

***Dignitatis Humanae* and the Universal Right to Religious Freedom:
Advancing the Dignity of the Person and the Common Good of Society
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Introduction

Thank you very much for your warm welcome. It is a privilege to be here with you.

My goal today is to discuss with you *Dignitatis Humanae*, the Declaration on Religious Freedom. The Declaration teaches that every person and religious community has the right to conscience and to the free exercise of religion, and that this must be a civil right, protected by law in a constitutional system. First, I will describe a robust right to religious freedom. Second, I will provide the historical background to the document. And finally, I will explore the many ways in which religious freedom promotes the common good.

Before I do that, I'd like to share a story. As you know, Pope Francis is very concerned about the inhumane treatment of migrants and refugees all over the world. In the U.S. we have our own problems, a massive humanitarian crisis at our southern border with Mexico—depending on the season, there might be thousands of migrants and asylum seekers crossing in a single day. In the city of El Paso, in the state of Texas, close to the border, there is a Catholic hospitality house called Annunciation House. The name was inspired by Mother Teresa.

(<https://www.elpasotimes.com/story/news/religion/2016/09/02/mother-teresas-message-el-paso-serve-poor/89554210/>) It provides food and shelter for up to 1,000 border crossers on any given day. In the past, Annunciation House worked closely with government to provide these services.

But now the state of Texas has aggressively threatened religious groups that serve in this way, accusing Annunciation House of violating immigration laws. Texas wants to stop their operations. Annunciation House claims that it is protected by the U.S. Constitution, which

recognizes the “free exercise of religion.” The American Bishops agree: they are adamant that the government here is trying to prohibit the Church from engaging in its mission to provide works of mercy. Please keep this story in mind as we discuss the Vatican II document on religious freedom.

Religious Freedom is Part of Catholic Social Thought.

A universal right to religious freedom is an integral part of the Church’s social teachings on the nature of the human person and the government’s legitimate role in promoting the common good. The right is grounded in the dignity of the human person as known to human reason and as revealed in the Word of God. That person is by nature social and possesses the capacity to self-determine, to reason, and to exercise freedom responsibly. Sometimes we might think the social teachings are primarily about “essential material goods”—housing, employment, adequate food and clean water. But equally important are what Pope Francis calls the “spiritual goods”—the right to education and to many civil rights, including, most importantly, religious freedom. (Pope Francis and Religious Freedom, 2017 USCCB Collection of Quotes, <https://www.usccb.org/issues-and-action/religious-liberty/fortnight-for-freedom/upload/Pope-Francis-Quotes-on-Religious-Freedom.pdf>) Together, material and spiritual goods allow people to participate fully in the economic, political, social, cultural, and religious life of a society. They allow family and community life to thrive. Governments, and all persons and institutions in society, are tasked with an active role in advancing the conditions for the full flourishing of the person. Religious freedom gives individuals and religious communities wide spaces in which to flourish in conscience *and* in which to actively promote the flourishing of others. Like the workers at Annunciation House are trying to do.

The Declaration defines religious freedom as a two-fold immunity: *No one can be “forced to act in a manner contrary to his conscience. Nor, on the other hand, is he to be restrained from acting in accordance with his conscience, especially in religious matters.”* (DH #3)

This double immunity was hailed as breaking new ground in the church’s teaching. Actually, the Church had long taught that neither church or state could coerce faith or force acts against conscience. So the “new thing” that the document introduced is the immunity from restraint—that is, the idea that government must protect the free *exercise* of religion. (Angela C. Carmella, John Courtney Murray, S.J., 1 *The Teachings of Modern Christianity on Law, Politics, and Human Nature* 115, 136 (John Witte, Jr. and Frank Alexander, eds. 2006)) Note the important distinction: If government told a doctor that she had to perform an abortion against her conscience, that would violate her religious rights. But in my story, Texas is not trying to coerce Annunciation House to perform some action against conscience. Instead, government is trying to stop this Catholic group from providing food and shelter in accordance with their beliefs. That violates their right to *exercise* their faith. So we can see that the Declaration significantly broadens the meaning of religious freedom beyond the prohibition of direct coercion.

The Declaration makes clear that this broad religious freedom is a human right and civil right that must be safeguarded by juridical guarantees in a constitutional legal order. Indeed, the story about Annunciation House has a happy ending: in July, a court in Texas ruled that the state had violated the hospitality houses’ right to religious freedom as guaranteed by law. This was the right result given the massive humanitarian crisis at the southern border.

(<https://www.ncronline.org/news/judge-says-effort-shut-down-catholic-ministry-migrants-violates-texas-religious-freedom-act>)

Note that the Declaration restricts more than government action. It addresses *individuals and social groups*—everyone, even churches. The Declaration recognizes that people can suffer from religious hatred, discrimination, or abuses of power at the hands of individuals and groups in society, both secular and religious. Laws, then, not only restrain government but also prohibit individuals and groups from interfering with religious rights. The Declaration explicitly warns churches not to aggressively proselytize in ways that involve coercion or intense persuasion. (DH #4)

So the Declaration sets forth this broad immunity and requires everyone to respect it. Next the Declaration gives a more specific description of religious exercise, noting that it involves *all* aspects of belief and practice: worship, prayer, assembly, observance, practice, and witness. Because of our social nature, free exercise includes beliefs and actions that are associational, communal, and institutional as well as individual. The document rejects any efforts to privatize (and thereby limit) religious exercise. It is clear that individuals and religious communities are entitled to create all sorts of organizations: educational, cultural, charitable, and social. And religious institutions have a long list of rights: to govern themselves, manage their own institutions, select their own clergy, own property, engage in public teaching and witness. Indeed, Pope Francis has reacted harshly to Ukraine’s banning of the Russian Orthodox Church: “let no Christian church be abolished directly or indirectly,” he said. “Churches are not to be touched!” (<https://www.catholicnewsagency.com/amp/news/258917/pope-francis-on-ukraines-russian-orthodox-church-ban-churches-are-not-to-be-touched>)

The Declaration goes into particular detail about the free exercise rights of parents. (DH #5) Parents must be free to choose religious education for their children. Government must not impose one school system on everyone. Government must recognize the right of parents to make

an authentically free choice of school and has the duty to make the choice of religious schools financially less burdensome. Further, parents with children in public schools must be free to remove their children from objectionable lessons.

The Declaration's remarkably broad freedom for individuals and communities is necessary to give people plenty of space in their search for the truth. Indeed, the document says there is a duty to search for the truth—and to find it in the one, true faith, the Catholic Church. Yet, a legally protected right to religious freedom does not depend on a person following the truth or even searching for it. The Declaration says, “The right to this immunity continues to exist *even in those who do not live up to their obligation of seeking the truth and adhering to it.*” (DH #2). The Declaration ensures that governments and other powers, secular and religious, do not violate religious freedom for persons and communities.

Of course, religious freedom cannot be absolute—no freedom is absolute: immunities exist “within due limits.” The state *can* curtail religious exercise if the conduct violates the public order (that is, that part of the common good the government promotes). Public order includes the protection and adjudication of civil rights, the maintenance of public peace, and safeguarding public morality. (DH #7) Most significantly, the text calls for a narrowly tailored use of state power: “the freedom of man is to be respected as far as possible and is not to be curtailed *except when and insofar as necessary.*” (DH #7) Yet, this seemingly innocent exception to the restriction of power opens the door wide as we see in many parts of the world today, even though the desire might be only the legitimate authority of the state.

When might the government's public order role become necessary to curtail religious freedom? Take, for example, vaccines. There are very high levels of conscience-based vaccine resistance and refusal in many nations. We are seeing the return of some diseases that had nearly

been eradicated, like measles and pertussis. This is a direct threat to the health and life of one's neighbors.

Another example I share comes from the U.S. During the COVID-19 pandemic, some Catholics participated in underground Masses after bishops closed churches. They refused to wear masks, to socially distance, and to place limits on numbers of attendees. This was irresponsible because of the easy spread of the disease. Again, a direct threat to the health and life of one's neighbors. (Don Clemmer, We don't understand religious freedom. COVID-19 provided it, U.S. Catholic (June 8, 2021); Thomas Reese, Bishop McElroy decries extremism on religious freedom, calls for solidarity in American politics, NCR (Nov. 16, 2017))

In both these examples, it is clear under the Declaration that religious people and communities should not endorse a limitless notion of individual rights of conscience in the public sphere. They must give due regard for the governmental pursuit of the common good. (Reese) No one is excused from care for neighbor and our common home. The Declaration makes clear that rights are exercised "in society" and that religious people and churches should not "undermine the legitimate authority of the state." (Reese)

Yet another example can be seen in the clergy sex abuse scandals of the last few decades. In the U.S., when victims bring lawsuits against churches for the negligent supervision of clergy, most courts allow the suits to proceed. Although churches typically have the freedom to manage their own institutions, that freedom can be curtailed when the civil rights of victims are at stake.

Now let's turn to the origins of *Dignitatis Humanae*. The

Declaration announced a universal right to religious freedom for all people, not just Catholics. As I noted, the "new thing" was the right to freely exercise one's faith. This right is a hallmark of liberal democracies. But prior to Vatican II, the Church rejected democracy and liberalism. It was

responding to the vicious hostility of the French Revolution, as well as concerns that modern freedoms would lead to religious indifferentism, extreme secularism, and moral relativism.

After the Reformation, there were many European wars over religious domination, with each Christian denomination ready to wipe out people of the other denomination in the name of protecting the “truth” of their faith. The Church held up the ideal of a Catholic confessional state and taught that governments should protect and promote the Catholic faith exclusively as the one true faith. Non-Catholics were “in error” and should have no public rights to the free exercise of religion. This teaching persisted into the 20th century, especially for nations that were majority Catholic. Wherever Catholics were a minority, like in the U.S., the Church reluctantly tolerated the free exercise rights of non-Catholics alongside Catholics.

A different political situation obtained after the Second World War and with it a change in understanding. The Church had witnessed the horrors of totalitarianism, which shed new light on the urgent need for freedom. In 1948, world governments had come together to support the U.N.’s Universal Declaration of Human Rights, which emphatically recognized the right to religious freedom along with a great number of rights, rooted in freedom, equality, and dignity of all persons. The writings of Jacques Maritain, a pre-eminent Catholic philosopher, had inspired that document. (Catherine McCauliff, *Moral Pluralism, Political Disagreement, and Human Rights*, in *The Cambridge Handbook of Natural Law and Human Rights* 355 (Angier, et al eds. 2023)) In 1963 Pope John XXIII listed the right to religious freedom in his encyclical, *Pacem in Terris*. He left it to the Council Fathers to fill out the contours of the right.

This is the backdrop for the Second Vatican Council and *Dignitatis Humanae*. The Declaration’s principal drafter was Jesuit John Courtney Murray, a prominent American philosopher and theologian. He and the bishops in the American delegation to the Council

emphasized that different denominations could live side by side. The Church flourished in the U.S. even though the government did not profess a religious truth. They helped to convince the majority of the bishops of the world that the Church and its people could flourish without the state's support and without suppressing other religions.

The bishops of Eastern Europe, including then-Archbishop Wojtyla, also played an important role, as they were living under communist regimes where the Church and its people suffered terrible persecution. They made a strong case from experience that religious freedom was necessary for human dignity and for the Church's mission in the world. So religious freedom wasn't just an American issue. It was a truly global one.

Together these efforts moved the Church from a posture of suspicion to openness and engagement with the modern world and its freedoms.

As we discussed in earlier presentations, the Church in the 20th century recognized the emerging self-awareness among humankind. The preamble to the Declaration acknowledges it: "A sense of the dignity of the human person has been impressing itself more and more deeply on the consciousness of contemporary man." (DH #1) With the understanding of this historical consciousness, the Council accepted Maritain's notion of the proper autonomy of church and state and a "legitimate secularity of society and state," a secularity that accepted the religious and cultural pluralism of populations. (Herminio Rico, S.J. John Paul II and the Legacy of *Dignitatis Humanae* 199 (2002)) The Declaration had "finally engaged the Church with democracy and liberalism" and announced that it was the legitimate task of modern governments to guarantee the right to free exercise of religion. (Leslie Griffin, *Commentary on Dignitatis humanae*, in *Modern Catholic Social Teaching: Commentaries and Interpretations* 270 (Himes, ed. 2d ed., 2018)) Pope Paul VI gave Maritain special recognition at the close of the Council.

In contrast to the pre-Vatican II Church, the Declaration rejected the ideal of the Catholic confessional state. Indeed, the text makes clear that “the freedom of the Church is the fundamental principle in what concerns the relations between the Church and governments and the whole civil order.” (DH #13) In conditions of freedom, the Church has the independence it needs “which is necessary for the fulfillment of her divine mission.” (DH #13) “This independence is precisely what the authorities of the Church claim in society.” (DH #13) Nothing more.

This means that the Church renounces any privilege vis-à-vis government. However, the document does not prohibit the national establishment of a particular church or religion. This reflects the fact of different forms of church-state relations throughout the world, including the “peculiar circumstances” of some churches being in “privileged positions for historical reasons.” (DH #6) Poland, for instance, has a concordat with the Roman Catholic Church, which agrees to allow Catholic instruction in the public schools. (<https://www.concordatwatch.eu/polish-concordat-1993--text-and-criticism--t1331>) The Declaration states an important caveat, though in situations like this: even if one church retains a special status, governments must protect religious freedom and ensure equality of citizens before the law and no discrimination among citizens. (DH #6) Poland reflects this: it recognizes more than 190 churches and its constitution guarantees religious freedom and equal rights to all individuals and religious communities. (Hanna Suchocka, National Case Study: Poland: The Case of Religious Freedom, Universal Rights in a World of Diversity, Pontifical Academy of Social Sciences, https://www.pass.va/content/dam/casinapioiv/pass/pdf-volumi/acta/acta_17/acta17-suchocka.pdf)

When the Declaration rejected the confessional state, that did not mean the triumph of ideological secularism. Governments surely have positive moral responsibilities; they simply have no competence as the caretaker of religious truth, which is clear in the Declaration but not always to political parties and governments. The Declaration notes the role of government in helping to “create conditions favorable to the fostering religious life” (DH #6) and to “show favor” to the religious life of citizens. (DH #3) At the same time, the document reiterates that a government’s power is tightly restricted; it can never “command or inhibit acts that are religious.” (DH #3)

Thus, the Declaration recognizes some limited role for government in setting conditions in recognition of the religious life of the citizenry, which likely varies depending on history and culture. Some nations, including Poland, prohibit “offending the religious feelings” of others by publicly insulting an object of religious worship or a house of worship, which discourages protest for social change. In 2022, two women in Poland held up banners that had a pride rainbow flag on the Virgin Mary’s halo. They were convicted of offending religious feelings and sentenced to community service and had to pay a fine. (Poland State Dept. Report 2023; <https://notesfrompoland.com/2023/04/21/court-convicts-women-for-offending-religious-feelings-with-rainbow-virgin-mary-at-lgbt-march/>) Some point to such laws against blasphemy as a good example of “showing favor” to religious life of the population.

How has the Declaration been understood since Vatican II? And how does it relate to the common good?

Pope John Paul II was a vigorous interpreter of the Declaration. His approach was informed by his experience of the Polish Church living under totalitarian communist oppression and the

horrors that entailed. He was primarily concerned with asserting the Church's freedom against the atheistic state. Indeed, he was even leery of the idea of a "public order" justification for restraining religion because this was what the communists had used to suppress Catholicism.

As pope he used the Declaration to express his understanding of the proper relationship between government and the church. He favored state-promotion of Catholic moral norms, especially those promoting a culture of life, through civil law. (Griffin, 268; Rico 169-72) His writings (especially *Veritatis splendor* and *Evangelium vitae*) articulated a notion of conscience that is developed properly in relation to magisterial teachings, and a notion of the dignity of the person in obeying God's will. This emphasis on freedom for the truth took primacy over the freedom to *search* for the truth, which had been central to the Declaration's original understanding. (Griffin, 267-68)

Like John Paul II, Francis' approach to religious freedom has also been informed by a source of oppression: not atheistic communism but the newer phenomenon of *religious radicalism*. In North Africa and the Middle East and in other parts of Africa, we have seen the violent denial of freedom of conscience and religion by fundamentalist Islamic regimes. In those places, Christians and other minorities have suffered death and other horrors and the destruction of entire cultural and religious heritages. Many have fled their communities. For Francis, such violence can never be part of authentic religion but is instead "a grave sacrilege." (Francis, 2017 USCCB)

Pope Francis, when speaking about the search for truth, has said that religious questions "emerge from the depths of the person and are a part of the intimate essence of the person...Religious freedom is necessary for [these questions] to manifest themselves fully." (Francis, 2017 USCCB) Francis echoes the Declaration's emphasis on intimacy and sensitivity of

the human person, who needs “psychological freedom” in this search for answers to these questions. (DH #2) He connects the rights to conscience and to religious exercise directly to *the Church’s goal of evangelization*. (International Theological Commission, Sub-commission for Religious Freedom, Religion for the Good of All: Theological Approaches and Contemporary Challenges, #77 (2019)) Evangelization, he says, “does not begin by seeking to convince others. . . . We are the ones who announce the Lord, we do not announce ourselves, nor a political party or an ideology. Put people in contact with Jesus without convincing them. Let the Lord convince them.” (<https://www.usccb.org/news/2023/evangelization-oxygen-christian-life-pope-says>)

As we know, Francis emphasizes mercy and charity, the primacy of conscience, and honest and open dialogue. (Meghan Clark, The Human Person in Community: Pope Francis & Catholic Social Teaching 2023) Given these emphases, he values freedom of conscience and religious exercise for both its impacts on the interior life of the person and its potential to bind people together; for him, the denial of this freedom leaves humanity impoverished. (Fratelli tutti, ##279, 274) Francis, like John Paul II, is concerned about the dangers of moral relativism. Both of them view religious freedom as a way for religious people to contribute to the *rebuilding of the moral fabric of society through dialogue and political participation*.

Indeed, the Declaration asserts that religious communities are entitled to share “the special value of their doctrine in what concerns the organization of society and the inspiration of the whole of human activity.” (DH #4) This is precisely what Catholics have done for the last 60 years, individually and institutionally, when they enter public discourse to articulate Church teaching on moral and social issues: on abortion, euthanasia, human trafficking, mistreatment of migrants, economic inequality, climate change, and countless others.

Francis notes that religious freedom is an opportunity for *dialogue on moral matters* in the task of persuading on issues of the day not only with those of other faiths but also with all people with a shared vision of the human person, society, and ethics. And for those with radically differing visions, we must still speak and listen--indeed it is an obligation in a pluralistic society. Fr. Murray wrote about the how public consensus must be reached: through extensive, respectful, and sustained civil dialogue to define a society's shared moral and spiritual values. (Reese)

Francis notes that the free exercise of religion makes *ecumenical collaboration* possible. Up to the time of the Council, the Church did not permit Catholics to work with non-Catholics on matters of common concern because of fears of indifferentism toward the truth of the faith. *Dignitatis Humanae* changed all that, and the impact was immediate. Catholics began to work with other Christians and non-Christians, and now routinely collaborate and cooperate towards the common good.

For Francis, religious freedom facilitates *interreligious dialogue*, which can lead to “*a more just and fraternal society.*” (ITC #78) This potential for deep solidarity among people and communities is especially important where there is increasing social hostility toward Jews and Muslims. Francis says, this dialogue “shapes the way we interact socially and personally with our neighbors whose religious views differ from our own.” (Francis, 2017 USCCB) It allows all religious groups in society to “promote the transcendent reasons and humanistic values” of social togetherness, thereby “unit[ing] the entire human family.” (ITC #68) Rather than promoting indifferentism and relativism, these bonds can provide a bulwark against such social tendencies. (ITC #69) Religious freedom helps “build harmony and understanding between different cultures and religions.” (Address in Bethlehem 2014,

https://www.vatican.va/content/francesco/en/speeches/2014/may/documents/papa-francesco_20140525_terra-santa-autorita-palestinesi.html)

For those of you who come from countries where Catholicism is in the minority, this ecumenical dialogue and collaboration likely takes on a different tone from those places like Poland where Catholics are in a majority.

Francis' retrieval of synodality is one of the major fruits of the Declaration. A greater role for the laity is presumed in the document. The Vatican II generation hoped for a more cooperative spirit between hierarchy and laity, one of shared responsibility, and greater initiative among lay people to bring moral perspectives into secular society. (Griffin, 269) When we consider the many vibrant churches and places like Annunciation House, marked by collaboration between clergy and laity, we can see that indeed much has been achieved.

Discussion Questions:

In my daily work, do I encounter people of other faiths? Does their faith perspective make a difference to how they relate to me? Does my faith make a difference to how I relate to them?

Have I ever had to assert a conscientious objection to a government policy? To another person or group of people who had some power over me?

Should there be broad consensus on a moral principle before it can be expressed in civil law? If so, how should Catholics work to develop that consensus?

Do the teachings of the Declaration counsel for or against respecting the Russian Orthodox Church in Ukraine?

Has a government official ever tried to stop or influence something I do in my daily work for the Church? How did I react? Was I aware that this is an interference in the free exercise of faith? If Catholics are a minority where I come from, is it common for us to experience discrimination or other types of suppression?

What does it mean to dialogue? What are some issues in my work that I think might be better addressed if I were to suggest a dialogue with others? Who might those “others” be? Does this matter if Catholics are in a minority or majority?

Do I see discrimination or hatred toward people of other faiths? Is there something I can do to mitigate this in my daily work? Does my work provide a platform for educating people on universal rights and on the common good?

The issues of abortion and same-sex relationships are very controversial issues for Catholics. Does a law that allows the government to protect “religious feelings” (and thereby stop protests) support religious freedom or undermine it? Is it possible that some people in support of these topics could be expressing their beliefs about “religious matters” or are they only expressing a secular ideology? Does the Declaration give me ideas about how Catholics can talk about these topics in civil society?