

Development or Discontinuity?

The Second Vatican Council and Religious Freedom



by Michael Davies

The journal *First Things* of December 2001 published the text of a lecture delivered by Avery Cardinal Dulles in New York City. It was entitled “Religious Freedom: Innovation and Development” and was a defense of *Dignitatis Humanae* (DH), the Declaration on Religious Freedom of the Second Vatican Council, dated December 7, 1965. The fact that a scholar of the eminence of Cardinal Dulles feels that it is still necessary to defend the declaration thirty-six years after its promulgation is significant in itself. In the course of this essay I will make frequent references to my book *The Second Vatican Council and Religious Liberty* (SVCRL), which is, to the best of my knowledge, the only detailed critique of *Dignitatis Humanae* in the English

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language, and contains very detailed documentation on the classic Catholic teaching on Church and State, the debates on religious liberty during the Second Vatican Council, and the final text of *Dignitatis Humanae*, contrasting it with the classic papal teaching. Those wishing to go to the original source of the quotations in this article will find them on the pages indicated.

Cardinal Dulles describes *Dignitatis Humanae* as “one of the most striking developments in twentieth-century Catholicism,” and informs us that:

At the Council itself some conservative bishops, Marcel Lefebvre most notably, held that *Dignitatis Humanae* was contrary to established Catholic teaching and could not be adopted without violence to the Catholic faith. When, notwithstanding his protests, the Declaration was ap-

proved by an overwhelming majority of the Council Fathers (2,308 to 70), Lefebvre founded a traditionalist movement that ended in schism from Rome.

There are some factual errors here. Archbishop Lefebvre was by no means the most notable of the critics of *Dignitatis Humanae* during Vatican II. Alfredo Cardinal Ottaviani, Prefect of the Holy Office (now the Congregation for the Doctrine of the Faith), and President of the Council’s Theological Commission was the most prominent opponent of the declaration, which was also opposed by such cardinals as Ernesto Ruffini of Palermo, the outstanding Irish theologian Michael Browne of the Curia, de Arriba y Castro of Tarragona, Santos

of Manila, Florit of Florence, and Giuseppe Siri of Genoa, and Father Anicito Fernandez, Master General of the Dominicans.

Archbishop Lefebvre did not found the Society of Saint Pius X in reaction to the Council’s approval of the declaration. His society was canonically established on November 1, 1970 with the full approval of the Holy See and his seminary was

praised in 1971 by John Cardinal Wright, Prefect of the Congregation for the Clergy.¹

The figure of a 2,308-to-70 vote of approval of *Dignitatis*

Humanae cited by Cardinal Dulles does not give a correct picture of the opposition to the Declaration within the Council. Voting for the sixth and final schema (draft document) took place on November 19, 1965, and the vote was 1954 to 249.² On December 3, Msgr. Giuseppe

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di Meglio, an Italian specialist in international law, circulated a letter stating that the voting figures indicated that:

For a notable number of Council Fathers the teaching and practical applications of the schema are not acceptable in conscience. In fact, the fundamental principle of the schema has remained unchanged despite the amendments that have been introduced: that is, the right of error...*Since the declaration on religious freedom has no dogmatic value*, the negative votes of the Council Fathers will constitute a factor of great importance for future studies of the Declaration itself, and particularly for the emphasis to be placed upon it (my emphasis).³

Following this vote Pope Paul VI approved the sixth schema. According to the accepted etiquette, once a schema became a papally approved conciliar document even those who had voted against the final schema should vote *placet* (yes) in the vote for the papally approved text. The fact that 70 voted *non placet* (no) therefore holds considerable significance. The true feelings of Council Fathers were manifested by their votes for the final draft, and not for the actual document. It should not be imagined that the majority of the majority who voted in favor of the Declaration were familiar with, or even interested in, the serious issues involved.

As was the case throughout the Council, the majority of the Fathers voted with the majority simply because it was the majority. Archbishop R. J. Dwyer of Portland, Oregon, one of the most erudite of the American bishops, remarked: "And when the vote came around,

like wise Sir Joseph Porter, K.C.B., "We always voted at our party's call; we never thought of thinking for ourselves at all."⁴

Cardinal Dulles concedes, "If *Dignitatis Humanae* is compared with earlier official Catholic teaching, it represents an undeniable, even a dramatic, change. The question must therefore be asked: Was the Declaration a homogeneous development within the Catholic tradition, or was it a repudiation of previous Church doctrine?" He goes



Archbishop R. J. Dwyer

on:

The Council taught that all human persons have by nature an inalienable right to be free in seeking religious truth, in living and worshipping according to their religious convictions, and in bearing

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witness to their beliefs without hindrance from any human power. This principle was theologically grounded in the fact that God, respecting the dignity of the human person, invites a voluntary and uncoerced adherence to religious truth. The act of faith, being free by its very

nature, cannot be compelled.

It is, of course, traditional teaching that the act of faith, being free, by its very nature, cannot be compelled. Saint Thomas Aquinas taught that unbelievers such as the heathens and the Jews who have never received the Faith should by no means be compelled to believe because the act of belief depends on the will. They should, he adds, be prevented from hindering the faith of believers by blasphemies, evil persuasions, or open persecution. Even when Christ's faithful wage a victorious war with unbelievers in defense of the Faith the defeated party should not be forcibly converted.⁵ This teaching is echoed by Pope Leo XIII in his encyclical *Immortale Dei*: "The Church is wont to take earnest heed that no one shall be forced to embrace the Catholic faith against his will, for, as Saint Augustine wisely reminds us, 'Man cannot believe otherwise than by his own free will.'"

The apparent repudiation of previous Church doctrine is found in the first of the three sentences cited, "that all human persons have by nature an inalienable right to be free...in bearing witness to their beliefs without hindrance from any human power." Cardinal Dulles

adds that: "The Council taught that the State has an obligation to protect the inviolable rights of all citizens, including the right of religious freedom. It did not teach that the State was obliged to give legal privileges to Christianity or Catholicism, although it did not rule out such arrangements. It did deny that civil government had the authority to command or prohibit religious acts."

To put it briefly, the Cardinal

interprets *Dignitatis Humanae* as stating that all human persons have a natural right to bear witness to their beliefs without hindrance from the civil government, and in describing this as “an undeniable, even a dramatic change” from previous official Catholic teaching he is certainly correct. Before examining the previous official Catholic teaching it is necessary to make a distinction of crucial importance that must be kept in mind throughout this article. This is the distinction between religious liberty considered from a legal or juridical standpoint (as a civil right) and from a theological standpoint. The juridical standpoint examines the grounds for and the extent of the legal coercion to be applied to the expression of religious belief in the external public forum. Considered from a theological standpoint, that is, a standpoint based upon the nature and will of God as revealed to man, there can be no question of any natural right to believe or to propagate error. As Pope Leo XIII teaches, man has a natural right only to follow the will of God and obey His commandments. In the Liberal sense, liberty of conscience is the right of an individual to think and believe whatsoever he wants, even in religion and morality; to express his views publicly, and to persuade others to adopt them, using word of mouth, the public press, or any other means. He has the right to choose any religion or to have no religion, and this, Liberals claim, is a natural right.

Cardinal Dulles is correct in af-

firming that *Dignitatis Humanae* did not affirm that anyone has a natural right, a moral right, to believe in or to propagate error, but upheld the traditional teaching in this respect. The Declaration affirmed not a moral but a civil liberty, and so the question must be considered from a purely juridical standpoint.



Alfredo Cardinal Ottaviani

It seems impossible to reconcile the Cardinal’s affirmation of a natural right not to be prevented from propagating error in the public forum with the homogeneous corpus of previous papal teaching. This

teaching had been attacked in the decades preceding the Council by Father John Courtney Murray, S.J. In 1955 his superiors forbade him to continue propagating his anti-traditional thesis.⁶ This thesis became the official teaching of the Church in *Dignitatis Humanae*, which in every important respect was written by Murray, as were the speeches in

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defense of its successive drafts made by Cardinal Spellman and Council Fathers from a number of countries, most notably the famous defense of the schema read by the Belgian Bishop Emile de Smedt, to which Cardinal Dulles makes several references without once indicating that it had been written by Murray.⁷

In the decades before Vatican II the editors of the *American Ecclesiastical Review* (AER), the most authoritative and respected journal

of theology in the United States, carried out a consistent defense of the traditional papal teaching on Church and State, including articles contributed by Cardinal Ottaviani. In a criticism of those who rejected the traditional teaching the Cardinal wrote:

To justify themselves these people assert that in the body of teaching imparted within the Church there are to be distinguished two elements, the one permanent, and the other transient. This latter is supposed to be due to the reflection of particular contemporary conditions.

Unfortunately, they carry this tactic so far as to apply it to the principles taught in pontifical documents, principles on which the teachings of the Popes have remained constant *so as to make these principles a part of the patrimony of Catholic doctrine* (my emphasis).⁸

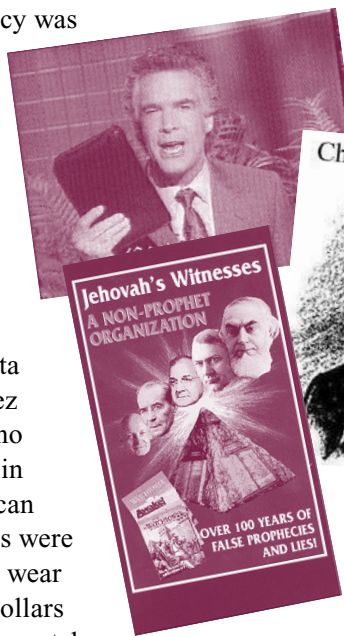
Cardinal Dulles duly informs us that the popes who formulated the traditional doctrine “were speaking within the relatively narrow horizon of Catholic Europe and Latin America, where traditional religion was under attack from militant secularist liberalism.”

What, then, is the traditional papal teaching concerning the propagation of a false religion within a Catholic state such as Spain or Colombia? In considering the question of religious liberty from the juridical standpoint the following distinctions must be kept in mind. The first is that between the internal forum and the external forum. The internal forum refers to what a man does in private, the external forum to what he does in public. The second distinction is between not being forced to act against one’s conscience – i.e., free-

dom from coercion – and freedom not to be restrained from acting in accordance with one’s conscience. The traditional Catholic teaching is that in religious matters: (1) no one must be forced to act against his conscience in private; (2) no one must be forced to act against his conscience in public; (3) no one must be prevented from acting in accordance with his conscience in private; (4) the right of acting in accordance with one’s conscience in public can be restricted.

Let us take a specific example. Before Vatican II, Jehovah’s Witnesses in Spain were allowed to practice their bizarre religion within the privacy of their homes, and to meet together in private with other members of their sect. They were not forced to take part in public Catholic worship. In accordance with (4) above, however, they were not permitted to interfere with the faith of Catholics by visiting their homes with the object of perverting their faith, to publish anti-Catholic literature, or to propagate their errors through the radio or television or by holding public meetings.

The same policy was followed in a number of other Catholic countries. I had the privilege of witnessing it myself while serving as a soldier in Malta during the Suez Crisis. I took no little pleasure in the fact Anglican army chaplains were not allowed to wear their Roman collars outside military establishments. As Father Francis J. Connell explained in the



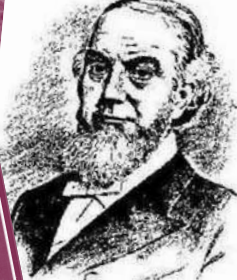
AER, what a man does in private affects only himself and his family, but when he acts in public the rights of other citizens are involved: “It is fully within their [civil rulers’] right to restrict and to prevent public functions and activities of false religions which are likely to be detrimental to the spiritual welfare of the Catholic citizens or insulting to the true religion of Christ.”⁹

The word “toleration” is of crucial importance for understanding the discontinuity between *Dignitatis Humanae* and the classic papal teaching. Pope Leo XIII taught in *Libertas Humana*:

“While not conceding any right to anything save what is true and honest, she does not forbid public authority to tolerate what is at variance with truth and justice, for the sake of avoiding some greater evil, or of obtaining or preserving some greater good.” This was the consistent

teaching of the Popes up to and including Pope Pius XII. Those in error had no natural right to propagate their views – the

Charles Taze Russell



propagation of error is an evil – but it could be tolerated in the interests of the common good (“public welfare”) to prevent a greater evil such as civil unrest. Pope Leo XIII insisted in *Libertas Humana* that the overriding criterion in the question of toleration is the common good. “To judge aright,” he explained, “we

must acknowledge that the more a state is driven to tolerate evil the further it is from perfection; and that the tolerance of evil which is dictated by political prudence should be strictly confined to the limits which its justifying cause, the public welfare, requires.”

This was official teaching of the Church up to and during the Council. Writing in the AER in 1950, Msgr. George W. Shea insisted that what is at issue here is a question of principle, i.e., “the relations which should perse obtain by reason of the nature of Church and State in a Catholic

“The Church is wont to take earnest heed that no one shall be forced to embrace the Catholic faith against his will, for, as Saint Augustine wisely reminds us, ‘Man cannot believe otherwise than by his own free will.’”

society, so that any deviation from these relations, *while tolerable perhaps as a concession prompted by expediency, could not merit approval on principle*” (my emphasis).¹⁰

There is not the least suggestion in the teaching of any pre-Vatican II pope that there could be a natural right on the part of non-Catholics not to be prevented from propagating their errors in public. It is evident that if, as Cardinal Dulles tells us, *Dignitatis Humanae* teaches that non-Catholics possess a natural right not to be prevented from propagating error in a Catholic state, then such a right could not possibly be the subject of toleration. The State is bound in justice to accord to a citizen what he possesses as a right. It is only what cannot be demanded as a right that can be conceded as an act of toleration.

The traditional teaching, described by Cardinal Ottaviani as “part of the patrimony of Catholic doctrine,” was upheld time and again during the conciliar debates. Cardinal Siri of Genoa warned:

We cannot legitimize what God merely tolerates; we can only tolerate it, and that within the limits of the common good. We cannot therefore accept the proposed schema insofar as it recommends liberty for all without discrimination.... We should therefore consider more carefully the contribution of theological sources to this problem of religious liberty and determine whether or not the contents of this schema can be reconciled with the teaching of Leo XIII, Pius XI, and Pius XII. Otherwise, we weaken our own authority and compromise our apostolic effort.

Bishop Emilio Tagle Covarrubias of Valparaiso, Chile, spoke in the name of forty-five Latin American bishops when he stated:

I am very much against this schema. It merely rearranges the previous version, and it contains a number of contradictions.... Many passages are too complacent towards false religions and run the risk of indifferentism and Liberalism. It does not seem possible to grant the same rights to all religions indiscriminately. Only the one true Church has the right to religious liberty, strictly speaking. Other religions can only be tolerated, depending upon the circumstances and persons.

Cardinal de Arriba y Castro of Tarragona defended the traditional papal teaching as follows:

This is probably the most delicate problem of the whole Council with respect to the Faith. We must clearly affirm this basic principle: only the Catholic Church

has the duty and the right to preach the Gospel. That is why proselytism on the part of non-Catholics among Catholics is illicit and should be prevented by the civil authorities as well as by the Church, as the common good requires.... The Council must be careful not to decree the ruin of Catholicism in those countries where it is in fact the only religion.

It is no exaggeration to state that the changing of the Spanish Constitution to correspond with *Dignitatis Humanae* has indeed brought about the ruin of Catholicism in that country. During the Synod of European Bishops in October 1999, Archbishop Fernando Sebastián Aguilar of Pamplona lamented the fact that in Spain “the cultural convictions on which social life is based are undermined and are more atheistic than Christian.” Divorce, abortion, homosexual acts, contraception and proselytism by Protestant sects, which were all illegal prior to *Dignitatis Humanae*, have been legalized.

Spain now has the lowest birth-rate in Europe, and there is a Mormon temple in Madrid.

Cardinal Dulles concedes: “*Dignitatis Humanae* went beyond Leo XIII in affirming that people in error have certain human rights.” This must be the understatement of the present millennium. The only right accorded to those in error by Leo XIII was that of not being forced to embrace the Catholic faith. Where propagating their errors in public was concerned, Pope Leo agreed with his predecessors and his successors that this was an evil and should only be tolerated to prevent some great evil, and that “the more



Pope Leo XIII

a state is driven to tolerate evil the further it is from perfection.”

Cardinal Dulles assures us that *Dignitatis Humanae* is compatible with the previous papal teaching because: “During the Council, Bishop Émile De Smedt of Bruges, as the official spokesman (*relator*) for the commission that composed the document, defended its compatibility with earlier Catholic teaching.... In Murray’s words, *Dignitatis Humanae* represented ‘an authentic development of doctrine in the sense of Vincent of Lérins, an authentic progress, not a change, of the Faith.’”

For Murray to assert compatibility between the pre- and post-Vatican II teaching is one thing; to prove it is another. It would have been surprising if he had not claimed continuity since *Dignitatis Humanae* is, to all intents and purposes, his composition, and it would be equally surprising had De Smedt not endorsed Murray’s position since Murray had written his speech for him.

What is the real significance of *Dignitatis Humanae*? Why and how was the teaching of a long series of popes, “part of the patrimony of Catholic doctrine,” to quote Cardinal Ottaviani once more, replaced by

principles drawn from the American Constitution? The answer is simple. During the Council the schema on religious liberty was often called “the American schema,” and its author, Father Murray, attributed its success to “the solid and consistent support of the American bishops and their numerous interventions” – interventions that he had written for them. “Undoubtedly,” Father Murray explained, “the support derived its basic inspiration from the American experience, from which the Church has learned the practical value of the free-exercise clause of the First Amendment. . . . The object or content of the right to religious freedom, as specified both in the Declaration and in the American constitutional system, is identical” (my emphasis).¹¹

In his book *American Participation in the Second Vatican Council*, Msgr. V. A. Yzermans writes: “It was a delightful victory for the American hierarchy.”¹² He would have been more accurate in describing it as a delightful victory for Father Murray, in view of the fact that, as one American prelate expressed it, “The voices are the voices of United States’ bishops, but the thoughts are the thoughts of John Courtney Murray!” In his book *John Courtney Murray: Theologian in Conflict*, Father Donald E. Pelotte has no doubt that although other members of the commission helped to pen the final text of the Declaration, “Murray’s contribution was decisive. The very acceptance of Murray’s basic thrust, only ten years after his admonition from the Jesuit Curia in Rome, was itself a singular recognition.” And what was Murray’s own appraisal of his delightful victory? He claimed: “Its [the Declaration’s] achievement was simply to bring the Church abreast of the developments that have occurred in the secular world.

The fact is the right to religious freedom has already been accepted and affirmed by the common consciousness of mankind.”¹³ (Did he include the world of Islam in this assertion?)

What had taken place was described with complete accuracy and with total approval in the July 20, 1992 issue of *The Catholic Virginian* by Father G.P. Fogarty, S.J., President of the American Catholic Historical Association, who gave Father Murray credit for the fact that *Dignitatis Humanae* “made universal Catholic teaching what had previously been considered an aberration of the American Church.”

Cardinal Dulles poses the question as to whether *Dignitatis Humanae* is “a repudiation of previous Church doctrine.” The previous



John Courtney Murray, S.J. doctrine was that the public propagation of error in a Catholic state was an evil to be prevented whenever possible and tolerated only to prevent some greater evil. *Dignitatis Humanae* teaches that “all human persons have by nature an inalienable right” to propagate their views. Cardinal Dulles claims that this is a development in the sense explained by Newman, but among the seven requirements for a true development Newman lists continuity of principle, logical sequence,

conservation of its past. He also notes that the word “development” is commonly used with an unfortunate lack of precision, and that even a doctrine that is unfaithful to the idea from which it developed is sometimes termed a development. Thus, where the previous doctrine is contradicted we are faced not with a development but an innovation. Newman explains that a developed doctrine that reverses the course of the development that has preceded it is no true development but is more properly called a corruption.¹⁴ I would suggest, with the most profound possible respect, that this is a point to which His Eminence might like to give some consideration. ✠

Notes

- 1 The full background to the establishment of the Society of Saint Pius X can be found in my book *Apologia pro Marcel Lefebvre*, available from the Angelus Press, 2916 Forest Avenue, Kansas City, MO 64109.
- 2 *The Second Vatican Council and Religious Liberty* (Neumann Press, Long Prairie, MN 56347, 1999), p. 158. Referred to in subsequent notes as *SVCRL*.
- 3 *SVCRL*, p. 159.
- 4 *Twin Circle*, October 26, 1963, p. 2.
- 5 *Summa Theologica*, II, II, Q. 10, art. 8, ad 1.
- 6 *SVCRL*, pp. 100-101.
- 7 *SVCRL*, Chapter XIV.
- 8 *SVCRL*, p. 33.
- 9 *SVCRL*, p. 44.
- 10 *SVCRL*, p. 45.
- 11 *SVCRL*, p. 101.
- 12 *SVCRL*, p. 101.
- 13 *SVCRL*, p. 101.
- 14 *SVCRL*, p. 110.

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