

DIGNITATIS HUMANAЕ—MICHAEL DAVIES' STUDY

In *The Second Vatican Council and Religious Liberty*¹ English Catholic Layman, Michael Davies², produced what is perhaps the most intensive, certainly the most readable, study of *Dignitatis Humanae*, the Council's Declaration on Religious Liberty, and of its passage from the rejection (at the instance of a cadre led by Augustin Cardinal Bea) of the Preparatory Commission's schema in 1960 though to its promulgation on 7th December 1965.

Subjectivism, the principal evil flowing from Descartes' denial that we can know reality, has ravaged intellectual life in the modern world. Its chief effect is to prevent the thinker correctly distinguishing the real and the conceptual orders. It is the root cause of the errors in *Dignitatis Humanae*. It colours the thinking of many of its critics. It affects even a study as well grounded as that of Mr Davies.

We move between words and concepts without thinking about what we are doing. *Words are signs of concepts which are signs of things (or realities)*. If I say the word 'bridge', I am signifying a concept ("structure enabling one to cross a void"), which signifies, in turn, a reality—a *thing*.³ I can use two different words to indicate the one concept (and, therefore, the one thing) as 'cheval', or 'pferd' expresses the same reality as 'horse'. I can use a word like 'freedom', or 'justice', to indicate a concept which signifies, in turn, something real but immaterial (i.e., not comprised of matter). I can use two different words to refer to the same immaterial reality; as 'liberty' and 'freedom' signify the same reality. I can use a word (or phrase) to indicate something which does not exist in reality (as e.g., 'blindness', 'darkness', 'hyperspace'; or 'speed of light'⁴).

The second error flowing from Descartes's defective thinking is materialism, one of whose effects is the inability to look beyond appearances. This, too, manifests itself in Mr Davies' analysis. It is not enough to judge according to externals. We must penetrate to the realities that underlie them.

Without seeking to engage in an exhaustive criticism of Davies' admirable study, we address a number of its shortcomings below.

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¹ The Neumann Press, Long Prairie, Minnesota, 1992

² Michael Davies (13.3.1936—25.9.2004) was a British soldier, later a teacher in Catholic schools for thirty years. He converted from Anglicanism to Catholicism in the 1950s. He wrote prolifically on the problems in the Church that followed on the Second Vatican Council. A supporter of Archbishop Marcel Lefebvre, the founder of the Society of St Pius X, he yet deprecated the Archbishop's decision to consecrate four bishops in 1988 without a papal mandate.

³ Whereas the *thing* (e.g., Sydney Harbour bridge) is singular, the *concept* is not; it is universal and applies to every bridge.

⁴ Light does not have a speed. The speed at which it travels is a property, not of light (which is an accident), but of the material matrix, the substance, in which light travels. Convention dictates the use of the phrase but ignores the lack of reality behind it. This can lead to false assumptions as, e.g., modern science's opinion that light does not need a material matrix.

I. At pp. 15 and 16 of his text, Davies says this:

“[I]t is necessary to have a clear concept of the meanings of the word liberty. Its fundamental meaning is the ability to act without constraint. Such constraints can be physical, psychological, and moral. Freedom to act in a particular manner can only be considered a right in the absence of all three forms of constraint, including moral constraint. Thus, being morally free to perform an action is synonymous with having a right to perform that action, and so the concepts of moral liberty and a right can be considered synonymous... Before discussing moral liberty in more detail the other two forms of liberty will be examined.

“Physical liberty simply means the absence of any external constraint which would prevent a man carrying out a desired action. A man serving a prison sentence might like to take a holiday by the sea, but would be constrained from doing so by the prison authorities. The faculty of acting in a manner of their choosing in the absence of physical constraints is common both to men and animals. A dog, for example, has the physical freedom to bury a bone anywhere in the garden it wishes, providing its owners allow it out of the house.

“Psychological liberty is better known as free will, and involves the capacity to make moral choices. This faculty is thus restricted to angels and men. The possessor of free will, or psychological liberty, is thus the master of his acts, and is consequently responsible for them. Animals have physical but no psychological freedom. A pair of blackbirds can select the tree in which they wish to build their nest, but they do not possess the free will enabling them to decide whether or not to build a nest and raise a family...

This analysis omits important distinctions. The free is that which is immune from bond (or necessity). Bond can be either external or internal. External bond is a cause acting extrinsically and necessitating, as the force of gravity is an extrinsic agent driving a rock down a mountain side. What is free from external bond is said to be free from coercion, or to enjoy spontaneity, or freedom of execution; and in this way brute animals are free from external bond. This is a freedom of acting rather than of willing.

Internal bond is a bond or necessity arising from the very nature of the agent. Every being is bound by such necessity in regard to its natural operations, for every being is bound to tend to its proper end. So, acid is bound to corrode; the plant to nourish itself; the brute animal to move itself according to the form of sense knowledge; the eye to see; the ear to hear; the intellect to understand first principles; and the will to will its proper formal object, good; and so on. What is immune or exempt from internal bond is said to be free from natural necessity. This is enjoyed only by the will and is called freedom of choice or decision. As a pre-condition to its operations, though, the will must also be free from external bond.

Hence the free is what proceeds from the choice of will apart from its natural determination. It is that whereto will, through deliberation, determines itself. The free exists for the sake of itself: itself is the end of its own operations.

Although, as St Thomas says, free will in its strict sense denotes an act, in the common manner of speaking we call free will that which is the principle of the act,

i.e., the *power* of free will.⁵ This is what Pope Leo XIII, following St Thomas, identifies as man's *natural* freedom, with which he contrasts the faculty that follows necessarily upon man's possession of rationality, *moral* freedom.⁶

II. At p. 46 of his book, Davies says this:

"St Thomas... repudiates the opinion that Jewish children should be baptised against their parents' wishes, because, amongst other reasons: *According to the natural law, a son before coming to the use of reason, is under his father's care. Hence, it would be contrary to natural justice if... anything [was] done to it against its parents' wishes.* The right in this instance is a 'right not to be prevented'... [and] means that non-Catholics have a right not to be prevented from bringing up their children according to their own beliefs."

Two things are to be said of these remarks. First, there is a hierarchy among rights just as there is a hierarchy among laws and, where they conflict, precedence is to be given to the higher. No law no matter how stringent, for instance, is superior to the law of charity. Similarly, when rights conflict, the precedence is given to the higher. Thus, the parent's right in natural justice of authority over his child supervenes over the right of the child to know objective truth till the child reaches the age of reason.⁷ Secondly, the parent's right to teach his child as he thinks fit is not really distinct (i.e., not distinct in reality, only conceptually so) from the right of authority over his child. Therefore there is no right "not to be prevented" from teaching the child error distinct, as Davies argues, from the parent's right to bring up his child as he sees fit.

III. At page 211 Davies allows a measure of justice to the claim of principle in *Dignitatis Humanae*:

"Article 2 reads: *This Vatican Synod 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 in matters religious no one is to be forced to act in a manner contrary to his own beliefs.*

"Up to this point everything can be reconciled with the traditional doctrine. Article 2 continues: *Nor is anyone to be restrained from acting in accordance with his own beliefs, whether privately...* The traditional teaching has still not been violated—but now comes the apparent break with tradition: *...or publicly, whether alone or in association with others, within due limits.*

"The phrase *within due limits* could have maintained harmony with previous papal teaching had these due limits been specified as 'the common good' rather than 'public order'..."

There are further problems here.

First, the analysis assumes that the material that follows the claim of principle (*Nor is anyone to be restrained from acting in accordance with his own beliefs etc...*) is definitive,

⁵ *Summa Theologiae* I, 83, 2, resp.

⁶ Encyclical *Libertas praestantissimum* (20. 6. 1888), n. 3

⁷ It is not a matter of denying a lesser law, or a lesser right, but of according each its proper place in the hierarchy, respectively, of laws, of rights.

i.e., defines (in the sense of ‘sets out the limits to’), this right to religious freedom. But it is merely descriptive of certain of its effects. The principle—*the human person has a right to religious freedom*—remains unqualified.⁸ Secondly, as said above, there is no such thing as a “right not to be prevented”, or a “right not to be restrained”, distinct from the substance of the right to which it pertains.⁹ Thirdly, the distinction between the public and the private adherence to an opinion has no relevance when one is dealing with right, only when dealing with tolerance (of error). St Thomas assists us here.

“Human government is derived from the Divine, and should imitate it. Now although God is all-powerful and supremely good, nevertheless he allows certain evils to take place in the universe which he might prevent, lest without them greater goods might be lost, or greater evils ensue. Accordingly in human government also, those in authority rightly tolerate certain evils lest certain goods be lost or certain greater evils be incurred... Hence, though unbelievers sin in their rites, they may be tolerated either on account of some good that ensues therefrom, or because of some evil avoided... Thus from the fact that the Jews observe their rites which of old foreshadowed the truth of the faith we hold there follows this good—that our very enemies bear witness to our faith, and that our faith is represented in a figure, so to speak. For this reason they are tolerated in the observance of their rites. On the other hand, the rites of other unbelievers which are neither truthful nor profitable are by no means to be tolerated, except perchance in order to avoid an evil, e.g., the scandal or disturbance that might ensue, or some hindrance to the salvation of those who if they were unmolested might gradually be converted to the faith. For this reason the Church has, at times, tolerated the rites even of heretics and pagans when unbelievers were very numerous.”¹⁰

Fourthly, Davies is mistaken in thinking that reference to the common good (rather than to public order) would have redeemed the Council Fathers’ defective statement of principle. No right (i.e., no *true* right) needs reference to the common good because consistency with the common good is implicit in it.¹¹ Moreover, had the Council Fathers used that standard rather than that of public order, the truth of what they were essaying would have been manifest—that they were disguising what was a mere matter of tolerance in calling it “a right”.

IV. At pages 212 et seq. of his text, Davies says this:

“Father [John Courtney] Murray... emphasised the fact that the Declaration could not be interpreted as advocating “freedom of conscience” in the sense that this had been condemned by so many popes:

It is worth noting that the Declaration does not base the right to the free exercise of religion on ‘freedom of conscience’. Nowhere does this phrase occur. And the Declaration nowhere lends its authority to the theory for which that phrase frequently stands, namely that I have the right to do what my conscience tells me to do, simply

⁸ Note that no such qualification is shown in the title to the document. It is not entitled a Declaration “of A Limited (or Qualified) Religious Liberty” but “of Religious Liberty”.

⁹ For instance, the assertion by the Council Fathers that *all men are to be immune from coercion... in matters religious* is not different from their claim of principle *the human person has a right to religious freedom*. It merely repeats it under a different conception.

¹⁰ St Thomas Aquinas, *Summa Theologiae* II-II, a. 11

¹¹ If it was not consistent with the common good, it would not be a right.

because my conscience tells me to do it. This is a perilous theory. Its particular peril is subjectivism—the notion that, in the end, it is my conscience, and not the objective truth, which determines what is right and wrong, true or false.

“This is correct. Article 1 affirms the obligation of each individual to seek the truth and embrace it, and the Declaration nowhere suggests that any individual can have a positive right to profess or spread error...”

But because it is based not on a real, but a subjective, interpretation of the document, Fr Murray’s analysis is defective. The very principle (*the human person has a right to religious freedom*) connotes the freedom of conscience he so rightly disparages. It is not necessary that the phrase “freedom of conscience” should appear in the document. The Declaration *lends its authority to the theory for which that phrase stands* wherever in the document the principle is reiterated (in nn. 2, 12 *et alibi*).

Davies is wrong in thinking that the statement of principle in Article 1 demonstrates the document’s adherence to Catholic principle. It does no more than pay it lip service. And while the Declaration may nowhere *say* “that an individual can have a positive right to profess or spread error”, if that is a corollary of the principle on which it is grounded, as it is, Davies’ conclusion that the Declaration “nowhere suggests [it]” is erroneous.

Davies goes on (at p. 213)—

“Msgr de Smedt [Bishop Émile de Smedt, the official relator of the document] explained in his final *relatio* (19 November 1965) that the ‘right’ affirmed was a negative right imparting ‘immunity from coercion’:

nowhere is it affirmed—nor could it be truly affirmed, as is evident—that there is any right to propagate error... If people propagate error this is not the exercise of a right but the abuse of a right...

He summarises his acceptance of this position at page 270 of his text:

“[W]hatever else can be alleged against *Dignitatis Humanae*, it cannot be accused of teaching the indifferentism condemned in [proposition 15 of the Syllabus of Errors]... [N]either the Declaration nor Father Murray claims that anyone has a right to embrace, profess, or propagate error, only that those who do so have a right not to be prevented from propagating error within the limits of the just requirements of public order.”¹²

This argument fails for the reason given above. A claim of right not to be prevented from propagating an error is the same as a claim of right to propagate that error. The two differ only conceptually. Davies cites Fr Brian Harrison’s assertion that the Declaration’s affirmation of a right to be tolerated involves “a genuinely new doctrinal development”¹³, but this assertion is without foundation.¹⁴

¹² *The Second Vatican Council and Religious Liberty*, op. cit., p. 270

¹³ *Religious Liberty and Contraception*, Melbourne (John XXIII Fellowship Co-op. Ltd.) 1988., p. 117.

¹⁴ Fr Harrison argues (ibid): “There is no incoherence in speaking of a ‘right to be tolerated’ because... ‘tolerating’ a certain activity does not necessarily imply... a right to suppress it.” But tolerance connotes sufferance and no right is suffered, only a wrong, and there is always a right to suppress a wrong. Hence, there is no such thing as a ‘right to be tolerated’, i.e., not to be prevented from promoting error.

Davies goes on to criticise Fr Yves Congar, the Dominican *peritus*, on the same page for saying—

“It cannot be denied that a text like this does materially say something different from the Syllabus of 1864, and even almost the opposite of propositions 15 and 77-9 of that document.”

But, if anything, Fr Congar understates the truth for the text contradicts each of the four condemned propositions in their terms, and contradiction involves not merely *material*, but *formal*, opposition: a contradictory proposition differs *essentially* from the proposition it opposes. It follows, therefore, that no matter how much Fr Murray, or Msgr de Smedt may have convinced themselves otherwise, the Declaration does teach the indifferentism of de Lamennais. As we have argued elsewhere, it is this error that has given rise to the greatest evil for which the document is responsible, the promotion of atheism.

V. In Chapter XXI of his text, Davies asserts—

“the documents of Vatican II come to us only with the authority of [the Church’s] Ordinary Magisterium and so the possibility of error cannot be ruled out.”

He develops this thesis in his Appendix I.

The word ‘magisterium’ denotes authority. By definition, then, whether exercised in an *ordinary* or in an *extraordinary* fashion, the determinations of the magisterium of Christ’s Church are certain. Categorising the degree of certitude of this or that determination is another matter.¹⁵ If the Council Fathers spoke for the Church in *Dignitatis Humanae* they spoke with certitude. This begs the question whether they had authority from the Church to speak in the first place. We have addressed this issue in an earlier paper. Because the Second Vatican Council lacked an objective reason *in causa fidei* for its summoning it was never invested with the charism of *extraordinary* infallibility that characterised each of its predecessors. Hence, simply because the Council Fathers elected to pronounce on some topic, it did not follow *eo ipso* that they spoke infallibly.¹⁶

Davies himself shows clearly that the Church had already spoken—taught definitively and infallibly—on the subject the Council Fathers were addressing. There was no scope for them to speak further on the subject: *Dignitatis Humanae* was otiose. It follows that wherever the Council Fathers sought, in contradiction of what the Church had laid down, to proclaim the novelty of religious freedom they spoke not for the Church, but for themselves.

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¹⁵ Dogmatic theology recognises various degrees of certainty ranging from *de fide* down to *opinio tolerata*. Cf. Dr Ludwig Ott, *Fundamentals of Catholic Dogma* (transl. from the German by Patrick Lynch), Mercier Press, Cork, 1960, Fourth edition, pp. 9, 10.

¹⁶ This is not to deny that the bishops retained their *ordinary* teaching office. But that office required them to conform themselves to the Church’s constant teaching. Cf. *The Trouble with Dignitatis Humanae—II. The Dilemma* at http://www.superflumina.org/dignitatis_humanae_2.html