interpreters have raised in connection with *Dignitatis Humanae*, the *Catechism of the Catholic Church* contains a number of crucial clarifications manifestly intended to banish unacceptable postconciliar appropriations of the teaching of *Dignitatis Humanae*, for example those that skew it in the direction of legal positivism.³ For his part, John Paul II left a rich body of teaching on the *intrinsic connection between freedom and truth*, which is the key to unlocking the deepest intention of *Dignitatis Humanae*. Without this key, it is a document that must remain a closed door—or worse, a door that leads into another world than that of unanimous Catholic teaching prior to 1965.⁴

Preambles to *Dignitatis Humanae*

1. By its own admission, *Dignitatis Humanae* does not intend to address every aspect of the problem of religious liberty. Russell Hittinger has often drawn attention to two facts: the geopolitical situation at the time of *Dignitatis Humanae*, with the still-fresh memory of the towering totalitarianisms of the Second World War as well as the ever-present threat of militant atheistic Communism, and the document's deliberate silence regarding the thesis-hypothesis debate (the "thesis" being that the Catholic Church, as the embodiment of the one true religion, must be the approved public religion of the State; the "hypothesis," that the evil of non-establishment or of pluralism could be tolerated to avoid a greater evil

such as civic unrest).⁵ In that sense, *Dignitatis Humanae* is not first and foremost an abstract or theoretical treatment but a practical assessment of and approach to a current world situation, in which the Church is often persecuted

and denied her legitimate freedom. Although it expresses general principles that are always valid, it does not take up some of the more complex questions as to diverse ways in which these principles could or should be realized in particular situations.

The immediate background in the 1960s is, of course, the *de facto* triumph of "liberal" democracies in one part of the world, and the ominous threat of their militant opponents, the Marxist-communist "people's republics." In this scenario, the points made by Pope Pius XII in his 1953 address *Ci*



Fathers of the Latin Church by Abraham Bloemaert

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Riesce to the National Convention of Italian Catholic Jurists stand out all the more boldly: in some historical situations, the best—in the sense of most prudent—policy can be one of a broad toleration of religious half-truths and errors. But Pius XII insisted on an essential condition, as did Leo XIII: such toleration can only be justified by the general well-being of society, its common good, which may suffer more from attempts at suppression.⁶ The controversy over *Dignitatis Humanae* is largely a controversy over whether it is *ever* legitimate, *in principle*, for a government to oppose, prohibit, or prosecute religious errors. We shall return to this point.

2. At the insistence of Pope Paul VI, the final version of *Dignitatis Humanae* includes, near the beginning, the following unambiguous statement, intended as a hermeneutical principle for the remainder of the document: "Religious freedom, in turn, which men demand as necessary to fulfill their duty to worship

God, has to do with immunity from coercion in civil society. Therefore, it leaves untouched traditional Catholic doctrine on the moral duty of men and societies toward the true religion and toward the one Church of Christ."⁷ While the conciliar text does not expand upon or explain this affirmation, much less attempt to resolve apparent contradictions

between it and other statements that follow in the document, the statement nevertheless makes it plain that *however* those other statements are to be interpreted, neither they nor the document as a whole may be interpreted in contradiction to the constant teaching of the preconciliar Roman Pontiffs, above all Leo XIII.⁸

General points on the “right to religious liberty”

According to unanimous papal teaching, no right of an individual is absolute and unconstrained; the natural moral law, as well as the Divine law, is always the measure of human actions and of the exercise of any right. In Pope John XXIII’s formulation of this truth, man “has a right to freedom in investigating the truth, and—within the limits of the moral order and the common good—to freedom of speech and publication, and to freedom to pursue whatever profession he may choose.”⁹ A right is understood as a “moral power,” that is, a power, rooted in reason and free will, to pursue the good according to a well-formed conscience. Again John XXIII speaks to the point:

Also among man’s rights is that of being 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. According to the clear teaching of Lactantius, “this is the very condition of our birth, that we render to the God who made us that just homage which is His due; that we acknowledge Him alone as God, and follow Him. It is from this ligature of piety, which binds us and joins us to God, that religion derives its name.”¹⁰

Accordingly, the right to religious freedom is nothing other than the right to pursue the truth about God and man without external interference or coercion. Hence, the freedom in question is a *freedom from coercion*, not a freedom from any social regulation whatsoever, much less a freedom of total indifference toward truth. The explanation just given is exactly what one finds in the *Catechism of the Catholic Church*.

In itself, the human will cannot be coerced, precisely be-

cause it is free by its very nature; it is a first cause of action within the human soul. It can, of course, be moved by God, the creator of man and all his powers, and such an internal

motion is not only *not* contrary to the will’s nature but most deeply in accord with it—in fact, *liberating*, for grace heals and elevates the human will wounded and bent low by sin. Thus, metaphysically speaking, it is not *possible* to coerce the will. For this reason, it is also not possible for any government to control what a man is thinking, what he thinks to be true, his search for truth, his silent prayer—anything that takes place within his soul.

Attempts can be made and have always been made, however, to regulate the exercise of liberty as regards its outward manifestations, its social or public expression. It is necessary also to make a distinction between actions that are domestic (within the family circle) and actions that are civic or public, that is, open to a wider circle. This distinction is not always easy to make, but it has evident consequences for the understanding of law. Legal regulations governing the outward actions of men—their speech and publications, their worship and works of art, and so forth—are not only *not* contrary to human dignity, but are demanded by the very goods

that civil society is designed to promote, such as order, peace, and justice. Put differently, it is never the case that men are, or should be, left free to do or say absolutely anything at any time and in any place. On the contrary, the *social* exercise of free will is limited by the society’s common good—the good that pertains to and redounds to each and every member of that society. Thus John XXIII insists in *Pacem in Terris* that for every right there is a corresponding obligation or duty both to use the right well and to respect the rights of others. The right is bound internally by its purpose and externally by the freedom that must be guaranteed to others who are also pursuing legitimate ends:

The natural rights of which We have so far been speaking are inextricably bound up with as many duties, all applying to one and the same person. These rights and duties derive their origin, their sustenance, and their indestructibility

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The Cardinal in His Study by Giovanni Paolo Bedini

from the natural law, which in conferring the one imposes the other. Thus, for example, the right to live involves the duty to preserve one's life; the right to a decent standard of living, the duty to live in a becoming fashion; the right to be free to seek out the truth, the duty to devote oneself to an ever deeper and wider search for it.¹¹

Shortly after this passage John XXIII extends his analysis to interpersonal relations: "Once this is admitted, it follows that in human society one man's natural right gives rise to a corresponding duty in other men; the duty, that is, of recognizing and respecting that right."¹² He draws the following conclusion: "Since men are social by nature [*natura congregabiles*], it is necessary for them to live together and to seek one another's good [*alii aliorum quaerant bonum*]. That men should recognize and perform their respective rights and duties is imperative to a well-ordered society."¹³ From this perspective, then, the question is not so much whether laws can be made to govern public actions, but which and what kind of laws are best in

any given set of circumstances. The question of limits to the outward or public exercise of rights is always a question of the prudential order, and never a purely theoretical question.

If freedom, properly understood, is not mere freedom from constraint but freedom to embrace the good and the true, then free human actions can be either in accord with the good and the true, or directly opposed to them in varying ways. Prior to the invention of supposedly morally neutral political philosophies in the modern period, civil law—together with its means of implementation, such as courts and punishments—had always been understood as an instrument, admittedly limited, by which at least the worst excesses of liberty against the moral law could be restrained and at the same time dispositions favoring virtuous action could be formed in the citizens, so that they would be responsible members of society who actively contribute to its common good. This remains the Church's understanding of civil law, which is nothing other than a concrete specification of precepts of the natural law; for us there can be no morally neutral political philosophy or system of government.

A correct frame of interpretation

These things being premised, we are now in a position to see why John Paul II's constant teaching on the indissoluble link between freedom and truth is the key to a correct and consistent understanding of religious liberty. The *only* reason freedom is a good thing is that it is ordered to, and

capable of attaining, *truth*. Freedom is only as worthwhile as its achievement of the goal. Thus, men are always and everywhere to be allowed the freedom—to do what? To seek out and adhere to the truth. Why does Jesus say those sobering words about Judas, that "it would have been better for that man if he had not been born" (Mt 26:24)? Because Judas had received from God the gift of freedom but had then abused it radically, so that ultimately he gained nothing, indeed lost the very beatitude that is man's end. Freedom is not a self-justifying, self-fulfilling good; it is, through and through, a power of seeking and adhering to the beloved. It is a noble power because, unlike a heavy object's falling without knowledge or spontaneity to a

center of gravity, freedom implies the consciousness and movement from within or "motivation" of the one who is seeking and adhering.

The teaching that error has no rights remains untouched; one finds it not only in Leo XIII's social encyclicals but also in Pius XII's *Ci Riesce* and in John Paul II's *Veritatis Splendor* and *Evangelium Vitae*. But the Church adds (and this is a central point in

Dignitatis Humanae): Although error as such has no rights, the erring person does have rights, and his errors do not strip away those rights.¹⁴ The reason is that the erring person is, as a human person equipped with intellect and free will, naturally ordered to the truth by his conscience and by the author of his nature; no external agent can force him either to reach that truth or to renounce his errors, although certain errors may be judged sufficiently harmful to the common good that the expression and inculcation of these errors may be lawfully prohibited. Any attempt to *force* the recognition of revealed truth or the internal renunciation of religious error is contrary to human dignity as such, for man can only adhere to truth or renounce error from within. Note well that this statement is not incompatible with the efforts of the civil power—efforts always necessary—to impose just limits on the way in which the right to search for the truth (as with any right to act publicly) is exercised, as well as on the public manifestations of the truth people believe they have found. On these points, the unsurpassed magisterial treatment remains that of Pius XII's *Ci Riesce*.

Catholic social teaching fundamentally repudiates the secularism according to which the State has no responsibility for the moral and religious formation of its citizens, even as the same teaching rejects the totalitarianism that sets up the State as final arbiter of moral and religious truth. This arbiter remains the Catholic Church (*Dignitatis Humanae* does not shy away from making strong statements to that

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effect), to which the State owes *at least* full freedom of action.¹⁵ Human governance, for its part, can indeed make it easier to attain the truth and easier to avoid error. For example, the State must do all it can to promote healthy family life and prohibit practices or vices that undermine it, such as fornication, polygamy, divorce, contraception, *in vitro* fertilization, abortion, and sodomy. All of this pertains to the natural law, which, on the one hand, it is the State's *proper* responsibility to uphold and promote, and which, on the other hand, it is the Church's province to interpret and clarify in accord with the full truth about man. *Pace* Justice Scalia, the role of civil authority and jurisprudence is ineluctably bound up with interpreting and applying the precepts of natural law; it is precisely these precepts that justify or even require that limitations be placed on the public exercise of human freedom. The Church has never adopted the Enlightenment ideology of absolute rights—rights that are foundationless, unrestrainable, autonomous. Instead, in *Dignitatis Humanae* itself, not to mention a host of other documents, she indicates that rights are correlative with duties and that no rights can be absolute but all are subject to the measure of the common good.¹⁶

Sources for a better understanding

When all is said and done, *Dignitatis Humanae* remains a problematic document if only because its own scope and method are left unclear to the reader and, as a result, its interpretation has been terribly, but predictably, vexed. It has given rise to acrimonious debate, intense partisanship, and even to real or emergent schism: leaders of the Society of Saint Pius X have pointed above all to *Dignitatis Humanae* as undeniable proof of the doctrinal discontinuity that justifies skepticism about the Second Vatican Council. It little helps most of us who are neither proficient in French nor have leisure for vast amounts of reading that a learned monk of the traditional Abbaye Sainte-Madeleine du Barroux, Dom Basile Valuet, O.S.B., has published a 3,000-page definitive study of *Dignitatis Humanae*, responding to both Lefebvrist and liberal/modernist interpretations by documenting and defending the doctrinal continuity of *Dignitatis Humanae* with the entire preceding Catholic tradition. It is true that Dom Basile prepared a one-volume synopsis, which he personally told me he wishes to see translated into other languages than French, but to my knowledge, an English edition has not yet appeared.

Still, there are many good readings that shed light on the question of the interpretation of *Dignitatis Humanae*.

I highly recommend the following:

1. Thomas Storck has taken up the *Dignitatis Humanae* question three times: first, with an article in *Faith & Reason*, then with an article in *Homiletic & Pastoral Review*, and most recently with a chapter and appendix in his book *Foundations of a Catholic Political Order*.¹⁷ This last treatment is the best short treatment I know of.

2. For historical background and common sense textual analysis, see Russell Hittinger's "*Dignitatis Humanae*, Religious Liberty, and Ecclesiastical Self-Government," a chapter in his book *The First Grace* (Wilmington: ISI Books, 2003). Related articles by the same author are "What Kind of Caesar?"; "The Pope and the Liberal State"; and "Making Sense of the Civilization of Love:

John Paul II's Contribution to Catholic Social Thought."¹⁸

Although I am not completely convinced by some of Hittinger's arguments, I find his approach refreshingly uncluttered and certainly much better than interpretations that do not pay sufficient attention to historical context.

3. A goldmine of background and documentary information is contained in Michael Davies' *The Second Vatican Council and Religious Liberty*.¹⁹ Davies' approach is handicapped by methodological

flaws that make it impossible for him to avoid drawing an unacceptable conclusion, namely, that *Dignitatis Humanae* fundamentally conflicts with the prior Magisterium of the Church. A review by Father Brian Harrison, O.P., exposes these flaws quite clearly, while praising aspects of Davies' work in other respects.²⁰

4. It is important to acquire a good grasp of the nineteenth-century historical situation and the way in which the papal teaching on State and society was precipitated and influenced by the fierce battle waged against the Church by rampant liberalism. Again, while not endorsing all their views, I recommend E. E. Y. Hales' *Pio Nono*, especially the chapter on the *Syllabus of Errors*,²¹ and Canon Roger Aubert's essay "Religious Liberty from *Mirari Vos* to the *Syllabus*."²²

At the Second Vatican Council, the idea of a state that aimed to give public honor to God by privileging the Catholic religion was called into question. Some were saying: "We can't retain a double-faced policy (thesis/hypothesis) such that, if *you* are in power, you must grant freedom to *us*, but if *we're* in power, we don't need to grant freedom to *you*. How illogical!" In truth, this is no counter-argument at all; it is symptomatic, rather, of a sociologically eviscerated notion

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of “religion” that fails to give due primacy to the fullness of truth revealed by God and entrusted to the Catholic Church. *Of course* the Church has unique rights over civil society, even as she has a unique right to interpret the natural law without error. She is unique, period. The Catholic Faith is not one religion among many but the one true religion, of which all others (excepting, in a certain sense, the Jewish religion) are partial and groping images that arise principally from man and are inherently non-salvific. Hence a common political theory of the relationship between religion and civil society—one that would take in the Catholic religion on equal terms with all other religions and treat them as if politically indistinguishable—is impossible in principle, and so cannot be applied in practice.

In the end, there are two mutually exclusive political paradigms and paths, one of which *must* be taken while the other is left behind: Leonine Thomism and Lockean-Murrayite secularism. According to the first, the civil and ecclesiastical or kingly and sacerdotal powers are intended

by God, their Creator and Redeemer, to stand in the correct hierarchical relationship, so much so that the very well-being of society and of culture depends intimately on the concrete realization of this relationship; according to the second, the two powers have no formal relationship at all, at best a tenuous material one. The contrast is like that between a marriage intended and sanctified by God, open to the gift of new life in the synergetic activity of procreation, and a couple without vows, living together for mutual convenience. In spite of superficial similarities, which may even include offspring, these avenues tend to go in opposite directions and, barring perversion or conversion, will end in opposite destinies. ✠



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Notes

- 1 From the Holy Father's address to the Roman Curia, December 22, 2005.
- 2 A well-known example of a false papal opinion was Pope John XXII's view, expressed in a sermon, that the righteous dead would not behold God until after the Last Judgment—a view he later retracted. His successor Benedict XII solemnly defined the Church's teaching on this matter in 1336. It is, of course, important to distinguish between magisterial and non-magisterial statements of our pastors, since they are still legitimate pastors even when they do (as John XXII did) speak erroneously.
- 3 See the *Catechism*, esp. 2104–9 (2109 specifically excludes conceiving of “public order” in a “positivist or naturalist manner”) and 2136, but also 1731–33, 1738, 1747, 1782, 1884, 1887–88, 1898, 1907–12, 1925, 1930, 2084, 2235, 2244–46, and 2257.
- 4 *DH* is a document misread by many not only because they have little familiarity with magisterial documents preceding it but also because they do not understand the canons of interpretation. The main canon is this: anything that has been *repeatedly* taught by the popes at a *high level* of authority and as pertaining to the *essence* of the Faith cannot, in principle, be contradicted by any later pronouncement. As one can see from reading *Immortale Dei* or *Libertas Praestantissimum* (an encyclical to which John Paul II was particularly fond of drawing attention), Leo XIII's main conclusions are presented not as prudential judgments but as timeless truths flowing from revelation and from first principles of reason. It is impossible that the Magisterium teach that the Catholic Church or the Catholic religion ought to be treated in exactly the same way as other religious bodies or opinions and that civil authorities/regimes have no positive responsibilities toward the one true religion. Indeed, Paul VI's crucial addition to the final draft of *DH* (discussed below) had no other purpose than to remind the reader of this point.
- 5 I am speaking of a state that is predominantly Catholic in its population and rulers. Some have objected to this line of argument by saying that “the state is not competent to judge about religion.” True but irrelevant. When Catholics who are competent to judge about religion form the majority, obviously—if they really believe in Christ as king and savior of men and of societies—they will desire to form a Catholic state. Consequently, it is not the state *per se* that makes the judgment, but Catholics who already know that theirs is the true religion.
- 6 Recall that for Leo XIII, an increasing toleration of evils—an increasing “liberalization” of society—is a sign of the weakness and imperfection of its government and its populace (*Libertas Praestantissimum* 33–35).
- 7 Fourth paragraph of section 1.
- 8 This is Thomas Storck's point of departure in the treatment given in *Foundations of a Catholic Political Order* (Beltsville, Maryland: Four Faces Press, 1998) as well as in his other publications on *DH*.
- 9 *Pacem in Terris* 12.
- 10 *Pacem in Terris* 14. Implied in the phrase “right dictates of conscience” is that the worship be given according to objectively true criteria, not merely what seems true to this or that person. Inevitably, a state will have to tolerate a certain amount of error in order to leave people sufficiently free to *discover* truth if they have not already found it.
- 11 *Pacem in Terris* 28–29.
- 12 *Pacem in Terris* 30.
- 13 *Pacem in Terris* 31.
- 14 See John XXIII, *Pacem in Terris* 157–60; John Paul II, *Veritatis Splendor*, passim, esp. 32–35, 42, 61–64, 84, 93, 95–97, 104; *Evangelium Vitae*, passim, esp. 18, 19, 24, 70–72; cf. Congregation for the Doctrine of the Faith, *Doctrinal Note on Some Questions Regarding the Participation of Catholics in Political Life*.
- 15 See, inter alia, *DH* Introduction and 14. In the former place we read: “God Himself has made known to mankind the way in which men are to serve Him, and thus be saved in Christ and come to blessedness. We believe that this one true religion subsists in the Catholic and Apostolic Church.” In the latter place: “the Church is, by the will of Christ, the teacher of the truth. It is her duty to give utterance to, and authoritatively to teach, that truth which is Christ Himself, and also to declare and confirm by her authority those principles of the moral order which have their origins in human nature itself.”
- 16 People have sometimes argued that *DH* replaced the old standard of “common good” with a new, positivistic standard of “public order.” Apart from the salient fact that *DH* 7 does invoke the common good and the “objective moral order,” such an interpretation is in any case expressly ruled out by the *Catechism* (see note 3 above).
- 17 The first is available at <http://www.ewtn.com/library/ANSWERS/FR89103.HTM>; the second used to be available but the link perished, while the third is out of print. There is a high likelihood that *Foundations*, which is quite simply essential reading for all who are eager to understand Catholic social teaching, will soon be made available online.
- 18 The first appeared in *Catholic Dossier*; the second appeared originally in *First Things* and was published subsequently in *A Free Society Reader*, ed. Michael Novak (Lanham/New York: Lexington Books, 2000), 185–98; the third may be found in *The Legacy of Pope John Paul II*, Geoffrey Gnehu, ed. (New York: Crossroad, 2000), 71–93.
- 19 Long Prairie, MN: Neumann Press, 1992.
- 20 Published in *Living Tradition*, January 1993, the review may be accessed at <http://www.rtforum.org/lt/lt44.html>. Father Harrison also has a set of very revealing essays called “Is John Courtney Murray a Reliable Interpreter of *Dignitatis Humanae*?” Here he documents cases of equivocation and mendacity on the part of Murray, who did all that he could to advance his own theory after the Council, in spite of the fact that the final text differed with him on a number of points.
- 21 E. E. Y. Hales, *Pio Nono: A Study in European Politics and Religion in the Nineteenth Century* (New York: P. J. Kenedy, 1954), 255–73; in the Doubleday Image Book paperback edition, 265–86.
- 22 The essay was printed in *Historical Problems of Church Renewal*, vol. 7 of *Concilium* (Glen Rock, NJ: Paulist Press, 1965), 89–105.