

AN ALLEGED CONTRADICTION
IN *DIGNITATIS HUMANAЕ*

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ABSTRACT

The declaration on religious freedom issued by the Second Vatican Council, *Dignitatis Humanae* claimed: «the human person has a right to religious freedom» (no. 2). Nevertheless, some think the modern declaration of Vatican II contradicts prior Catholic magisterial teaching on religious liberty. I evaluate whether the Magisterium is proposing an inconsistent set of propositions. I argue that a careful reading of the relevant magisterial propositions from classical papal encyclicals, namely, those that apparently opposed religious freedom, reveals they do not contradict any of the propositions concerning religious freedom in the declaration of Vatican II. While proving the absence of a contradiction does not prove that the teaching is true or plausible, there is value in doing so because it allows Catholic theologians to focus on demonstrating that the propositions proposed by the Magisterium are jointly plausible and to propose consistent explanations in which both sets of propositions figure.

THE declaration on religious freedom issued by the Second Vatican Council, *Dignitatis Humanae* forthrightly claimed: «the human person has a right to religious freedom» (no. 2).¹ Despite actually having signed the declaration while a participant at Vatican II, Marcel Lefebvre

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1. SECOND VATICAN ECUMENICAL COUNCIL, Declaration *Dignitatis Humanae*, 1, «AAS» 58 (1966), pp. 929–946. Translation taken from http://www.vatican.va/archiv_e/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html [accessed 11 August 2020].

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later famously claimed: «The phrase of the schema quoted in the intervention [ibid.] is monstrous, and it is odious to credit the Catholic Church with this claim».² When Marcel Lefebvre embarked on his schismatic path in ordaining bishops without papal mandate, his justification, in great part, rested on the claim that there was a contradiction between the teaching proposed at Vatican II and that proposed in classical papal encyclicals. Lefebvre held that earlier Catholic teaching on the duties of States and freedom of religion were directly opposed to this claim in *Dignitatis Humanae* and, in fact, formally contradicted it. This view that there exists a contradiction between this more recent declaration of Vatican II and the prior teaching has recently resurfaced among some Catholics, although mostly in popular media rather than scholarly contexts.

In this article, I evaluate whether *Dignitatis Humanae* has embroiled Catholic social teaching in proposing an inconsistent set of propositions. Specifically, I aim to examine the compatibility of the teaching in *Dignitatis Humanae* alongside propositions proposed by three classical papal encyclicals (*Quanta Cura*, *Mirari Vos*, *Immortale Dei*) which apparently condemn the existence of rights to religious freedom or, more strongly, claim that every State is morally obliged to establish the Catholic Church and enforce Catholic doctrinal views by civil penalties. I am not qualified to explain the history of the second Vatican Council or the development of Catholic social teaching on the State, and so I will not exposit the historical context of the encyclicals in any significant detail. Rather, I will focus exclusively on what are taken to be the doctrinal propositions proposed by these encyclicals and interpret these in a straightforward way. The upshot of this flatfooted approach is that, if no subtlety in exposition or historical nuance is required for seeing that the doctrinal propositions of Vatican II and the classical encyclicals are consistent, then at least the burden has been shifted to those who claim that there does exist a contradiction in the teaching. And, in fact, the claim that such a contradiction exists would then only be as plausible as the subtle exposition required to make sense of the objector's position, whereas a principle of charitable interpretation would give us

2. M. LEFEBVRE, *I Accuse the Council*, Angelus Press, Saint Mary's, KS 1998, p. 27.

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sufficient grounds to read Catholic magisterial teaching in the obvious and straightforwardly consistent way proposed here.

There have been four popular strategies for approaching this problem. The first two avoid the problems entirely. The first of these is something approaching psychological denial. One might argue that there is no need for consistency in magisterial teaching and thus no theological problem with the magisterium proposing two inconsistent and doctrinally-binding sets of propositions. On this first view, the new teaching of *Dignitatis Humanae* simply “changed” the prior teaching and there’s nothing more to it. Such a position seems, in my view, to accept a faulty understanding of how Catholic magisterial teaching is supposed to work. It has the additional fault of being a non-explanation, as we would not be convinced that the Catholic Magisterium were consistent if it proposed (for example) Nicene orthodoxy one day and Unitarianism on the next.³ I will not pursue the problems with this position and instead assume without argument that its picture of Catholic magisterial teaching is false. The second strategy involves denying that the former teaching on Church and State was ever truly magisterial (in the sense of an *infallible* teaching).⁴ Again, this strategy involves one in a complicated discussion of what is involved in authoritative magisterial teaching that, as I hope to show, is unnecessary.

3. For a fuller exposition of contemporary theology on the Magisterium that does not agree with the first strategy, see A. DULLES, *Magisterium: Teacher and Guardian of the Faith*, Sapientia Press, Ave Maria, FL 2010.

4. This might include M. RHONHEIMER, *Benedict XVI’s “Hermeneutic of Reform” and Religious Freedom*, «Nova et Vetera», English edition, 9/4 (2011), pp. 1029–1054. I take it Rhonheimer is claiming that prior teaching, in the relevant aspects, contradicted latter teaching at Vatican II, but this was unproblematic because there is «the distinction between two levels: on the one hand, the level of the principles of the doctrine of the Catholic faith; on the other hand, that of their concrete historical application ...» (1038). He also claims: «The contradiction arises only at the level of the assertion of the civil right, and is therefore only of the political order. [...] at the level of natural law’s legal-political application in situations and in the face of concrete problems» (1042). That is to say the prior teaching, when it contradicts the latter teaching, only does so insofar as it touches historical application. Then, as the Church’s magisterium is not infallible in teaching about historical applications of its doctrine, the earlier teaching can be false or (as on the strategy of Journet and Maritain) have ceased to be applicable.

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A third strategy involves restricting the infallibility of prior magisterial teaching to some particular historical circumstances. For example, it might be claimed that the earlier teaching only addressed a situation under which the majority of citizens were Catholic. While, in these regimes, there was an obligation by the State to enforce the Catholic faith — as held by the majority of citizens — this obligation is no longer binding in a pluralist world where the majority of citizens are non-Catholics (Cardinal Journet and Jacques Maritain might have accepted this view).⁵ This strategy will be compatible with what I have to say, but my approach will avoid all of these historical subtleties and show them to be required only in giving an explanation of the plausibility of Catholic teaching.

Finally, there are those who propose that the teaching of Vatican II actually does not teach that human beings have *fundamental* rights to religious liberty. Instead, Thomas Pink has argued that, while States continue to have a right and duty to impose the Catholic faith on citizens by temporal penalties and to establish the Church, the teaching of Vatican II only proposes that non-Catholic citizens are not to be coerced *directly* into accepting the Catholic faith because they are not directly subject to the jurisdiction of Catholic Church.⁶ We might say that, on Pink's view, there is only an "accommodationist" sense of religious liberty in *Dignitatis Humanae* — religious liberty is only a tool of achieving civil peace, not a fundamental right of human beings. I will hope to show, to the contrary, that this complicated response is unnecessary and implausible. This strategy assumes that prior teaching had proposed definitively binding claims concerning a duty to establish the Church and condemnation of a fundamental right to religious liberty. I will show that prior teaching did not do so, making this strategy unnecessary.

The proposal advanced in this article only allows us to eliminate the idea that there is a formal *contradiction* in Catholic magisterial teaching

5. For example, see C. JOURNET, *L'Eglise du Verbe Incarné*, vol. 1, Editions Saint-Augustin, Saint-Maurice 1998, pp. 393–395, 435–453; J. MARITAIN, *Man and the State*, Catholic University of America Press, Washington, DC 1951, esp. pp. 147–187.

6. I will be reviewing his position in some detail below, but see T. PINK, *Jacques Maritain and the Problem of Church and State*, «The Thomist» 79 (2015), pp. 8–20.

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on religious freedom. In fact, I think that it is obvious that the teaching is consistent, especially when the doctrinal propositions are examined closely. Yet my argument does not conclude that it is *obvious* what the overall teaching is (I do not think it is obvious) or eliminate the need for theological *explanation* that invokes positive historical claims or development of doctrine. However, if my argument is successful, it would advance the controversy over the teaching of the Church on religious freedom from a question whether there exists a contradiction with prior teaching to a question concerning *how* the prior and modern teaching are to be explained. That is, we should instead be debating the merits of the theological explanations of the Catholic teaching on religious freedom, not whether prior and contemporary claims are consistent. Even if proving the absence of a contradiction does not prove that the theory is true or plausible, then, there is value in doing so.

For this reason, I will avoid trying to offer any theological explanation or holistic account of Catholic teaching on religious freedom, or an explanation as to how the contemporary teaching might be a “development” of the prior doctrinal claims, or even what approach to religious freedom might be envisioned by the authors of the contemporary documents. Other scholars have already offered explanations of the Catholic teaching on religious freedom, with various degrees of comprehensiveness.⁷ My reason for avoiding these issues is that it would be perfectly possible to disagree with any or all such explanations of the doctrine on religious freedom and nevertheless hold that I am right in claiming that the doctrinally-binding propositions from these documents are mutually consistent. These situations occur relatively frequently in theology generally and are not surprising. For example, one could hold there is no contradiction in the claims that the Three Persons are one God, even if one cannot explain how this is true or has no theory of persons or natures. So, one could disagree with various explanations of Trinitarian doctrine, possibly rejecting *all* theories of how Trinitarian claims are consistent, and nevertheless hold that those claims actually *are* consistent («I know not how»).

In order to prove my claim that there exists no contradiction between

7. Cfr. D. SCHINDLER – N. HEALY, *Freedom, Truth, and Human Dignity: The Second Vatican Council's Declaration on Religious Freedom*, Eerdmans, Grand Rapids, MI 2015.

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Catholic teaching on religious freedom at Vatican II and the teaching found in classical papal encyclicals on the subject, I will appeal at various points to a political theory known as Catholic “integralism”. Those who have argued that there exists a contradiction in the Catholic teaching on religious freedom are often advocates of the view that classical papal teaching required of all Catholics, as doctrinally-binding, subscription to this political theory. One defender has defined this political theory as follows: «Catholic integralism is the position that politics should be ordered to the common good of human life, both temporal and spiritual, and that temporal and spiritual authority ought therefore to have an ordered relation».⁸ These defenders argue that integralism was taught and required by previous Catholic social teaching, and that integralism «rejects modern liberal understandings of freedom».⁹ If Vatican II is incompatible with acceptance of integralism, the objector argues, then Vatican II contradicts prior papal teaching on religious freedom. (Lefebvre, cited earlier, arguably makes this inference.)

By way of illustration, the integralist view rejects «that political authority exists for the sake of the protection of individual rights, that one of the most important of those rights is the right of religious liberty, and that political authority should therefore not officially favor one religious confession more than others».¹⁰ Integralists typically argue that prior magisterial teaching required negating the aforementioned claims, making the integralist position on political theory an entailment of Catholic social doctrine. However, if it were true that prior magisterial teaching denied any rights to religious freedom, and Vatican II proposed that there was such a right, as we saw that Vatican II apparently claimed, then Vatican II is in formal contradiction with prior teaching. It would clearly be an inconsistent set of propositions to hold both that there exists a right to religious liberty, such that the State cannot en-

8. E. WALDSTEIN, *Integralism and the Logic of the Cross*, «Church Life Journal», March 19, 2019, <https://churchlifejournal.nd.edu/articles/integralism-and-the-logic-of-the-cross/> [accessed 11 August 2020].

9. *Ibidem*.

10. E. WALDSTEIN, *What is Integralism Today*, «Church Life Journal», Oct. 31, 2018, <https://churchlifejournal.nd.edu/articles/what-is-integralism-today/> [accessed 11 August 11 2020].

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force the Catholic faith on citizens or penalize them for holding non-Catholic religious views, and that the State can enforce the Catholic faith by civil penalties, because individual citizens have no right to religious liberty (or, only liberty to hold the “right” religious views). If Catholic teaching did claim both of these things, all parties should admit that the teaching would be incoherent.

For this reason, I will begin my examination of the alleged contradiction between contemporary and prior magisterial teaching on religious liberty in this manner: asking whether earlier papal teaching obliges Catholics to hold that “integralism” is true. I will examine the aforementioned three chief classical papal encyclicals that concern Catholic teaching on Church and State, and which apparently condemn a right to religious freedom. I will show, first, that earlier teaching did not entail integralist political views and then I will show how those earlier claims are consistent with the claims made in *Dignitatis Humanae* concerning religious freedom. Finally, I will propose a series of counter-examples that illustrate their compatibility. In sum, then, I will have succeeded in demonstrating this narrow and limited thesis: that there is no inconsistency or incoherence in holding all of the propositions proposed in prior doctrinal teaching on religious freedom alongside the teaching proposed in *Dignitatis Humanae*.

1. PRELIMINARIES

While I will not try to embark on the unhelpful project of “defining” integralism, it is helpful to clarify slightly some of the concrete proposals that integralists see as essential to their project. Where various authors might dispute or phrase differently the general principles they embrace, focusing on particular proposals sets us up to consider whether the prior teaching entails *these* as a consequence. Further, getting from general principles to particular proposals is not straightforward, because a hidden premise or assumption can be challenged and derail the inference. So, the claim made earlier in defining integralism as the view both that political life should aim at the common good of citizens and that Church and State have an ordered relation would be *far* too general to be of any use. The same would be true of any other general principle often invoked by integralists, whether the Church

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being related to the State as soul to body, or that we are obliged as Catholics to recognize the Kingship of Christ in society. None of these claims entail any particular political models; e.g., I am free to recognize Christ as King of the Universe without (therefore) holding that the Pope ought to be king of America. For example, does “ordering” of State to Church require ecclesial establishment? Many integralists seem committed to this consequence, but the inference is unclear. It is impossible to conclude from these principles as stated to any concrete proposal.

What is distinctive about the integralist position, and what generates the contradiction with *Dignitatis Humanae*, involves three particular policies. Specifically, the integralist [1] denies that it is permissible for a State to fail to establish the Catholic Church, taking “establishment” in a sense particular to integralism that goes beyond financial support or legal privileges. The integralist holds that the State has an obligation to publicly recognize a legal competence of the Catholic Church’s hierarchy in matters of religion, where those decisions would impact State policy, and to obey the laws of the Church in promoting the true faith.¹¹ (Pink proposes that this is because the Church has a divine right to command the State to perform certain actions, but his explanation of why that relationship between Church and State exists is unnecessary for my purposes.) The integralist claims [2] it is impermissible for the State to recognize freedom of religious activity or of speech as a fundamental right of its citizens, whether non-Catholic or Catholic. For example, while the Church only has coercive authority directly concerning its own members, and so can penalize Catholics for expressing heretical views (utilizing State coercive power, according to Pink), the State should also limit the activities of non-Catholic bodies in order to further the Church’s mission.¹² Similarly, then, [3] the State has a corresponding

11. T. Pink, utilizing Suarez, argues for this juridical relationship between Church and State; see T. PINK, *Jacques Maritain and the Problem of Church and State*, «*The Thomist*» 79 (2015), pp. 8–20, esp. note 30 & 31; IDEM, *The Interpretation of Dignitatis Humanae*, «*Nova et Vetera*», English Edition, 11/1 (2013), pp. 106–108.

12. See T. PINK, *The Right to Religious Liberty and the Coercion of Belief*, J. Keown – R.P. George (eds.), in *Reason, Morality, and Law*, Oxford University Press, Oxford 2013, doi:10.1093/acprof:oso/9780199675500.003.0027: «Christian rulers might be asked [by the Church] to prevent non-Christian rulers from impeding Christian missions; and they

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positive, but defeasible, duty to sanction all non-Catholic religious views in their public expression.¹³ The notion of “permissibility” employed here is understood to derive from a notion of *distributive justice*, so that a State which has policies promoting these impermissible things is, to that extent, an unjust State. Permissibility is here applied to States, not individuals. That is, the integralist does not claim *individuals* are obliged in every country to *pursue* all of these proposals. The integralist consequently holds that it is permissible in a broader sense (i.e., morally) for a politician or leader to compromise on these policies in

might be asked to restrict non-Christian public worship or activity in their own lands in order to protect the faith of their own subjects. [...] Any restrictions on such non-Christian worship [or speech] are based instead on the authority of the Church, directing baptized rulers of the state to enforce those restrictions on the Church’s behalf. And their function is not to forbid non-Christian public worship altogether – that would be tantamount to forced conversion of the unbaptized, which is beyond the Church’s authority – but to reduce its impact and thereby to protect the integrity of Christian life. The restrictions served to protect the Church’s mission – to limit scandal to the faith and reduce the exposure of Christians to non-Christian religious life and influence».

13. T. PINK, *Jacques Maritain*, art. cit., p. 22, note 30: «If the state is to act as the Church’s agent, baptismal obligations must of course take political and not merely private form. But this is the clear implication of canon 2198 of the 1917 Code, which, like all canonical obligation, presupposes baptism, but puts requirements specifically on the state». Not every integralist takes this duty to be as expansive as P. KWASNIEWSKI, but see the following in his *The “Catholic State”*, «Latin Mass Magazine» (Fall 2014), pp. 20–21: «Now, in a Catholic society, the extrinsic common good is all the more easily and widely attained due to adherence to the true religion that furnishes the sovereign and infallible means for attaining it. Moreover, the study of truth will be a promotion of naturally knowable as well as revealed truth, with *the repression of natural and supernatural errors*. [...] There is thus great danger of a slow drift into an increasingly worldly mentality, as well as the perversion and corruption of citizens by errors in faith or morals spread by persuasive and “charismatic” representatives of sects that manage to gain entrance into that society. A Catholic government that really holds the common good of its people at heart is therefore obliged *to limit severely the public activities of such sectarians* and the public expressions of their beliefs (e.g., to prohibit entry of such people or the publication of their pamphlets), while at the same time continuing to promote, in every way possible, such religious institutions as families, parishes, monasteries, schools, and hospitals that keep the Faith alive and well in the hearts of the people». (emphasis mine).

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the current pluralist situation of many contemporary countries.¹⁴ Nevertheless, to be an “ideal” or rightly ordered State requires these measures, because these are constitutive of distributive justice, rightly conceived.

Consider, by contrast, the following claims in *Dignitatis Humanae*:

DH 1: If, in view of peculiar circumstances obtaining among peoples, special civil recognition is given to one religious community in the constitutional order of society, it is at the same time imperative that the right of all citizens and religious communities to religious freedom should be recognized and made effective in practice (6)

DH 2: the right to religious freedom has its foundation in the very dignity of the human person [...] This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits. [...] Injury therefore is done to the human person and to the very order established by God for human life, if the free exercise of religion is denied in society, provided just public order is observed (2-3)

DH 3: The freedom or immunity from coercion in matters religious which is the endowment of persons as individuals is also to be recognized as their right when they act in community. [...] Religious communities also have the right not to be hindered in their public teaching and witness to their faith, whether by the spoken or by the written word (4)

These three propositions in *Dignitatis Humanae* either affirm or entail propositions that seem incompatible with the integralist claims. DH 1 plausibly implies that governments do not have a duty to establish the Catholic religion. DH 2 affirms that religious freedom is a fundamental right of the human person and that governments have an obligation to recognize that right civilly. DH 3 affirms that this right extends to religious communities as corporate rights, including freedom of speech, and entails that it would be unjust to suppress religious communities

14. T. PINK, *Jacques Maritain*, cit., pp. 11–12: «The Leonine case for soul-body union as an ideal has to do not with what is currently politically feasible, which may only be various levels of the bad, but with what political arrangements, where Church-state relations are concerned, could best ensure the good».

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merely for holding false views. In fact, that entailment is made explicit elsewhere: «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 and the exercise of this right is not to be impeded, provided that just public order be observed» (2). It is noteworthy, however, that Thomas Pink has argued that the integralist claims are consistent with Vatican II, because *Dignitatis Humanae* only affirms that the Catholic Church no longer is requiring that States enforce coercive sanctions against false religions.¹⁵ However, I am going to presume for my purposes that *Dignitatis Humanae* exists in contradiction to integralist claims and, consequently, that if integralism were taught as Catholic doctrine before *Dignitatis Humanae*, then there would be a problem because Catholic social teaching about the State would be inconsistent.

2. RELEVANT CLAIMS IN *MIRARI VOS, QUANTA CURA, IMMORTALE DEI*

Instances of prior magisterial Catholic teaching that potentially or allegedly conflicts with *Dignitatis Humanae* are more-or-less restricted to the encyclicals of various popes at the turn of the 19th century, who were writing in response to the rise of secularism and nationalism.¹⁶ It is clear that none of these social encyclicals involve clear doctrinal definitions of any kind, which makes all the teaching alleged to conflict with Vatican II a matter of the ordinary magisterium of the Roman Pontiff. Such teaching is normally only understood as infallible when *also*

15. T. PINK, *Conscience and Coercion*, «First Things», 1 August 2012, <https://www.firstthings.com/article/2012/08/conscience-and-coercion> [accessed 11 August 2020]. See also IDEM, *Dignitatis Humanae: Continuity after Leo XIII*, in T. CREAN – A. FIMISTER (eds.), *Dignitatis Humanae Colloquium*, vol. 1, Dialogos Institute, Createspace Independent Publishing Platform, 2017, pp. 105–146; IDEM, *The Right to Religious Liberty*, op. cit.

16. A famous alternative text for these claims is Pope BONIFACE VIII's bull *Unam Sanctam*. While there is more to say about interpretation of the claims made in that bull and the claims it makes about the way in which the temporal power is subordinated to the spiritual, it is noteworthy that Catholic theologians have disputed whether the claims made in that regard are properly doctrinal or definitive. See P. COLLINS, *Upon this rock: the popes and their changing role*, Melbourne University Press, Carlton, Victoria 2000, pp. 150–154; J.P. KIRSCH, *ad v.* «Unam Sanctam», in C.G. HERBERMANN (ed.), *Catholic Encyclopedia*, vol. 15, Robert Appleton Company, New York 1912.

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universally taught by the Church, however, so this point about the infallible character of these encyclicals is not obvious or uncontroversial.¹⁷ In what follows, I presume that the infallibility of these encyclicals and the propositions apparently proposed by them as doctrinally-binding, leaving aside all the complicated questions of magisterial authority. In the process, though, I will show no such fancy footwork about authority is necessary to resolve the issue of how *Dignitatis Humanae* is consistent with what is said in the encyclical tradition. If these propositions are consistent with modern teaching, then nothing is lost in terms of the consistency of Catholic teaching if the propositions proposed in the classical encyclicals were infallible.

Of course, *Dignitatis Humanae* and its drafters were conscious of the existence of these encyclicals. The document therefore claims that the right to religious freedom proposed in *Dignitatis Humanae* «has to do with immunity from coercion in civil society» and is consistent with prior teaching because «it leaves untouched traditional Catholic doctrine on the moral duty of men and societies toward the true religion and toward the one Church of Christ» (no. 1).

One finds a summary of that “traditional teaching” in the encyclical *Immortale Dei* of Leo XIII:

... it is a public crime to act as though there were no God. So, too, is it a sin for the State not to have care for religion as a something beyond its scope, or as of no practical benefit; or out of many forms of religion to adopt that one which chimes in with the fancy; for we are bound absolutely to worship God in that way which He has shown to be His will. All who rule, therefore, would hold in honour the holy name of God, and one of their chief duties must be to favour religion, to protect it, to shield it under the credit and sanction of the laws, and neither to organize nor enact any measure that may compromise its safety (LEO XIII, *Immortale*

17. R. MILLER, questioned the binding character of *Quanta Cura* in *Integralism and Catholic Doctrine*, «Public Discourse», 15 July 2018, <https://www.thepublicdiscourse.com/2018/07/22105/> [accessed 11 August 2020]. But see further A. TANQUEREY, *A Manual of Dogmatic Theology*, trans. by J.J. Byrnes, Desclee, New York 1959, pp. 176–182. For an overview of these issues from a minimalist perspective on infallibility, see R. GAILLARDETZ, *The Ordinary Universal Magisterium: Unresolved Questions*, «Theological Studies» 63 (2002), pp. 447–471.

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Dei, no. 6).¹⁸

These claims made by Pope Leo XIII echo explicitly the previous teaching of Gregory XVI in *Mirari Vos* and Pius IX in *Quanta Cura*. Given the way that these three encyclicals were framed by each pope with the prior teaching in mind, and no integralist has (to my knowledge) argued that these three encyclicals are inconsistent, it is helpful to read Gregory's claims in *Mirari Vos* as being clarified by Pius IX and Leo XIII, and Leo XIII as recapitulating the content of the prior condemnations issued in *Quanta Cura*. In the interest of being succinct, I will examine only the social teaching in these three encyclicals, as they are most often quoted as being in contradiction to Vatican II's teaching.

Of these, *Mirari Vos* is the least explicit, because it gives descriptive claims that plausibly imply the condemnation of certain positions, but it is not explicit in drawing the conclusion. For example, Gregory says that «indifferentism [about religious truth] gives rise to the absurd and erroneous proposition which claims that liberty of conscience must be maintained for everyone» (14). He gives us some idea what “liberty of conscience” is envisioned in claiming that previous states all perished as a result of «immoderate freedom of opinion, license of free speech, and desire for novelty», (14), and he condemns freedom to publish any views whatsoever and disseminate them without any limits (15). Yet Gregory never clearly defines what exactly “liberty of conscience” involves, outside of these indirect characterizations. Similarly, Gregory also claims that those desiring a «separation of Church and State» will not bring «happier times» than those formerly, but this is a prediction rather than a clear object of teaching (20). This makes it very debatable what particular propositions are actually *taught* by the encyclical. Many must be inferred from context or what has been left unsaid. I do not know of any theory of magisterial teaching on which assumptions or

18. PIUS IX, *Quanta Cura*, «AAS» 3 (1867), pp. 160–167, translations available on line <https://www.papalencyclicals.net/pius09/p9quanta.htm> [accessed 11 August 2020]; GREGORY XVI, *Mirari Vos*, «AAS» 4 (1868), pp. 336–345, <https://www.papalencyclicals.net/greg16/g16mirar.htm> [accessed 11 August 2020]; LEO XIII, *Immortale Dei*, «AAS» 18 (1885), pp. 161–180, http://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_01111885_immortale-dei.html [accessed 11 August 2020].

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vague hidden premises of any claims made in encyclicals are binding and authoritative Catholic teaching.

Thankfully, *Quanta Cura*, by contrast with *Mirari Vos*, is very explicit in offering three carefully-worded condemnations that concern the relation of State to religious liberty:

QC 1: the best constitution of public society and (also) civil progress altogether require that human society be conducted and governed without regard being had to religion any more than if it did not exist; or, at least, without any distinction being made between the true religion and false ones. (3)

QC 2: that is the best condition of civil society, in which no duty is recognized, as attached to the civil power, of restraining by enacted penalties, offenders against the Catholic religion, except so far as public peace may require. (3)

QC 3: liberty of conscience and worship is each man's personal right, which ought to be legally proclaimed and asserted in every rightly constituted society; and that a right resides in the citizens to an absolute liberty, which should be restrained by no authority whether ecclesiastical or civil, whereby they may be able openly and publicly to manifest and declare any of their ideas whatever, either by word of mouth, by the press, or in any other way. (3)

Finally, we can read the summary of tradition teaching given from *Immortale Dei* as qualifying these condemnations in *Quanta Cura*. *Immortale Dei* condemns as a "sin" the situation where a State should not care for religion or treat it as beside the appropriate objects of State concern, and therefore explicitly rules out State-sponsored atheism. Leo XIII also implies that it is impermissible to treat the civil establishment of religion as a matter of indifference to the truth of that religion, which such indifferentism displays itself in the State thinking

it is not obliged to make public profession of any religion; or to inquire which of the very many religions is the only one true; or to prefer one religion to all the rest; or to show to any form of religion special favour; but, on the contrary, is bound to grant equal rights to every creed, so that public order may not be disturbed by any particular form of religious belief (25).

Leo also claims that, as a consequence, «the unrestrained freedom of

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thinking and of openly making known one's thoughts is not inherent in the rights of citizens, and is by no means to be reckoned worthy of favour and support» (35). Finally, Leo affirms a positive duty for the State to favor and protect religion, such that the State also has negative duties not to enact laws that disfavor religion. The negative duty is illustrated by cases where the Church is excluded from civil society and education (29–33). The positive duty is clarified as nevertheless being incompatible with coercion that would force people to embrace Catholicism against their will; nor does the positive duty rule out a ruler permitting multiple religions to co-exist in the State, but only that the Church «deems it unlawful to place the various forms of divine worship on the same footing as the true religion ...» (36).

3. CONSISTENCY WITH VATICAN II'S *DIGNITATIS HUMANAЕ*

It should be seen, first, that these three encyclicals do not entail *specifically* integralist policies, even if they adopt principles that are perhaps relatively illiberal. It is consistently proposed that a State has a negative duty to avoid treating religion as a matter of indifference, as not important for its citizens, or treating all religions as fundamentally equal without respect to their truth or falsity. It is also consistently proposed that the State has a positive duty to favor, protect, and perform various other tasks to allow religion to accomplish its proper activity. But it is nowhere claimed that the State has to establish the Church in the sense required by the integralist proposal. Nor is it plausible to infer from the claim that the State must favor and protect the true religion that the State is required to recognize the Church hierarchy's ability to dictate State policies, or that the State has an obligation to follow the direction of the Church in promoting the Catholic religion. A State that professed the true faith with an acknowledgement in the State's constitution, for example, and protected the Church's hierarchy to accomplish their religious activities alongside other religious bodies, without having any provision for civil effects of Catholic canon law, is not in obvious violation of any of the encyclical tradition's condemnations. Such a State would not be treating religion as a matter of indifference.¹⁹ Thus, the

19. For a similar line of reasoning employed by Cardinal Journet at the Second Vat-

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first integralist proposal, establishment, is not required by these encyclicals.

Nor is the second integralist proposal, that the State cannot permissibly recognize any fundamental right to religious liberty or free speech, required by these encyclicals. It is true that QC 3 condemns a «liberty of conscience and worship is each man's personal right, which ought to be legally proclaimed and asserted in every rightly constituted society», but it is not obvious from the first part of the condemned proposition what liberty of conscience or worship is condemned. In considering the latter part of that same condemned proposition, one finds a qualification that such a right to liberty would be one «restrained by no authority whether ecclesiastical or civil», etc. Leo XIII and Gregory XVI respectively qualify as *unrestrained* or *immoderate* freedom the kind of liberty of worship, conscience, or speech that each condemns. If we understand each of these three encyclicals to clarify the thought of the others, the overall condemnation aims not at *any* right of liberty of conscience or worship, but the specific type foreseen in the encyclicals – that is, a right unrestricted by any norms or authority that would set limits to its free exercise. These claims are then quite compatible with the proposal that human beings have an inherent right to religious worship, conscience, or speech that is *not* unrestrained or immoderate.

Nor is the third integralist proposal, that the State has a positive (if defeasible) duty to sanction all non-Catholic religions in their public expression, entailed by any of the above. QC 2 seems to imply a positive duty «of restraining by enacted penalties, offenders against the Catholic religion» beyond the scope of what public peace requires. But, first, Leo XIII explicitly allows the presence of other religions in a just state, not apparently as a concession to practicalities, but as a matter of justice. The State is then not under a positive duty to sanction any and all false religions. Leo's qualification that this duty to restrict offenders is set in the context of the positive duty of the State to favor and protect the true religion, such that the other religions are permitted as long as the Catholic religion is given a privileged "footing", does not require much

ican Council, see the citations and analysis in M. RHONHEIMER, *Dignitatis Humanae – Not a Mere Question of Church Policy*, «Nova et Vetera» 12/2 (2014), pp. 461–462.

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in the way of sanction at all. Second, it is apparent that there are important qualifications in QC 2's condemnation. When rephrased positively, QC 2 could affirm a position as follows: «a duty is recognized, as attached to the civil power, of restraining by enacted penalties, offenders against the Catholic religion, beyond what [mere] public peace may require». Clearly, the claim that offenders against Catholicism are to be sanctioned beyond merely what public peace requires does not require anything like the sanctioning of any or all false religions. On one side, what is required «beyond mere public peace» is not clear, but it surely is not plausible to understand this qualification to oblige the State to enact *any* penalties against *any* or *all* non-Catholic religions. On the other, the claim only sanctions offenders against Catholicism. It is not a positive duty, for example, to sanction any and all non-Catholic religion merely in virtue of being non-Catholic. In sum, on any plausible and obvious reading, the encyclical tradition does not plausibly entail the integralist position about State duties to sanction non-Catholic faiths.

That said, the text of *Dignitatis Humanae* contains other affirmations that might seem hard to square with the teaching of the prior encyclical tradition. I have shown that the condemnation of a right to religious liberty in the previous teaching was always qualified by such phrases as “immoderate” or “unrestricted” liberty. DH 2 explicitly qualifies its affirmation of a right to religious liberty with similar language: it affirms a liberty «within due limits». Thus, the right to religious freedom, worship, and speech are, in their exercise,

subject to certain regulatory norms. In the use of all freedoms the moral principle of personal and social responsibility is to be observed. In the exercise of their rights, individual men and social groups are bound by the moral law to have respect both for the rights of others and for their own duties toward others and for the common welfare of all (7).

Echoing explicitly *Immortale Dei*, *Dignitatis Humanae* qualifies its claims of a civil right to religious freedom by affirming that «all men are bound to seek the truth, especially in what concerns God and His Church, and to embrace the truth they come to know, and to hold fast to it» (no. 1) and that this applies to human societies as much as to individuals. DH 1 thus envisions the possibility that a State can, even

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while respecting this fundamental right on the part of all citizens to religious freedom, give special constitutional recognition to the Catholic Church.

Nevertheless, there remain two issues. The first is in what way the teaching of Vatican II is compatible with the claims of the encyclical tradition that Catholicism is to be *avored* by the State. The claims outlined in DH 1-3 extend mostly to protection, non-interference, and lack of coercion, allowing the Church to perform its own duties without hindrance by the State. While it would be true, if we assume the obligations of a State to religious freedom proposed by *Dignitatis Humanae*, that the State could not favor Catholicism in *many* ways, it is not true that the declaration rules out *any* such manner of favoring the faith. Here it seems to me the declaration is mainly silent, aside from the claim made in DH 1 that such favor could occur by a special constitutional recognition. It seems to me nevertheless that the encyclical tradition mandates no specific measures that States are obliged to take to favor the Catholic religion. In that way, the teaching of *Dignitatis Humanae* cannot be understood to conflict with the prior teaching, if the prior teaching outlines nothing more than a general duty to favor the true religion.

The second issue is the question of a recognized *civil* right to religious liberty. DH affirms that «this right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right» (2). We might think the declaration on religious liberty on this point comes into conflict with QC 1, which condemned that the «best constitution of society» would require government «without any distinction being made between the true religion and false ones» (3). But the claims are not obviously inconsistent: why think a recognized right to freedom of conscience, speech, or worship means that no distinctions are made between religions? The claim that a contradiction is latent here requires some appeal outside the texts, perhaps appealing to an implicit position that a right to religious freedom, especially if fundamental, can only be proposed in the context of a “liberal” theory of government. But a right to religious liberty is not the exclusive purview of Lockean or Rawlsians, and it is fallacious to think so.

On one hand, it is just a fact that hardly any mainstream political phi-

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losophy, let alone real-world government, allows untrammled freedom of worship or speech. Cults have been sanctioned or prohibited by many secular governments for noxious public morals, and even in the US, where freedom of worship and speech is considered a fundamental right, the exercise of that right is subject to well-known legal limits. The distinction made by governments at times do appeal to an objective moral order that implies or entails the falsity of beliefs held by the cult in question. And the declaration does not specifically say what kinds of distinctions need to be made. On the other, it is quite open to us to interpret both QC 1–2 as only condemning the affirmation that the “best” condition of society requires that no distinction is made between true and false faiths. Condemnations, such as those of QC, are understood in the Catholic theological tradition to be applied strictly. One could then hold that there exists no *one best* condition of society at all; as long as none are publicly atheistic, unjust in treatment of religions, or treat religion as unimportant in civil life, perhaps some societies justly and rightly establish the Catholic faith, whereas others do not, and none are intrinsically the “best” form of civil society. Even this (admittedly far-fetched) position does not seem to me to fall within the scope of the condemned proposition.

4. CONCLUDING REMARKS

The point of the latter far-fetched counter-example is that there is quite a lot of interpretative room in reading the prior encyclical tradition, such that finding a strict *contradiction* between those condemnations and the affirmations in *Dignitatis Humanae* is not easy or obvious. Showing their consistency only requires finding a counter-example of a position that does not fall afoul of the condemnations, and this task is relatively simple. What is not simple or obvious is coming up with a consistent account of *how* to understand the right of religious liberty proposed by Vatican II. While there is already good work being done to show how religious liberty is understood from a Catholic theological perspective, more needs to be done in specifically political philosophy to show how a traditionally perfectionist political philosophy is com-

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patible with religious/philosophical pluralism.²⁰ In addition, the claims that the State has a positive duty to favor the Catholic faith have not been appreciated. Clearly, Vatican II was aware of this part of the encyclical tradition, as illustrated in their prefatory appeal to prior teaching on the duties of the State, even though they never explained how such duties are to be exemplified in the context of modern pluralist states. There is much theological work to be done constructing a contemporary political theology that makes sense of this and offers concrete solutions for Catholics in an increasingly hostile secularized world.

20. E.g., T.J. WHITE, *The Right to Religious Freedom: Thomistic Principles of Nature and Grace*, «Nova et Vetera», English edition, 13/4 (2015), pp. 1149–1184.