

COMMENTARY ON THE PAPER “*DIGNITATIS HUMANAЕ*: A ‘NON-CONTRADICTIONARY’ DOCTRINAL DEVELOPMENT”

“Development implies that each point of doctrine is expanded within itself, while alteration indicates that a thing has been changed from what it was into something different...”

St Vincent of Lerins¹

This paper considers the thesis of Fr Brian W Harrison that the Declaration on Religious Freedom of the Second Vatican Council, *Dignitatis Humanae*, does not contradict the rule as to development of doctrine in the Catholic Church.

Preliminary

The major problem for thinkers in the modern age is subjectivism. Truth (logical truth) is measured by reality: it is *the identity between what is asserted and what is*. Under the influence of subjectivism, however, the definition is reversed: truth becomes *the identity of what is with what is asserted*. This intellectual vice, whose historical cause is proximately the philosophy of René Descartes and remotely (and ultimately) the heterodoxy of Martin Luther, affects much of modern thought and argument.

It is at the root of the modern pre-occupation with opinion and opinion polls, with appearances rather than the reality that underlies them, with political correctness, with ideologies and the various theories of history they promote. Subjectivism disposes the thinker to conceive as real what is no more than a product of the mind; to conceive as something of the mind what is in fact a part of reality. Not even popes are immune from its ravages. In *Fides et Ratio* (14.9.1998) Pope John Paul II cited St Anselm’s ‘ontological’ argument for the existence of God² but neglected to mention that St Thomas Aquinas had exposed its logical shortcomings seven centuries prior.³ Carol Wojtyla was formed in subjectivist philosophies and the saintly pope frequently had difficulties distinguishing the intentional from the real as his first encyclical, *Redemptor Hominis* (4.3.1979), demonstrates. This debility rendered him incapable of seeing that St Anselm’s argument passed illicitly between the two orders so that the premises could not logically support the conclusion.

Fr Harrison’s thesis is set out on the website of the Roman Theological Forum.⁴ For the sake of convenience we have reproduced it in the Appendix. We will concentrate on those points which he puts as the principles of his reasoning. We will then address his thesis. As we will show, his arguments are not immune from the subjectivist virus.

¹ *Commonitoria*, ch. 23

² *Fides et Ratio*, n. 14

³ *Summa Theologiae*, I, q. 2, a. 2, ad 2

⁴ <http://www.rtforum.org/lt/lt151.html>

He begins as follows.

I. First of all, certain important hermeneutical distinctions need to be kept in mind:

‘Hermeneutical’, that is, distinctions ‘in interpretation’. Distinction is lack of identity; it is an act of intellect. Since *words* are signs of understandings (or *concepts*) which are signs of *things*, there are three ways in which the mind may divide; at the level of the *word*—and this is *nominal* distinction; at the level not only of the word but of the *concept*—and this is *conceptual* distinction; or at the level not only of the word and concept but of the *thing (res)*—and this is *real* distinction. It is appropriate to deal with them in reverse order.

Real distinction exists in the thing. It is not caused by the mind, but *found by* the mind. A cow and the tree under which it is grazing are really distinct. So is a man and his arm, for distinction does not contradict unity but identity; a man is one with his arm but not identical with it. Real distinction is twofold, *real-real* and *real-modal*. The two examples above illustrate the first type. The second is the distinction between a thing and the way, or mode, in which it has itself as for instance between a curved line and its curve.

A conceptual distinction is something of the mind, a product of the intellect’s power. St Thomas Aquinas teaches—

“It is not necessary that realities which are distinguished according to understanding be distinct in the real because intellect does not apprehend things according to the mode of things but according to its own mode.” [*Summa Theologiae* I, q. 50, a. 2]

There are two types of conceptual, or mental, distinction, those which are based in the real, the properly conceptual, and those which are not, which are nominal only.

The human intellect, weakest of all intellects, cannot by one single concept perfectly understand the reality of any thing. It abstracts diverse concepts as, for instance, from the reality of this man, *Peter*, the objective concepts *substance*, *body*, *living*, *animal*, *rational*, *able to talk* (talker), *able-to-laugh* (risible), *able-to-exchange* (economic), *bound-by-moral-principle* (moral), etc. Such distinctions, though they have foundation in the real, are not *real* distinctions but *virtual* distinctions, according as the thing, itself one and indistinct, provides by its power (*virtue*) the basis for the mind to make distinction. Thus *one* thing can be *many* objects of the mind.

This intrinsic diversity of objective concepts is twofold, either according as—

- One inferior concept (e.g., *man*) adds to another superior concept (*animal*) something objective (*rationality*) which is not contained in the superior—and then the two concepts differ as act differs from potency (e.g., man is *actually* rational; animal only *potentially* so): such a distinction, based upon objective precision, is called a *major conceptual* distinction; or,

- One concept explicates, or represents distinctly, something which is actually contained in the other only implicitly, as occurs between a defined and its definition, e.g., *man* and *rational animal*, or between the essence of something and its metaphysical properties, e.g., *man* and *talker*, or *man* and *risible*, so that the two differ as implicit and explicit: which distinction is based *not* on objective but on *formal* precision⁵ and is called a *minor conceptual* distinction.

But the mind may also distinguish in a way which has no basis in reality, only in convention or through synonym. In such cases the same thing conceived by the same objective concept is nevertheless named by diverse names. For instance, ‘cheval’ and ‘pferd’ signify, in different languages the reality *horse*, as ‘canis’ and ‘chien’ signify in different languages the reality *dog*. Again, men may for the same reality, use the names ‘base’ or ‘foundation’, or for another ‘lamp-globe’ or ‘lamp-bulb’, or for another ‘being’ or ‘thing’. Such distinctions, unbased in reality, are called *nominal* distinctions.

In each case in which Fr Harrison seeks to apply a distinction ‘of interpretation’, then, we are justified in asking, ‘What sort of distinction?’ Distinct *in reality*, distinct *only in mind*—albeit with some basis in reality—or distinct *only nominally* with no basis in reality?

II

[important hermeneutical distinctions...]

(a) between Church *doctrine* (teaching proposed as true for all times and places) and Church *law* or *prudential policy* judgments (adaptable according to different historical/cultural circumstances).

That is, between the Church’s teachings and their application. The Church’s *doctrine*, the truths revealed by God for man’s salvation, are immutable. They are faithfully reflected in Church law. Moreover, in the imparting of the Church’s doctrine, and in the *application* of the Church’s laws, there can be no departure from Catholic principle without its betrayal. In the celebrated *Washington Case* where it appears Pope Paul VI refrained from insisting upon the application of the terms of his own encyclical, *Humanae Vitae*,⁶ there were consequences adverse to the faith around the world.⁷ On the score of content, then, there is only *nominal*, or at best minor based *conceptual*, distinction between the Church’s doctrine and her law.

⁵ Intentional precision (precision of the mind) is either *formal* or *objective*. In *formal* precision the mind attains the whole object as regards all its predicates but one is apprehended clearly (explicitly), the others only confusedly (implicitly). In *objective* precision one predicate is attained while the others are omitted.

⁶ Cf. George Weigel, *The Courage to be Catholic*, Perseus Books, New York, 2002, p. 68 et seq.

⁷ Literally. In the paper *Failure of the Executive Power* the author records the relation, by one of his former priests, of the effects of that betrayal on Archbishop Guildford Young of Hobart, Tasmania. Cf. http://www.superflumina.org/PDF_files/executivefailure_2.pdf

The Church's prudential decisions in respect of the imparting or enforcement of her teachings may respect 'different historical/cultural circumstances', that is, things accidental, but not so as to compromise the essentials of their content. To do so would be to resile from the integrity of the Church's teachings.

III

[important hermeneutical distinctions...]

(b) between a Vatican II Declaration such as *Dignitatis Humanae* and more authoritative conciliar documents, such as Dogmatic Constitutions. Conciliar declarations (of which there are two others, *Nostra Aetate* and *Gravissimum Educationis*, on inter-religious dialogue and Catholic education respectively) are not meant to be read as if they proposed universal, timeless and unchangeable doctrine from start to finish. All three of them begin with a few basic general doctrinal principles of this sort, and then go on to lay down practical norms and other comments that the Church considers appropriate as present-day applications of, and reflections on, those principles.

(c) between affirming a right to *do X* and affirming a right to *immunity from coercion* in doing X. In a purely juridical or legal document setting out only what is and is not to be prohibited and punished by human positive law, this distinction would be inapplicable, even meaningless. But in a theological, doctrinal document such as *Dignitatis Humanae*, which in the first place considers *moral* rights and duties, and only secondarily their implications for human law codes, the distinction is crucial. *Dignitatis Humanae* carefully specifies that what it affirms as the natural right to religious freedom is only the second kind of right...

There are a number of issues here.

First, is it true that *Dignitatis Humanae* does no more than assert a right not to be coerced over religion? Certainly the Council fathers *said* religious freedom means—
“that all men are to be immune from coercion... in such wise that no one is to be forced to act in a manner contrary to his... beliefs...”[n. 2]

They may have thought that they were doing no more. But what matters is not *what they thought they were doing* but *what in fact they did*. For it must be insisted against the subjectivist principle that truth is not determined by thought, by opinion, but reality.

Let us observe that (whatever aberrations may have occurred at the hands of individual bishops or priests down the ages) it is, and has ever been, Church teaching that no one should be coerced to become a member of the Church Christ established. This is a corollary of her teaching on free will. Moreover, from time to time the Church's Doctors have condemned other religions over such coercion.⁸ Hence, the sentence from the document cited above simply re-states the Church's position. Concerning which it should be noted that one may be *physically*

⁸ For instance, St Thomas Aquinas against the use of coercion by Mohammedans; *Summa Contra Gentes* Bk. I, 6 [4]

constrained, yet be morally free. A prisoner in his cell, a Napoleon on St Helena, a husband or wife fettered by circumstances, is each still morally free.

Fr Harrison asserts the distinction between “affirming a right to do X” and “affirming a right to immunity from coercion in doing X” is crucial in the interpretation of the document “because *Dignitatis Humanae* carefully specifies” that “the natural right to religious freedom is only the second kind of right”. The question for our consideration is whether a right to act is distinct *really* from a right not to be prevented from so acting (we can ignore the ‘affirming’), or whether it is only distinct *conceptually* or *nominally*.

Right (*ius*) is a concept that reflects a reality. The concept is less one of theology or philosophy than of law, whether canon or civil. When in June 1888 Pope Leo XIII condemned the principle *that every man is free to profess as he may choose any religion or none* [*Libertas praestantissimum*, 20 June 1888, nn. 19 et seq.], he did not use the language of rights. He said this—

“[W]hen such a liberty... is offered to man, the power is given him to pervert or abandon with impunity the most sacred of duties and to exchange the immutable good for evil which, as we have said, is no liberty at all but its degradation, and the abject submission of the soul to sin.” [n. 20]

The Council fathers chose to ignore this teaching grounded in a careful analysis of the nature of human liberty, preferring the legalisms in secular documents such as the United States Constitution and United Nations Declaration of Rights.

We may define ‘right’ metaphysically as *a quality which is together a relation inherent in the person operating to secure what is due to him*.⁹ A right attaches to the person (and only to the person; ‘animal rights’ do not exist in reality¹⁰, only in the minds of ideologues) in virtue of his reality as a being, objectively infinite, which exists not for the sake of another but for its own sake. The person is an end in himself; “the only creature on earth,” as the Council fathers rightly said, “which God willed for itself.”¹¹

Right is, then, an *accident*, that sort of reality whose whole being is *be-in-other*. Just as one never sees the colour blue by itself, only in some substance, so neither does a right exist except in that particular sort of substance called a *person*. We speak of a right to life, of a right to found a family, of a right to earn a living. Each of these, rooted in the substance of the person, names a separate *accidental* reality.

Now, just as ‘man’ and ‘rational animal’ are different conceptions when said about *Peter*, “a right to do X” and “a right to immunity from coercion in doing X” are no more than different conceptions of the one right. Whether you say that he is a man or that

⁹ On right as a relation, see John C Ford SJ and Gerald Kelly SJ, *Contemporary Moral Theology, Volume Two*, Westminster, Maryland, 1964, p. 70. *Relation* is the third of the nine predicaments, that accident whose whole be is be-towards.

¹⁰ Perhaps this is being too dogmatic. Animals can be said to have rights *secundum quid*. Man ought to respect every element of God’s creation and he may not use it irrationally.

¹¹ *qui in terris sola creatura est quam Deus propter seipsam voluerit*, *Gaudium et Spes*, n. 24. Note the translation is faulty which puts it “which God willed for Himself.”

he is a rational animal you are referring to the one reality, *Peter*. Whether you say that *Peter* has a right *to act*, or that he has a right *not to be prevented from acting*, you are referring to the one reality, *Peter's* right. The two expressions "a right *to do X*" and "a right *to immunity from coercion in doing X*" differ only in this, then, that what is *implicit* in the one is *explicit* in the other. Hence the distinction between them, while it has a basis in the real, is not a *real* distinction but a *minor conceptual* distinction.

One may reach the same conclusion by a different route. A right *to immunity from coercion in doing X* adds to a right *to do X* only the removal of an impediment (*removens prohibens*), that is, a condition. Now a condition is not a cause of the reality which it affects save *per accidens*. It adds nothing essential. Accordingly, a right *to immunity from coercion in doing X* adds nothing essential to a right *to do X*. Therefore, a right *to immunity from coercion in doing X* is not different to a right *to do X*.

A third argument. A right to act ("*to do X*") includes a right not to be prevented from so acting ("*a right to immunity from coercion in doing X*"), for the latter is contained *virtually* (i.e., in power) in the former. Therefore they are not distinct entities.

Fr Harrison seems to agree. "In a purely juridical or legal document...", he says, there is no real distinction between a right *to do X* and a right *to immunity from coercion in doing X*. To make such a distinction "would be inapplicable, even meaningless". One assumes, then, that he agrees that the distinction between the two is no more than *conceptual*. Why does he think that "in a theological, doctrinal document" this *conceptual* distinction is transformed into a *real* one?

IV

A *theological* affirmation that there is a human right *to do X* simply means that X is itself a kind of action which is objectively morally upright and justifiable – one that does not, as such, deserve censure or disapproval from either God or man. But to affirm a right to immunity from human coercion in doing X – that is, a right *not to be prevented by human authority* from doing X – does not necessarily imply that X is objectively good behaviour. It is simply a reflection of the important distinction between sin and crime; that is, it recognizes the limited jurisdiction of government when it comes to penalizing the errant behaviour of citizens.

Let us first observe that the censure or disapproval of man is irrelevant unless it reflects reality: the test is objective. Second, since all theology is founded on sound philosophy if, according to such philosophy, a right *to do X* differs from a right *to immunity from coercion in doing X* only conceptually, this is the case also in theology.

Thirdly, it is *not* true that a right *to immunity from coercion in doing X* "does not necessarily imply that X is objectively good behaviour". There can be no right to behave, no right to act, except in respect of what is objectively good. *Right*, as we have said, is a *quality* which is together a *relation* inherent in the person operating to

secure what is due to him. But what is due must *eo ipso* be good, for what is due is something of being, and good and being are convertible.¹² Evil is, by definition, *the lack of a due good*.¹³ No one has a right to what is evil, or a right to do what is evil. A right to immunity from coercion in doing X, then, necessarily implies that X is objectively good behaviour.

Now if it is the case that there is not a real, only a *conceptual*, distinction between “a right to do X” and “a right to immunity from coercion in doing X”, it follows that in affirming a right to ‘religious freedom’ as a right to immunity from coercion over religion, the Council fathers in fact affirmed a right in man to embrace and profess his religion of choice, which proposition the Church had condemned on 8th December 1864¹⁴, and confirmed in the teaching of Pope Leo XIII set out above.

Let us look at Fr Harrison’s next proposition.

St. Thomas recognized long ago that it is not the function of human law (civil authority) to outlaw and punish any and every kind of sin. [*Summa Theologiae* I-II, q. 96, a. 2] And he answered negatively the question as to whether Muslim or Jewish parents could justly be prevented by Catholic governments from teaching their children their respective non-Christian religions... Aquinas said this would be unjust, because the right of a father over his family in this case prevails against the alleged right of government to intervene in favour of the true religion. [*Summa Theologiae* II-II, q.10, a. 12] Does that mean St. Thomas is saying or implying that there exists a “right to teach one’s children false doctrine” – doctrine contrary to the revealed truths such as the Incarnation and Trinity? Not at all. There is only a right *not to be prevented by government* from doing so...

Civil law, St Thomas teaches at the first reference given,

“is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous, from which it is possible for the majority to abstain, and chiefly those that are to the hurt of others, without whose prohibition human society could not be maintained...”

There are two reasons, St Thomas says (at the second reference), why a child should not be baptised against its parents’ will. This is the second:

“[A] child is, by nature, part of its father. Thus... while it is in its mother’s womb, it is not distinct from its parents as to its body; and later, after birth and before it has the use of free will, it is enfolded as if in a spiritual womb in the care of its parents; for as long as a man has not the use of reason he does not differ from an irrational animal... [E]ven as an ox or a horse belongs to someone to use as instrument as he likes, so a

¹² Every being is *good*, is *something*, is *one*, is *true*. These four—*one*, *something*, *true* and *good*—are referred to as the *simply simple perfections* of being.

¹³ *Summa Theologiae* at I, q. 14, a. 10, and elsewhere.

¹⁴ The proposition condemned is “Every man is free to embrace and profess that religion which, led by the light of reason, he thinks to be the true religion.” *Syllabus of Errors* n. 15, adjunct to the encyclical, *Quas Primas*.

son, before he comes to the use of reason, is under his father's care. Hence it would be against natural justice if a child, before coming to the use of reason were to be taken from its parents' custody, or if anything were to be done to it against its parents' wishes. As the child begins to have the use of free will, it begins to belong to itself and can look after itself in matters concerning the Divine and natural law: then it should be induced, not by compulsion but by persuasion, to embrace the faith. [The child] can then consent to the faith and be baptised even against its parents' wishes..."

Thus, he puts the business as a right of property in the child until it comes to the use of reason.¹⁵ No one, he says in reply to the second objection, ought to breach the order of the natural or Divine law which puts a child in his father's custody even to save it from eternal loss.

The good which is the object of the father's right towards his child is determined by the natural order. Now, since the majority of human beings 'are not perfect in virtue', a father may fail in some part of the execution of the duty which corresponds to his right. Such a failure is not part of the right but is accidental to it. A right *to act* or a right *not to be prevented from acting* respects only what is essential, not what is accidental. Therefore, it is *not* true to say that the father has a right *not to be prevented from* teaching the child error. Against such a suggestion St Thomas says, in his answer to the fifth objection, that even unbelieving parents who fail to provide the sacraments of salvation for their children face the peril of judgment for their failure.

V

Fr Harrison insists—

Other clear examples would be our Lord's warning to avaricious souls who lay their treasure up on earth instead of in heaven, and to those who sin by omission in neglecting the poor. The parables of the rich fool, the rich man and Lazarus, and the Last Judgment all make it clear that these sins can be *mortal*: they lead to eternal punishment. But does that mean Jesus was implying that government can justly punish a man for his 'thought crime' of being inwardly too attached to this world's goods? Or that it would be just to send us to jail, not only for failing to pay our taxes to the government, but also for failing to donate enough of our income to charitable causes? Of course not. Extending to government the authority to punish every kind of sin – even every kind of *grave* sin – would in practice be a recipe for totalitarian tyranny. In short, coercion can be unjust – and thus violate another person's rights – not only when it is inflicted on the innocent, but also when it's inflicted on a wrongdoer *by someone who oversteps his own authority* by inflicting it.

¹⁵ By which, it would seem, he means much more than is signified by the expression 'the age of reason' which begins at about 7 years, but something approaching the civil law's recognition that the child is *sui juris*, when the child "begins to belong to itself".

The first illustrations are, with respect, not instances of the (*conceptual*) distinction between a right *to act* and a right *not to be prevented from acting*, but instances of the *real* distinction elaborated in *Libertas praestantissimum* between *absolute* and *moral* freedom. There is no exercise of my *absolute* freedom which does not have a *moral* connotation. *Absolutely*, I am free to ignore the plight of the poor, to teach my son falsehood, but I am not *morally* free to do either. Sin involves the exercise of absolute freedom in contempt of moral freedom's demands.

The second section which begins 'Extending to government...', while problematic in its mode of expression, is sufficiently addressed by the teaching of St Thomas set out above. The comment about coercion is, with respect, confused. Coercion is *per se* morally indifferent. Its morality is specified by the end for which it is exercised. I may coerce an innocent person for his good or for his ill.¹⁶

VI

Finally, we need to avoid the fallacy of assuming that if we say a government should *tolerate* a certain activity, we are implying or presupposing that it has a *right, in justice, to repress* that same activity if it wishes to do so. Again, in a purely juridical document, that right might perhaps be implied. But not in theological discourse, in which the first of the above propositions by no means entails the second. In the context of such discourse, saying that a ruler *tolerates* activity A simply means that, while disapproving of A, he decides not to repress it even though he disposes of enough physical force (police or military), and perhaps the permission of his country's existing positive law, to do so. Whether or not he would also have the *right* (in the sense of the *moral* authority) to repress A is a distinct question. In some cases he would, in others he wouldn't.

Fr Harrison speaks as if government were principal, rather than instrumental. Ontologically the state is consequent, not prior, to man and to the family. It exists to serve them, its only *raison d'être* their welfare and that they may attain their proper end. The state is not, as Masons think, an end in itself or, as the *Philosophes* thought, a consequence of some sort of social agreement. No government, even democratic government, gets its authority from the people governed but from Almighty God. While human intellect is involved in its workings, government is a *natural* not a *voluntary* effect of man's socialising. *Right* is something objective; a property, a necessary accident, of man, the human person. If no right exists, none can be implied. A great part of the problems posed by the modern world arises from the practice of asserting, or implying, rights which do not exist in reality. Nor does it

¹⁶ Thus, if I push a child out of the path of a speeding car I am acting for his good. This confusion, widespread in the modern world, is entrenched in the posited law of some states which purport to punish a parent for the rightful exercise towards his child of corporal discipline. The root of the problem is the inability to distinguish *form* from *matter*. The same act, striking a child (the *matter* of the act), may be for its good or for its ill. The critical issue is not the matter but the *form* of the act, why it is done.

matter, philosophically or theologically, what some 'juridical document' may say if it does not accord with a true jurisprudence.

So critics of Vatican II are setting up a false dichotomy when – as often happens – they claim to discern an implicit contradiction between *Dignitatis Humanae's* language of "rights" in civil society for those practising various different religions and the traditional papal language that spoke of mere civil "tolerance" for non-Catholic religious activity. The distinction made in (c) above also needs to be kept in mind here. It follows from all this that the respective concepts of having a *right not to be prevented* by the State from carrying out religious activity A (which is the language of *Dignitatis Humanae*), and of *being tolerated* by the State in carrying out A (the language of the pre-conciliar magisterium) are not at all logically incompatible. And precisely because they are compatible, it would not be oxymoronic to combine the conciliar and pre-conciliar ways of speaking in one expression, affirming that persons can sometimes have a natural "right to be tolerated" by government in carrying out A.

The toleration of an evil is not distinct, according to Fr Harrison, from *the right to be tolerated* asserted in *Dignitatis Humanae*. Therefore, the critics of Vatican II who insist that the two name distinct realities, are guilty of 'a false dichotomy'. But if *a right not to be prevented from doing X* is simply *a right to do X* by another name, they are correct in their insistence, for what *Dignitatis Humanae* has done in allowing *a right of toleration* of evil is to grant evil a right to exist, the antithesis of its mere toleration.

VII

Now let us look at Fr Harrison's thesis.

Now, taking into account the elaboration of those "due limits" which we find in article 7 of the Declaration, this *controverted* teaching of *Dignitatis Humanae* can be synthesized as the following proposition:

P: It is *unjust* for human authority (Catholic or non-Catholic) to prevent people from publicly acting in accord with their conscience in religious matters, *unless* such action violates legal norms, based on the objective moral order, that are necessary for safeguarding: (a) the rights of all citizens; (b) public peace; and (c) public morality. (These three factors are said to make up collectively "the basic component of the common good", otherwise termed "a just public order". It is important to be aware that *Dignitatis Humanae* defines "public order" in terms of these three.)

Now, if indeed P *contradicts* traditional Catholic doctrine in the way critics of Vatican II claim it does (i.e., by allowing too much civil freedom in religious matters) then the pertinent traditional doctrine would have to have been the following:

P¹ It is *sometimes just* for human authority (Catholic or non-Catholic) to prevent people from publicly acting in accord with their conscience in religious matters *even when such activity does not* violate any of the three general norms (a), (b) and (c), specified in P.

But P¹ was not in fact the Church's traditional doctrine. It cannot be found – in those words or others implying the same thing – in the pre-conciliar magisterium, ordinary or extraordinary. For the popes of earlier times who sometimes exhorted Catholic rulers to repress all public manifestations of non-Catholic religions would certainly have answered affirmatively, had they been asked whether such manifestations violated one or more of the three norms set out in proposition P above... *Ergo, Dignitatis Humanae* does not contradict the Church's traditional doctrine.

The reader will note that the argument is grounded in an opinion, indeed in an opinion of an opinion (Fr Harrison's *opinion* of the traditional view of the interpretation of *Dignitatis Humanae*). Its argument may justly be cast, then, in the following terms.

If the traditional view of the effect of *Dignitatis Humanae* is conceived of as manifesting the proposition—

“It is *unjust* for human authority... to prevent people publicly acting in accord with their consciences in religious matters *unless* such action violates legal norms etc...”,

the traditional view of the pre-Conciliar position may be conceived of in this contrasting proposition—

“It is *sometimes just* to prevent people publicly acting in accord with their consciences in religious matters *even when such activity does not* violate any of [these] norms etc...”

But this latter proposition does not exemplify the Church's traditional doctrine.

Therefore *Dignitatis Humanae* does not contradict the Church's traditional doctrine.

The argument's major premise is in the *conceptual* order while the minor is in the *real* order. Now, it is logically illicit for an argument to pass from the conceptual to the real order. Any such argument is incapable of producing a binding conclusion. Even if the premises were to be admitted, then, the only conclusion that could be drawn is this—

Therefore *Dignitatis Humanae* may be conceived of as not contradicting the Church's traditional doctrine.

Which is, of course, far from Fr Harrison's intent.

There is another problem. It is implicit in the major (and *conceptual*) premise that individual conscience, *eo ipso* something subjective, may operate to determine objective principle. This is something the Catholic Church has never allowed. Conscience may be rightly ordered (and then it conforms with objective truth), or it may be disordered. It is the conformity with reality of the acts done by the agent, not the operations of his conscience, which grounds the justice of his acts. On the hypothesis that either of the propositions in the major premise represents the effect of the teaching in *Dignitatis Humanae* then, it is impossible the document would not contradict the Church's traditional teaching.

The common good—which the Church has ever used as the standard essential for human society—embraces much more than the mere preservation of public order.

“[T]he common good touches the whole man, the needs both of his body and his soul. Hence, it follows that civil authorities... should promote simultaneously both the material and the spiritual welfare of their citizens...”¹⁷

In particular it respects the end for which man was created, union with God. Since that end can only be achieved through the religion founded by God¹⁸, the common good demands that no other religion should be allowed parity with it. A realisation of this truth by its promoters explains the shift that occurred in the text of the schema on religious freedom from the common good, as standard for determining the limits of this asserted liberty, to that of ‘a just public order’.¹⁹

VIII

Fr Harrison makes a number of further claims. There is little to be gained in addressing them *seriatim*. We should, however, deal with his denial that the Council fathers were affected by the subjectivist virus.

Some traditionalists claim to detect, underlying the Vatican II teaching, the modern heresy that completely reverses the traditional principle of Catholic theology and philosophy that objective truth has priority over what one subjectively *thinks* is true. *Dignitatis Humanae*, we are told, turns this classical principle upside down by giving the primacy to subjectivity – by making truth and reality subordinate to error and illusion. But this is too extreme as an attempt to detect what lies at the heart of *Dignitatis Humanae*. The text says nothing which implies any such radical reversal...

What matters, it must be insisted, is *what is*, not *what is asserted*. If there is no *real* distinction between a right to act and a right not to be prevented from acting only the Council fathers’ *assertion that* there is such a distinction, objective truth has been forced to give way before the subjective, and the ground on which *Dignitatis Humanae* is based is illusory. Insofar as the text of that document asserts or implies that there is such a distinction, it not only implies *it proclaims* this radical reversal.

There could hardly be a better illustration of the working of the subjectivist syndrome than Fr Harrison’s citing with approval the following passage from the *Catechism of the Catholic Church* (in § 2108, not § 2109)—

“The right to religious liberty is neither a moral license to adhere to error, nor a supposed right to error...” —

which invokes in support the authority of *Libertas praestantissimum*. The fact that Leo XIII teaches in that encyclical *the very contrary of what is asserted* in the above passage means nothing to the *Catechism’s* authors, or to Fr Harrison.²⁰ The truth, as far as

¹⁷ John XXIII, *Pacem in Terris* (11.4.1963) Part II.

¹⁸ Which is not to deny that a man may be saved outside the body of the Church through the baptism of charity and of blood.

¹⁹ Cf. on this topic http://www.superflumina.org/PDF_files/relig_liberty_doctrine.pdf, the author’s text *Religious Liberty and the Development of Doctrine*, n. 6 F.

²⁰ The dishonesty implicit in the misuse of footnotes occurs all too frequently in modern Church documents. English layman Michael Davies notes that not one of the authorities cited by the Council

they are concerned, is not what he taught *but what they say he taught*. In this, of course, they are simply parroting the errors of the Council fathers.

IX

Dignitatis Humanae may, as Fr Harrison asserts, have—

- set out moral principles;
- considered moral rights and duties and “their implications for human law codes”;
- affirmed “that... this religious freedom... leaves ‘intact’, or ‘whole and entire’... the traditional Catholic doctrine concerning the moral duty of individuals *and societies* toward the true religion and the one Church of Christ” —

but none of this avails *if the effect of the document* was to contradict the Church’s constant teaching.

Absolutely, a man is free to follow any religion, as *absolutely* the anarchist is free to advocate his abominable political theories and the dealer in obscene literature free to corrupt the morals of the community.²¹ But none is *morally* free to do such acts. ‘Religious freedom’ is simply *absolute* freedom by another name: it is not moral freedom but license.²² As a dog whether it is called *chien* or *canis* is still a dog: so absolute freedom whether it is called *religious freedom* or *license* is still absolute freedom. The distinctions are *nominal* only.

In *Dignitatis Humanae* the Council fathers allowed to the human person a right to follow that religion which, led by the light of reason, he thinks to be the true religion. And this—notwithstanding the arguments advanced in its defence—is *the universal understanding in the world* of the effect of the document. It is the universal understanding of its effect among Catholics. Leo XIII’s assessment [see section III above] has proved prophetic. The licensing of ‘religious freedom’ by the fathers of the Second Vatican Council is the reason Christ’s Church has suffered so systematic a destruction of the faith of her people: it is the reason atheism has flourished throughout the world at a rate unparalleled in human history.

Fr Harrison’s thesis is fundamentally flawed.

Michael Baker

21st November 2012—*The Presentation of the Blessed Virgin Mary*

Fathers in support of this proposition in the footnote in fact does so. Cf. his *The Second Vatican Council and Religious Liberty*, The Neumann Press, Long Prairie, Minnesota, 1992, pp. 211-2.

²¹ These examples from the eminent Professor of Political Science and Moral Theology at the Catholic University of America, Monsignor John A Ryan Ph. D., S.T.D. (1869-1945). Cf. *Catholic Principles of Politics*, New York, 1940, pp. 317-8; quoted in Michael Davies, *The Second Vatican Council and Religious Liberty*, The Neumann Press, Minnesota, 1992, p. 51.

²² Leo XIII, *Libertas praestantissimum*, n. 42 et alibi.

APPENDIX

DIGNITATIS HUMANAЕ: A NON-CONTRADICTORY DOCTRINAL DEVELOPMENT

by Brian W. Harrison

In the last year or two, in the context of a series of official conversations between leading theologians of the Priestly Society of St. Pius X (SSPX) and other theologians appointed by the Congregation for the Doctrine of the Faith, there has been a renewal of interest in the question of whether Vatican II's 1965 Declaration on Religious Liberty, *Dignitatis Humanae* (DH), can be reconciled with the traditional Catholic doctrine concerning religious tolerance and the duty of Christian States toward the true religion. This doctrine was classically expounded in such papal encyclicals as *Mirari Vos* (1831) of Gregory XVI, *Quanta Cura* and the accompanying *Syllabus* of Bl. Pius IX (1864), *Immortale Dei* (1885) and *Libertas* (1888) of Leo XIII, and *Quas Primas* (1925) of Pius XI. As is well known, the perception that the doctrine enshrined in these magisterial documents, and indeed, in the Church's universal and ordinary magisterium since the patristic era, is irreconcilable with that of *Dignitatis Humanae* has been a major factor in the SSPX's continued resistance to Vatican Council II. The Society's dissatisfaction with *Dignitatis Humanae* has in fact constituted one of the chief difficulties in bringing about a reconciliation between the See of Peter and this traditionalist group founded by the late Archbishop Marcel Lefebvre. (The Society now has nearly 500 priests worldwide, various communities of women religious, numerous schools, and hundreds of thousands of lay Catholics regularly attending its churches and chapels.)

This writer has, over a period spanning a quarter-century, published two books¹ and a number of articles² arguing for the substantial harmony – though not identity – between the doctrinal content of *Dignitatis Humanae* and that of the aforesaid papal documents. The present paper will set out, in a brief and rather schematic form, the points which seem most important in making the case for doctrinal *non*-contradiction between the conciliar and pre-conciliar teaching.

I. First of all, certain important hermeneutical distinctions need to be kept in mind:

(a) between Church *doctrine* (teaching proposed as true for all times and places) and Church *law or prudential policy* judgments (adaptable according to different historical/cultural circumstances).

(b) between a Vatican II *Declaration* such as *Dignitatis Humanae* and more authoritative conciliar documents, such as Dogmatic Constitutions. Conciliar declarations (of which there are two others, *Nostra Aetate* and *Gravissimum Educationis*, on inter-religious dialogue and Catholic education respectively) are not meant to be read as if they proposed universal, timeless and unchangeable doctrine from start to finish. All three of them begin with a few basic general doctrinal principles of this sort, and then go on to lay down practical norms and other comments that the Church considers appropriate as present-day applications of, and reflections on, those principles.

(c) between affirming a right to *do X* and affirming a right to *immunity from coercion* in doing X. In a purely juridical or legal document setting out only what is and is not to be prohibited and punished by *human positive law*, this distinction would be inapplicable, even meaningless. But in a theological, doctrinal document such as *Dignitatis Humanae*, which in the first place considers *moral* rights and duties, and only secondarily their implications for human law codes, the distinction is crucial. *Dignitatis Humanae* carefully specifies that what it affirms as the natural right to religious freedom is only the second kind of right. A *theological* affirmation that there is a human right to *do X* simply means that X is itself a kind of action which is objectively morally upright and justifiable – one that does not, as such, deserve censure or disapproval from either God or man. But to affirm a right to immunity from human coercion in doing X – that is, a right *not to be prevented by human authority* from doing X – does not necessarily imply that X is objectively good behaviour. It is simply a reflection of the important distinction between sin and crime; that is, it recognizes the limited jurisdiction of government when it comes to penalizing the errant behaviour of citizens. St. Thomas recognized long ago that it is not the

function of human law (civil authority) to outlaw and punish any and every kind of sin.³ And he answered negatively the question as to whether Muslim or Jewish parents could justly be prevented by Catholic governments from teaching their children their respective non-Christian religions. (In practice, of course, such prevention would mean removing these children from their parents' custody altogether.) Aquinas said this would be unjust, because the right of a father over his family in this case prevails against the alleged right of government to intervene in favour of the true religion.⁴ Does that mean St. Thomas is saying or implying that there exists a "right to teach one's children false doctrine" – doctrine contrary to the revealed truths such as the Incarnation and Trinity? Not at all. There is only a right *not to be prevented by government* from doing so.

Other clear examples would be our Lord's warning to avaricious souls who lay their treasure up on earth instead of in heaven, and to those who sin by omission in neglecting the poor. The parables of the rich fool, the rich man and Lazarus, and the Last Judgment all make it clear that these sins can be *mortal*: they lead to eternal punishment. But does that mean Jesus was implying that government can justly punish a man for his 'thought crime' of being inwardly too attached to this world's goods? Or that it would be just to send us to jail, not only for failing to pay our taxes to the government, but also for failing to donate enough of our income to charitable causes? Of course not. Extending to government the authority to punish every kind of sin – even every kind of *grave* sin – would in practice be a recipe for totalitarian tyranny. In short, coercion can be unjust – and thus violate another person's rights – not only when it is inflicted on the innocent, but also when it's inflicted on a wrongdoer *by someone who oversteps his own authority* by inflicting it.

(d) Finally, we need to avoid the fallacy of assuming that if we say a government should *tolerate* a certain activity, we are implying or presupposing that it has a *right, in justice, to repress* that same activity if it wishes to do so. Again, in a purely juridical document, that right might perhaps be implied. But not in theological discourse, in which the first of the above propositions by no means entails the second. In the context of such discourse, saying that a ruler *tolerates* activity A simply means that, while disapproving of A, he decides not to repress it even though he disposes of enough physical force (police or military), and perhaps the permission of his country's existing positive law, to do so. Whether or not he would also have the *right* (in the sense of the *moral* authority) to repress A is a distinct question. In some cases he would, in others he wouldn't. So critics of Vatican II are setting up a false dichotomy when – as often happens – they claim to discern an implicit contradiction between *Dignitatis Humanae's* language of "rights" in civil society for those practising various different religions and the traditional papal language that spoke of mere civil "tolerance" for non-Catholic religious activity. The distinction made in (c) above also needs to be kept in mind here. It follows from all this that the respective concepts of having a *right not to be prevented* by the State from carrying out religious activity A (which is the language of *Dignitatis Humanae*), and of *being tolerated* by the State in carrying out A (the language of the pre-conciliar magisterium) are not at all logically incompatible. And precisely because they are compatible, it would not be oxymoronic to combine the conciliar and pre-conciliar ways of speaking in one expression, affirming that persons can sometimes have a natural "right to be tolerated" by government in carrying out A.

II. Note also that, according to *Dignitatis Humanae* 1, the religious freedom affirmed in this document leaves "intact", or "whole and entire" (Latin *integram*) the "traditional Catholic doctrine concerning the moral duty of individuals *and societies* toward the true religion and the one Church of Christ". Now, the word "societies" here certainly includes civil or political communities as such. This was clarified in words that were personally approved and mandated by Pope Paul VI, and then read out by the *relator* (official spokesman for the drafting committee) to the assembled Fathers who were about to vote on this final draft of *Dignitatis Humanae*. The *relator* told them that this and other last-minute additions to the text were a response to the concerns expressed by some Fathers about apparent doctrinal inconsistency between the declaration they were being asked to approve and "ecclesiastical documents up till the time of the Supreme Pontiff Leo XIII", especially the "insistence" of these documents on "the moral duty of public authority (*potestas publica*) toward the true religion". The *relator* then pointed out to the Fathers that the revised text, by virtue of the final amendments to articles 1 and 3, "recalls [this duty] more clearly". As a result, he said, "it is manifest that this part of the doctrine has not been overlooked".⁵ Therefore, *any interpretation of Dignitatis Humanae that has it*

contradict the doctrine of previous popes cannot reflect the mind of the Church as to the true meaning of the Declaration.

III. Keeping in mind the preceding hermeneutical criteria, we can now set out very briefly a case for non-contradiction. Two of the three doctrinal propositions of *Dignitatis Humanae* in its key paragraph (article 2, paragraph 1) are not usually contested by the declaration's traditionalist critics. These brethren are troubled little, if at all, by the Council's vindication of immunity from human coercion for non-Catholics in their *private* religious activity, or by its assertion that no one is to be coerced into *acting against* their conscience in religious matters. What troubles these critics in *Dignitatis Humanae* #2 is its teaching that, "within due limits", no one may be *prevented from acting publicly in accord with* their conscience in religious matters. This assertion, they claim, is unorthodox and irreconcilable with previous papal teaching, in spite of its recognition that the right to such freedom for public activity is not unlimited.

Now, taking into account the elaboration of those "due limits" which we find in article 7 of the Declaration, this *controverted* teaching of *Dignitatis Humanae* can be synthesized as the following proposition:

P: It is *unjust* for human authority (Catholic or non-Catholic) to prevent people from publicly acting in accord with their conscience in religious matters, *unless* such action violates legal norms, based on the objective moral order, that are necessary for safeguarding: (a) the rights of all citizens; (b) public peace; and (c) public morality. (These three factors are said to make up collectively "the basic component of the common good", otherwise termed "a just public order". It is important to be aware that *Dignitatis Humanae* defines "public order" in terms of these three.)

Now, if indeed P *contradicts* traditional Catholic doctrine in the way critics of Vatican II claim it does (i.e., by allowing too much civil freedom in religious matters) then the pertinent traditional doctrine would have to have been the following:

P¹ It is *sometimes just* for human authority (Catholic or non-Catholic) to prevent people from publicly acting in accord with their conscience in religious matters *even when such activity does not* violate any of the three general norms (a), (b) and (c), specified in P

But P¹ was not in fact the Church's traditional doctrine. It cannot be found – in those words or others implying the same thing – in the pre-conciliar magisterium, ordinary or extraordinary. For the popes of earlier times who sometimes exhorted Catholic rulers to repress all public manifestations of non-Catholic religions would certainly have answered affirmatively, had they been asked whether such manifestations violated one or more of the three norms set out in proposition P above. (We will return to this point below.) *Ergo, Dignitatis Humanae* does not contradict the Church's traditional doctrine.

It might be objected, however, that P conflicts with the traditional doctrinal maxim that "error has no rights". Not so. The maxim is of course a figure of speech; for, clearly, only persons, not ideas in abstraction, can really possess "rights". And what the figure of speech means is that error can never be either the object or the foundation of any human right. But *Dignitatis Humanae* doesn't say that error is, or ever could be, either the object of any human right (i.e., that to which the right entitles us), or the foundation of any human right (i.e., its reason, grounding, or justification). The Declaration just emphasizes that government should only exercise a carefully limited role in restricting the religious practice of citizens: it teaches that the object of the natural right to religious freedom is precisely *immunity from coercion by government* (or other human powers), and not belief in, or propagation of, the doctrinal content of this or that religion. The *Catechism of the Catholic Church*, which can be seen as giving us an authentic commentary on the meaning of *DH*, reinforces this by asserting, with a footnote reference to Leo XIII's encyclical *Libertas*, that "[t]he right to religious liberty is neither a moral license to adhere to error, nor a supposed right to error" (#2109).

Traditionalist critics of *Dignitatis Humanae* may still object that in any case, the pre-Vatican II Church often allowed – indeed, exhorted – governments to repress all public religious activity except that of the *true* religion, Catholicism, and that this has now been disallowed by *DH*. Such legal restrictions did indeed obtain in such nations as Spain and Colombia right up till Vatican II. In other words, the traditional ethical line between legally permissible and legally repressible religious activity in public

was the *line between truth and error*, not the three limiting criteria specified by Vatican II (see P above), which prescind from the whole truth-versus-error question.

Is this a real doctrinal contradiction? No. To prescind from a former doctrinal position, or to avoid restating it, does not mean contradicting it. And in any case, traditional doctrine left it an open question as to whether that line between truth and error should *always and everywhere* be the ethical line between legally permissible and legally repressible public activity. Indeed, the pre-conciliar magisterium was practically silent about where that line should be drawn by *non-Catholic* governments. Therefore, since Vatican II very much wanted to address that issue, it unavoidably found itself in the position of having to break some new doctrinal ground. In keeping with Vatican II's aim of reaching out to all humanity, this Declaration was directed to the rulers of all nations, not just those with Catholic governments and/or majorities.

The key to appreciating this non-contradiction lies in taking note of certain nuances which 'soften the edges', as it were, of both the old and the new doctrinal positions, thereby enabling their reconciliation. This means taking note of what they *abstain* from saying, as well as what they actually say:

First: Traditional doctrine was never so rigorous as to affirm (though neither did it deny) that *in all countries and at all times* – from Pentecost to Judgment Day – it would be within the bounds of justice for civil authority (whether in predominantly Catholic or non-Catholic societies) to suppress all public non-Catholic religious manifestations. (Those who have never been members of the Church, we charitably presume, are in most cases probably not violating their own consciences by continuing as non-Catholics.) Some very conservative theologians, including Archbishop Marcel Lefebvre, have held that such suppression would never under any circumstances be unjust, and that at worst it would sometimes be imprudent or uncharitable. But *that unqualified assertion of the universal justice of such repression never reached the status of Church doctrine – either of the ordinary or extraordinary magisterium.* Indeed, other approved traditional theologians (e.g., Suárez, Von Ketteler, and even Pope Gregory the Great) foreshadowed Vatican II to some extent by saying that Catholic civil authorities are obliged by the requirements of *justice* (not merely of prudence) to tolerate the worship of at least *unbaptized monotheists* – mainly Jews and Muslims – carried out in synagogues, mosques, or other places of public worship.⁶ Once again, we need to recall that penalizing someone can be unjust under two titles: (a) when he is innocent or when the penalty is disproportionate to his offence; or (b) when he is guilty and deserves the imposed penalty, but it is being imposed by someone who has no authority to impose it. (If I succeed in overpowering a burglar who has broken into my house, and manage to keep him imprisoned in my basement for three years, I am doing him an injustice. He may well deserve *four years'* imprisonment; but I as a private citizen have no right to decide on and administer any such penalty. That is, the burglar, guilty though he is, has a right to immunity from punishment *by me.*)

Second: Vatican II's position is not so liberal as to deny that *under certain past circumstances*, the public manifestation of erroneous religious ideas and practices could have been, *as such*, a justly punishable threat to the common good of society (that is, it would jeopardize the rights of other citizens, and/or public peace, and/or public morality).

In short, the pre-conciliar and conciliar doctrines respectively are not so 'absolute' as to exclude and contradict each other. The perennial *common thread* in the Church's doctrine, from ancient times until now, has been that, on the one hand, those persons outside the Church, especially those presumed to be invincibly ignorant of the truth of Catholicism, have a right to *some* degree of civil religious freedom (e.g., at the very least, non-Christians should never be coerced into baptism and Church membership, and should enjoy civil freedom to teach their religion privately to their own children), but that on the other hand, the State also has the right to impose *some limitations* on the spread of harmful and dangerous ideas in the interests of the common good of society. So there are two poles here, 'positive' and 'negative', that need to be kept in equilibrium: respect for erring consciences (toleration) and the need to prevent the spread of the most dangerous propaganda.

The *difference* between old and new has basically been a gradually changing emphasis in the Church's position. Traditionally she emphasized more the 'negative' end of the spectrum - the State's right to

repress error; and from the mid-20th century on, she emphasizes more the human person's right to immunity from coercion. Changes of emphasis, however – even to the extent of making the rule what was once the exception – are not contradictions. What we have here, rather, are changing *prudential judgments* as to where to find the right balance between necessary freedom and just restraint. Some traditionalists claim to detect, underlying the Vatican II teaching, the modern heresy that completely reverses the traditional principle of Catholic theology and philosophy that objective truth has priority over what one subjectively *thinks* is true. *Dignitatis Humanae*, we are told, turns this classical principle upside down by giving the primacy to subjectivity – by making truth and reality subordinate to error and illusion. But this is too extreme as an attempt to detect what lies at the heart of *Dignitatis Humanae*. The text says nothing which implies any such radical reversal. By her new prudential judgment implied in the conciliar declaration, the Church does indeed give *more weight* now than she previously did to subjective sincerity and the need to respect erring consciences in civil society, especially under the religiously pluralistic conditions that predominate in today's world. But that is a far cry from a full-blown *volte-face* at the level of fundamental metaphysical principle.

We can draw a parallel here with the Church's developing position on capital punishment. She continues to teach that this is not *intrinsically* (always and everywhere) unjust; but she now makes the prudential judgment that it can rarely if ever be justified under modern circumstances (cf. CCC #2267). Similarly, Vatican II does not teach that it is or was *intrinsically* (always and everywhere) unjust for a Catholic State to repress all public manifestations of non-Catholic religions as being *per se* a danger to fundamental elements of the common good (which is what Vatican II means by "a just public order"). But the Council does clearly imply, by what it says and what it significantly *fails* to say, the prudential judgment that *under modern circumstances*, such repression would, in any country on earth, violate the natural right to religious freedom of those concerned. (The significance of the Council's failure to say that predominantly Catholic countries would be an exception to this rule is obvious.)

When the highest Church authorities in former times often urged the State repression of public non-Catholic religious activity as such, they certainly judged that the propagation of such errors constituted threats to at least one, and often all three, of the social values which *Dignitatis Humanae* #7 says must be legally protected against abuses of religious freedom (see our proposition P above).

1. Rights of other citizens: The spread of seductive religious errors among a Catholic populace – especially those with little education – was certainly regarded as a grave danger to their eternal salvation, and thus, a violation of their right to live in a Christian society that helped, rather than hindered, their battle against Satan and their pilgrimage toward Heaven. (For a Catholic to lapse into heresy or apostasy is mortally sinful, and results in *latae sententiae* [automatic] excommunication.²)

2. Public morality: Bitter experience in Western culture has shown repeatedly – and with increasing clarity in recent decades – that once the socially and legally recognized authority of the Catholic Church as the unique authentic interpreter of the natural moral law is rejected as a result of anti-Catholic propaganda, public morality eventually takes a catastrophic plunge as well: we get legalized divorce, abortion, artificial procreation, unnatural birth control, so-called gay "marriage", adoption rights for homosexual couples, etc. And those who promote these deviations increasingly seek to impose them as "human rights", with growing social and legal intolerance for the alleged "hate" and "bigotry" of traditional believers who dare to voice disagreement.

3. Public peace: In many periods of history, the spread of heresy was very often in fact a menace to the public peace. (The same can be said of the world-wide diffusion in our own day of Wahhabi mosques and madrassas wherein Islamist imams preach the duty of armed *jihād* and the universal imposition of sharia law in all its rigor.) Heresy led to disastrous wars of religion. Early Protestants were no more tolerant than Catholics were at that time, and frequently persecuted the Church once they attained power by force of arms. And that of course violated the Catholics' right to freedom of worship (cf. #1 above) as well as public peace.

Since Vatican II, given that religious pluralism is increasingly the *de facto* reality throughout the world, the new norm of the Church's public law or policy in her relations with States is that not even in states with a Catholic majority may simple public dissent from Catholic doctrine, without any aggravating

factors, be considered any longer a sufficiently serious threat to the common good as to warrant legal repression. But again, this is not a contradiction of previous *doctrine*. The *relator* at Vatican II explained officially to the Fathers just before they voted on the final draft of *Dignitatis Humanae* that the requirements of the common good itself can change considerably over time; and he pointed out that this fact was relevant in addressing the concerns of some Fathers who said they did not want the Council to pass a sweepingly harsh judgment on the Church's own previous doctrine and practice.⁸ Indeed, an appreciation of how changing historical conditions can reasonably and legitimately influence the formulation and practical application of Catholic doctrine is arguably the most important element in showing its essential diachronic continuity across the centuries, in cases where this is not immediately apparent.

Note. Fr Harrison's footnotes have not been included in this reproduction.