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# FREEDOM OF RELIGION AND THE STATE<sup>†</sup>

ORIO GIACCHI\*

## Introduction

I WOULD LIKE TO BEGIN my treatment of the subject of religious liberty with a reference to an ancient text, the crude but picturesque language of which seems to express all the problems concerning the relation between the State and religious freedom.

The great King Nebuchadnezzar had three young Jews, Shadrack, Mishak and Abednego, thrown into a fire, but the flames did not harm them. Taken by surprise, impressed with the courage of the three young men, and in terror of a God more powerful than the King, Nebuchadnezzar exclaimed: "Blessed be the God of Shadrack, Mishak and Abednego, He Who has sent His angel and freed His servants who, trusting in Him, have disobeyed the king and have risked their lives rather than serve or adore a God other than their own. I proclaim to all peoples and nations that all those who speak disrespectfully of the God of Shadrack, Mishak and Abednego be condemned and their homes be destroyed."

In the first part of Nebuchadnezzar's brief statement, do we not recognize the language of the Edict of Constantine which praised the Christian heroes of the persecutions? Is there not also an obvious respect for courage such as that which inspired Napoleon to seek a Concordat with Pius VII? On the other hand, does not the second part of this discourse seem to suggest the undeniable oppression of religious liberties under the Christian Roman Empire and, later, under the Catholic princes of the Age of Absolutism?

With respect to the history of religious liberty it is necessary, above all, to establish one essential fact. That is, there exist three different ways of understanding the principle of religious liberty and, if one confuses them, an understanding of the historical development of this great concept becomes impossible.

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These three interpretations of religious liberty are as follows:

- I. Religious liberty conceived as a natural right of the human being to search for and uncover the truth. This natural right is to be accorded respect, free from any temporal power or authority that would seek to force the individual to support or accept a faith other than that to which he has been led by an exercise of his free will.
- II. Religious liberty considered merely as the right of a man to give public or private expression to the doctrines of the one true religion, together with a tolerance for those who in good faith remain outside the truth simply because they have never received it. There is also tolerance with regard to heretics and schismatics, when such is required by historical or local circumstances and, then, always within the limits of the common good.
- III. Religious liberty understood as the right of each man to think, believe, pray and otherwise worship in the belief that he has chosen, inasmuch as there exists no truth, one and immutable, or it is at least not possible to derive, in the temporal order, any consequence from its existence.

It can be said that, in the first sense, religious liberty is understood *ex parte subiecti* and is considered a consequence of the spiritual freedom of the individual. Such an interpretation of religious liberty rejects the intervention of any influence of a temporal nature in the domain of the spirit. It is in this sense that religious free-

dom is understood by Christianity. This interpretation has been given very explicit and clear recognition, especially in the encyclical *Pacem in Terris*. Furthermore, it is a point that is definitely implicit in the teachings of the Church.

In the second sense, the understanding of religious freedom is directed strictly to the object of thought and of the faith. It is understood, above all, as freedom for the truth. Thus it is that the exclusion of force from the spiritual domain is, at least in the first instance, merely the result of the need for a voluntary adherence to the thought and the faith wherein is reflected the one truth. Furthermore, it is understood that tolerance is accorded unbelievers for this reason and by factors of an extrinsic and contingent character, such as historical and local circumstances.

The third interpretation of religious liberty is closely linked with a particular concept of religion and of thought, *i.e.*, the sceptical idea that either truth does not exist or that it is unknowable; or that it is at least not one, but rather composed of several parts no one of which contains the whole.

The history of religious freedom begins with the affirmation of the principle as understood in the first of the three senses referred to above. In the Acts of the Apostles, the statements of the Fathers of the Church during and after the persecutions, and also in the Edict of Constantine, it has always been declared necessary that man obey God rather than other men. It has been stated that this is the natural right of a man *quod putaverit colere* that *unusquisque nulla servitatis necessitate adstrictus, integrum habeat vivendi arbitrium*.

This correct understanding of the principle of religious freedom was courageously

affirmed by the Church throughout the first centuries and also after the persecutions. It has found an evident and direct echo in *Pacem in Terris*, after having been obscured since the time when St. Augustine verified the apparent efficacy of the use of civil authorities against heretical movements that destroy, along with the faith, all moral principles, whether individual or social. With Augustine there appeared a second and very different interpretation of religious liberty, based fundamentally on the concept of "freedom for the truth," together with a regard for freedom in the act of faith, for the good faith of those in error and for the exigencies of the common good.

By means of certain theological doctrines that grew out of the development of canon law, this limited recognition of freedom for unbelievers was still more strictly and rigorously interpreted during the twelfth and thirteenth centuries. St. Thomas Aquinas, at least in certain respects, reacted against this tendency toward strict interpretation and repeated, with particularly important consequences, the reasons for tolerance toward those outside the faith.

The Renaissance and the Protestant Reformation did not bring any change to the very strictly limited understanding of religious liberty. What is more, Luther and Calvin, in different ways, made their own contributions to the already general climate of persecution regarding those who did not think and believe as did the majority of the populace.

Among the numerous groups that were born during the Reformation, or rather from the consequences of the fracture and separation that it had brought, there were some who, far from defending a particular

faith considered to be the only truth, maintained, as had the decadent pagans, that the mystery of invisible truth was so great and so profound that no man could reveal it nor could any earthly authority teach it. These were the Anabaptists, the Socinians, and the Arminians.

It was only natural that, having these convictions, these groups would ask for and proclaim freedom for all religions. Some of these groups, somewhat incoherently, limited this propagation of religious liberty to Christian cults. To these affirmations of religious liberty have been attributed, to a large extent, the credit for having first announced the great principle of religious freedom. However, it is not difficult to see that these statements were the logical result of a particular opinion (*i.e.*, that truth was not one), rather than a broad affirmation of the individual's natural right to pursue the truth freely.

In addition to the syncretic movements mentioned above, the principle of religious liberty was broadly asserted by the English liberals and by the revolutionary movement in the American colonies. For English Liberalism, beginning with John Locke, religious freedom was merely the result of the separation of the State from religion and the consequent indifferentism of the State with respect to spiritual matters. In the New World, on the other hand, the principle was understood more in relation to the liberty of the individual and the natural rights of the human being, without postulating in any way the impossibility of absolute truth or the indifference of the State with respect to it.

In this sense, the most concrete declaration of the principle of religious liberty was that formulated by the first Catholic-American colony, Maryland, in its Act of

Tolerance, dated April 21, 1649. In a similar vein were the various declarations of rights later incorporated in the constitutions of states such as Virginia, Pennsylvania, North Carolina, Massachusetts, and New Hampshire.

During the same period there appeared in Europe, largely through the influence of the Dutch and German naturalists, a doctrine of religious freedom that underlined the fact that religious dissidence should not be considered a crime; that it is not a defect of the will, but rather an exercise of spiritual freedom. Furthermore, these naturalists underscored the dependence of the principle of religious liberty on the impossibility of judging what the truth is, considering the multiplicity of means of approaching the *gran secretum*. Thus was extended the third understanding of religious freedom which, as we have seen, was founded on the concepts of scepticism and syncretism.

It was possible to conclude from the events of the seventeenth and eighteenth centuries that the primary and true meaning of religious liberty was that which arose from an appreciation of the right of a human being to pursue the truth in freedom. As thus understood, the principle found its true expression only in the American colonies, although even there it was subject to some restrictions. In continental Europe, the absolutist State applied, with some notable, if qualified, exceptions, the principle of liberty for the truth alone, together with a relative tolerance with respect to dissidents and unbelievers. Meanwhile, the concept of religious liberty was also promulgated in Europe by a secularist and juridical doctrine that followed, almost exclusively, a syncretist and sceptic notion of truth.

Everyone knows that a State arose from

the French Revolution, a State which, while announcing itself totally agnostic concerning religious matters, was nevertheless unable to declare an absolute freedom of religion. During the short period of the Restoration, religious liberty was strictly limited by the *confesionismo* of the State, considered to be the principal protector and authority of the official religion. The subsequent installation of a "liberal" State carried with it the affirmation of a religious freedom that, while considered as the "equality of religions," was, in practical effect, principally an attack against the Catholic Church. Understood thus as the "equality of religions," the principle of religious liberty was used to justify a struggle against the institutions and activities of the Church, a battle provoked by the "secular" State. The idea of religious freedom, understood as a consequence of the impossibility of recognizing truth thus revealed all the profound confusion and danger that was hidden in the fundamental error from which it was born. Understood in this perverted sense, religious liberty was converted into an enemy of the Catholic faith of the majority of the citizenry.

Since the first decades of this century, the true and essentially Catholic notion of religious freedom, as the natural right of the human person, has been constantly proclaimed by ardently Catholic men, such as Charles de Montalembert. However, the lack of precision in the exposition of their point of view, and the obvious danger of confusing it with certain "secular" ideas, induced a large part of Catholicism to become intransigent or even aggressively opposed to their ideas, although the future in fact rests in their point of view. This can be demonstrated by the undeniable fact that their essentially Catholic point of view received important recognition in the

great encyclicals of Leo XIII, although subject to some prudent limitations and reservations imposed by the historical atmosphere which was still permeated with the "confessional" ideas of the absolutist State.

The undeniable and clear affirmation of the principle of religious liberty, understood as freedom for the human being, is of very recent history. It was manifested in some basic texts of Pius XI and Pius XII, and it is revealed in all its clarity in the proclamation of the encyclical *Pacem in Terris*. This concept of religious liberty has now penetrated all levels of today's Catholicism, notwithstanding certain exceptions due, principally, to the confusion of this true meaning of religious liberty with that which is propagated by the "secularists."

### **The State and Religious Liberty**

The important subject of religious liberty has frequently been discussed as essentially the problem of convincing by reason or imposing by law, particularly but not exclusively on the Catholic Church, the abandonment of the use of coercive influence or material sanctions against the property of those who are in conflict with the Church.

It is undeniably true that part of the responsibility for the painful history of religious freedom belongs to the Catholic Church, and perhaps to an even greater extent rests with certain Protestant and schismatic ecclesiastical communities. However, the actual problem, that which affects most deeply the very possibility of freedom of belief and worship, concerns the emergence of that liberty within a social and political order occupied by individuals and communities who maintain a creed that is distinct from that which is followed by those in power.

It is precisely at this point that we enter

upon the great debate concerning the social transformations to which our age has given birth or is giving birth. These transformations have to do with the concept of the State and its practical activity, in relation to individuals and in relation to other social communities. These latter organizations may be either subject to the State, equal to it, or in a certain sense superior to it (encompassing a higher order of things).

With respect to this important subject, I believe that we will have to first eliminate from our discussion an opinion which, while widespread and in conformity with certain superficial appearances of today's world, expresses nothing new and is certainly not completely true. I refer to the opinion that all the problems concerning the relations between the State and religious faith, and consequently, the two immense subjects of the relation between the State and religion and freedom of religion, ought to be discussed in terms of what would be considered the most decisive historical fact of our time, *i.e.*, the end of the Constantine era. The latter is understood to signify: (1) the estrangement of religion and all things sacred from every aspect of social living, (2) the declared and absolute autonomy of the State with regard to any religious or moral norm, (3) the perhaps still more significant open and militant consolidation of atheism, and finally (4) the tendency of political forces toward an activity dictated solely by considerations of a utilitarian, economic and administrative nature. In short, the problem is understood as the total absorption of contemporary society in the secular and temporal sphere, to the extent that religion finds itself necessarily reduced to a merely individual or interior value.

It is obvious that if this were in fact the situation, not only the attitude of the

Church with respect to the State, but also the problem of religious freedom itself would have to be considered strictly in terms of this so-called new reality. The situation would have to be discussed in the language of the strictest partisans of separatist liberalism, that which acknowledges the agnosticism of the State and is termed "negative secularism."

However, I believe that we are dealing with a totally erroneous understanding of present conditions which, in reality, confront us with some very different and opposing characteristics. We are in fact witnessing today a crisis of the myths of the "modern age," or the "end of modern times" as it is often called. The modern age grew out of the Renaissance and wears the special insignia of that great and fruitful epoch: (1) *individualism*, understood as the objective and essential superiority of a particular class of men (the cultured, the "elite") with respect to the uneducated and barbarous masses, and (2) *intellectualism*, according to which the object of all activity is the transformation of the present into a new reality dominated by a rational scheme. If we reflect upon this fact, we will realize that, from the fifteenth century to the two world wars, western civilization was dominated by these concepts. Naturally, they did not manifest themselves solely in the political order, but rather, were reflected in all aspects of living, such as the area of economics. (We may well ask ourselves if there is really any difference between the *condottiere* of the Renaissance who made himself an absolute ruler, and the industrial magnate of the eighteenth century who established himself in economic primacy through his own efforts and by virtue of whatever means were at his disposal.) These ideas also found expres-

sion in literature, in the dreams of the anarchists and in the elite forces of Fascism.

However, for the most part, these ideas disappeared with the decline of the society to which they were completely bound—a society that had remained basically one under two very different exterior aspects. It was, in reality, the same society that pertained during the Age of Absolutism (especially in its second phase) and during the era of radical democracy (or individual liberalism). These epochs were dominated by the superior individual, either in the form of a prince, demagogue or industrial giant. When these individuals were in a superior position, as guides and artisans of a community's destiny, they considered it their duty to transform the world, more or less radically, in order to effectuate their purposes. The particular object to be achieved naturally depended on a number of interests, not to mention those of the elite. However, above all, these men were inspired by a rational scheme, a model of perfection which they considered it their obligation to imitate, and to realize in fact as soon as possible.

The great socialist or universalist movements of workers and peasants during the past century brought this society to a critical point. It has since been seriously affected by two fundamental facts of twentieth century life: (a) universal suffrage, and (b) the ever-increasing involvement of the State in the social affairs of the community. A third and most important factor in the disintegration of the old society appeared principally after the Second World War. I refer to the undeniable necessity for a more or less profound union with other communities of States and also with a world organization of States.

With the advent of universal suffrage,

the difference between superior individuals and the masses, based on intelligence, education and ambition, began to lose its practical effect. With the involvement of the State in the complexities of daily living, a rationalization of the organization of the State became more and more difficult. With the necessity for ties with other States and with an international community of States, the individualism of the State either disappeared or was seriously weakened. It was precisely this *individualismo de Estado* that had ensouled the organization of the Western State and had created the policy of imperialism. It was also the concept that vivified the awesome economic phenomena which, juridically regulated largely according to Roman Law, developed after the Industrial Revolution. With regard to this regime, the questions we will ask are: what had been the position of religion in this State and what was the situation of the dominant faith? Furthermore, what religious freedom existed, if any, for those individuals and communities that did not adhere to the dominant faith?

On this subject, there was, of course, a tremendous difference between the absolutist States and those which were common to almost all of liberal Europe. However, it is also important to realize that the very different regimes formed during the tragic years of the French Revolution, and during the reformation which was attempted by the Restoration reflected the same ideas of individualism and intellectualism which, as we have said, characterized the entire modern age. Thus, whether confronted with the dominant religious faith or the dominant political ideology, the position of the State was the same, viz., that of one who had adopted a particular opinion, faith or

belief and had afterwards had the power to impose it on others not merely as the source of its vitality or principal interpreter of its content, but also as the instrument of its general promulgation in the community, such that those governed became more or less thoroughly imbued with it.

If we look a little beyond external appearances, we will realize that the State of the late fifteenth century, that which would a little later be transformed into an absolute State was that State which elected a belief of which the ruler afterwards proclaimed himself defender and protector. The struggles that followed the Protestant Revolution not only broke the unity of the faith, but also brought individualism into a European society torn apart by religious wars. This individualism was actually a new unity, based on religion, but also a product of the State itself. This new religious unity was strictly attached to a particular political structure and, from a human point of view, it had no universality. The authorities of the Catholic Church, the only remaining authority that could, at least in theory, maintain a complete autonomy and continue to affirm a *potestas indirecta in temporalibus*, were not able to provide a really effective limit on the authority of the State. This was not because such would be considered outside the Church's proper field of action, nor would the State consider itself indifferent to the Church's spiritual power, but rather, for the opposite reason. That is, the State had become "confessional," it had autonomously chosen its own religion or confession, and the civil effect of the spiritual powers of the ecclesiastical authorities depended upon this choice alone. The names taken by the various Protestant and Catholic rulers of the



late sixteenth century, such as "Defender of the Faith," "Very Christian King," and "Apostolic Majesty," were an external and formal sign of this situation. The Sovereign had thus become religiously ungovernable. He was the most worthy foundation of the faith and was the person in whom the religion of the entire community was summarized.

When the structure of Absolutism was destroyed by the Revolution of 1789, the State that was born bore the stamp of Napoleonic organization as well as, in its way, the mark of the "confessional" State. This was true because this State had still another credo, another faith chosen exclusively by the powerful elite, *i.e.*, the liberal ideology. It was undeniable that the principle of religious liberty was a part of this ideology, in fact, it was an essential element of it. But, in what sense was religious liberty understood? It was understood exactly in the sense that transformed it into an ingredient of the new "secular confessionality" and thus rendered it compatible with the discrimination for "religious" reasons which had been a basic element of the concept of the confessional State of the absolutist regime.

For the new liberal State, the proclamation of religious liberty was principally an affirmation of the superiority of the State over any faith that claimed to transcend its "secularism." This resulted from the fact that at the pinnacle of human society (in all its aspects) there was an absolute and untouchable sovereign, one who recognized no other authority, even in the spiritual domain.

Religious freedom, understood as a projection of the sovereignty of the State, resolved itself into the "equality of cults," since the State regarded as insignificant any differences it had not created. In the pres-

ence of the enormous reality of the Catholic Church, religious liberty, as thus interpreted, could never have resulted in a struggle with the latter unless there did not in fact exist, as in the United States, a concept of the State distinct and far removed from that of the Renaissance and the epoch we have discussed above. In the United States, the Church prospered from a universal right of religious freedom which was never deformed at the expense of the Church. However, in Europe, a series of laws appealing to religious liberty attacked exactly that religious freedom which was under the circumstances most important—Catholic liberty.

We must not allow these bitter memories to cause us to regard the temporal powers with clerical or partisan sentiments. There is no one as convinced as we that divine providence undoubtedly utilized these oppressive laws and this hostile atmosphere as both a cause and effect of the purification and strengthening of the Church. In any case, as we have said before, it is necessary to consider this aspect of the development of religious liberty because it helps to explain, at least in part, the condemnations of it promulgated by the ecclesiastical authorities during the past century and until the pontificate of Leo XIII.

The problem of the position of the State with regard to religious liberty takes on different characteristics as a result of the crisis in the concept of the liberal or "secular" State, *i.e.*, the invasion of Europe by universal suffrage, the increasing involvement of the State in daily affairs, and the alteration of the idea of absolute sovereignty brought on by the need for broader communities of States and for some sort of world order.

During this period, and precisely at the close of the Second World War, the State

became for the first time democratic, in the sense that the masses began to form a true part of it. Largely as a result of universal suffrage, the people were becoming rulers, potentially at least, if not in fact. The ruling class was thus extended to the point that it lost all concrete form. He who directly governed the State was forced to consider the will of the people. This popular will, although poorly represented, confused and vague, was nevertheless an actual fact. The application of a rational scheme to a given problem was almost impossible if attempted independently of the sentiments of the people, and apart from those deep currents that had been running for centuries through their spiritual life. The obligations of the State became numerous and difficult and the machinery of the State displayed an inability to perform complex and various obligations which ran from industrial economics to high finance, from social welfare to professional planning, and from the conciliation of labor disputes to the governing of urban areas. Since the fact was finally established that no State could live in simple autonomy and completely independent, the concept of the State began to broaden. The fact that the State was in need of association with larger communities of States and thus shared an international responsibility, forced a reconsideration of that unique concept of the State as an absolute sovereign, incapable of accepting any rule unless it be the source of such regulation; the complete imminence of all authority.

In place of this concept of the "secular" State, utterly aloof and autonomous, in place of this abstract fetish (born from the dual influence on European philosophy of idealism and positivism, which encouraged man to regard himself as superior to all mystery and in possession of all spiritual

power), there began to appear concrete traces of a new State. This new State was nourished by the ideals and desires of the masses. It was a State that was aware, through daily experience, of the great limitations imposed upon it by its obligations. It was a member of a community of States, a fact that could not but limit its absolute and exclusive autonomy, and broaden its vision in all areas, not merely in the political sphere but also in the realm of sociology and culture.

Ultimately, this new State was, therefore, the negation of the "secular" State. In its new situation, the State constituted the expression and formal organization of the aspirations, sentiments and traditions of all the people. How could this popular State hold itself aloof from responsibility to God and from respect for the moral law which was present in the soul of the people? The simple and abstract concept that the State could concern itself only with ends, with goals to be achieved—that this was its only law—had no efficacy when confronted with the great movements of popular opinion. Such an idea had relative validity only in a State ruled from behind closed doors by a restricted number of individuals. Whether in good faith or hypocritically, the rulers of the new State were forced to educate popular opinion through the presentation of moral arguments and from the invocation of religious principles taken from religious tradition, as well as from the utilization of generous, spiritually-inspired motives.

It was certain that the new State had to concern itself with the structure and functions of society. Primarily, it was faced with the problems presented by the social economy. In other words, it was forced to consider and attempt to solve the problem of social justice, *i.e.*, the equitable distribution

of the wealth of the society, an equal distribution of its burdens, the betterment of the lower classes and the poorer geographical regions, the curing of those who were ill and the repair of that which was deteriorated or disordered in society.

These arduous tasks, which involved the State in enormous difficulties, were imposed on the State by laws that originated beyond its borders, in the name of justice and honor, rather than utility. This made the State the servant of the human being and of ideals that had their roots in the spirituality and dignity of man.

We will have a complete picture of this new State, so very different from that which appeared on the world scene just a few decades ago, when we add that its obligations, beginning with that of religious liberty, were to a great extent confirmed in the Universal Declaration of the Rights of Man, approved by the General Assembly of the United Nations on December 10, 1948.

There exists within this new State a wide variety of other social organizations with a definite and valuable function in the society. These are, for example, the political parties and labor unions, the private monopolies and public economic structures, the completely private organizations and the government itself. The relation between the State and the individual is necessarily altered by the presence of these new social entities. The former relation had been principally formal and abstract. It left the individual completely alone in his confrontation with the State (an absolute sovereign), to such an extent that the rights of the individual were considered as "created" rather than recognized by the State. These new and very diverse organizations limit the State in this area, while they infuse strength and vitality into it.

Within this new political order, the most powerful defense of individual rights, the product of the profound social changes of our time, rests most securely on principles that are "extra-estatales" or "pre-estatales," *i.e.*, on a foundation of ethical and religious standards derived from without or above the State and imposed on the latter by virtue of their own power. Their independence is guaranteed by their source, even though they may be incorporated into the juridical order by a free act of self-limitation on the part of the State. These are the standards that will govern the play of forces within the social structure.

Among the individual rights that are thus protected, freedom of religion takes a place that is of primary and essential importance. If we wish to examine a recent constitution, for example, the Italian Constitution, we will see that religious liberty is recognized, in various ways and for different purposes.

*Art. 3:* All citizens enjoy the same social dignity and are equal before the law, without distinction as to sex, race, language, religion, political opinions, or social position. It is the obligation of the Republic to overcome the economic and social obstacles that, limiting the liberty and equality of citizens, impede the complete development of the human personality and the effective participation of all those who work in the political, economic and social structure of the country.

*Art. 19:* Everyone has the right to freely profess his own religious faith in any form, individually or in association with others; to preach it and worship in it, publicly or privately, limited only by an attention and adherence to lawful conduct (*las buenas costumbres*).

*Art. 20:* The ecclesiastical characteristics and purposes of a religious association or institution can not be a basis for either spe-

cial legislative limitations or special taxes directed at its particular constitution, legal status, or activity in whatever form.

*Art. 7:* The State and the Catholic Church are, each in its own order, independent and sovereign. Their relations are governed by the Lateran Pacts. Modifications of these Treaties, accepted by both parties, do not require any constitutional amendment.

*Art. 8:* All religious confessions are equally free before the law. Religious faiths other than Catholic have the right to organize themselves according to their own laws, so long as these are in conformity with the Italian law. Their relations with the State are governed, as of right, by agreements signed with their corresponding representatives.

The first three articles quoted affirm: (a) the equality of all citizens before the law, whatever their religion; (b) the freedom of any citizen to profess his religious faith under any form, to worship in it and to propagate it; and (c) the exclusion of any limitations or special burdens based on the ecclesiastical organization or purpose of a religious association or institution.

Articles 7 and 8, which seem to refer to the principle of religious liberty less directly, should, on the contrary, be regarded as a coherent affirmation of this principle, examined in its essential meaning and historical context. Article 7 confirms the independence of the Church in its order, that is to say, the spiritual realm. Article 8 states that all religious beliefs are equally free before the law, and adds that all non-Catholic faiths have the right to organize themselves according to their own rules, limited only by the requirements of the Italian juridical system. Furthermore, their relations with the State are "based on agreements," although such are interpreted according to unilaterally enacted legislation.

From a juridical and spiritual point of view, these norms of the Italian Constitution are not to be confused with the statements on religious liberty that have been incorporated in certain other constitutions. As found in the Italian Constitution, the formulas we have quoted are dictated neither by a "secular" concept of the State, nor by a sceptic struggle with religions considered oppressive by an individual who finally finds the road open to "free-thinking."

This fact is demonstrated very clearly, not only by the basic norm laid down in Article 7—the recognition of the sovereign autonomy of the Catholic Church in its order—but also by Article 8, which locates the non-Catholic confessions on a level distinct from and superior to all other communities and organizations subject to the Italian State. However, it would be absurd to discuss the relation of the Italian State to religious freedom without a somewhat more prolonged attention to Article 20. The latter states that the ecclesiastical or religious character of an association or institution cannot be sufficient reason for unfavorable dispositions with respect to it. The "secular" State, liberal only in name, maintained the equality of all beliefs as a premise, and prided itself on having first enunciated the great principle of religious liberty. However, as the principal weapon in its anti-ecclesiastical struggle, the "secular" State managed the suppression of the juridical personality of religious institutions and ecclesiastical-secular associations, while pressuring them out of existence principally by means of special taxes and patrimonial conversions. Taking this into account, we can readily see that the consideration of the whole problem of religious liberty with respect to the new State is something quite different.

To continue to linger with satisfaction on the prudent characteristics of the Italian system of relations between the State and religious faiths and, consequently, between the State and religious liberty, would in no sense exhaust our subject. In the first place, things are always in flux and it is therefore never safe to rely completely on the protection of written regulations. Above all, this is because there exists today, in numerous states, a situation very different from that which pertains in Italy.

I refer not only to those states dominated by Communism, states which are very far removed from the recognition of religious liberty, although some of these have written this principle into constitutions that, on this subject and others, have no real obligatory effect. Rather, I refer also to the many new states (born principally in Africa) which, while recognizing the principle of religious freedom in its general and abstract form, offer no guarantee that is really respected. Among other things, this is because they are almost all one-party countries or at least governed under a "directed democracy." They are political entities in which there is no general recognition of freedom, due either to the necessities imposed by their perhaps uncertain political structure, or to the lack of indigenous political traditions. It is natural, therefore, that they do not effectively maintain the principle of religious freedom.

We witness in today's world an application of methods that seemed to have been definitively abandoned. To begin with, we are confronted, in the Communist countries, with a continuation of the violent and fraudulent oppression of all religion, beginning with the Christian faiths. This remains true, even though there is some cause for hope in Poland, Hungary and

Czechoslovakia, countries in which Catholicism has always been most active and closely in contact with the people. However, as we have indicated, in other non-Communist and openly anti-Communist countries, the position of the Catholic Church and of positive Christianity in general is gravely compromised, precisely on the fundamental issue of religious liberty. This situation is the result of historical hatred for Christian missionaries who did not always know how to clearly distinguish their position with respect to the states which had colonized these areas. It is also the product of racial and nationalist sentiments concerned with nothing more than the resurrection of ancient civilizations. Thus, the real problem of religious liberty must be understood in a living historical context, rather than in simple juridical formulas.

As we said at the beginning, the problem has long since ceased to consist in simply convincing the Catholic Church or other Christian religious communities that they should abandon the principle that only the truth can be free. The Church has always excluded the use of force from her teaching on the subject of conversion, insisting that it be an interior act of the will. This is true even though, in the course of history, the Church has not always been able to prevent the use of violence inflicted in the name of religion. Since the Pontificate of Leo XIII, she has even more clearly stated her position with regard to religious liberty. In so doing, the Church has placed this great principle on its surest foundation—the concept of man as a spiritual being who has the primary right to the pursuit of truth and the corresponding right to travel the road to it freely.

As thus interpreted, as a right derived

from the nature of man as a spiritual being, inviolable in his interior, *freedom for the truth* can in no way be made to exclude liberty in general and, consequently, *freedom for error*. Of course, if the road to truth proves somewhat difficult, the Church should be free to offer its loving admonitions and lucid explanations. Coercive force, however, can never be allowed to be a substitute for free persuasion in that which concerns man's spiritual nature, for if such force were to be applied, it would be employed by that which possesses coercive means, *i.e.*, temporal society. What is more, it would constitute an affirmation of the primacy of force, and therefore matter, with respect to the spirit.

Since the Catholic Church freed herself from too close a union with the State, and since the separated Churches, in actual fact, abandoned their status as "state religions," they have resolved the problem of religious liberty by anchoring themselves in this basic understanding of the principle of religious liberty. Today, the problem concerns the relationship of the State to the freedom of religion. As I have tried to explain, the contemporary State no longer places itself on a level of intellectual superiority with regard to the "unformed" masses. It no longer considers itself superior to and removed from the religious faiths, nor is it totally indifferent to and beyond the jurisdiction of moral and religious norms. On the contrary, having lost the status of a "secular" State, "secularism" being understood to signify complete independence from all external regulation, the contemporary State has ideologically assumed certain vital concepts that can, with regard to religious liberty, place it in a position equally or perhaps more dangerous than that which it occupied in the past.

I refer to (a) the desire to realize complete social justice by any means available, including those most violent and oppressive, (b) the will to identify itself with the racial, linguistic and mythical traditions of the people, and (c) the tendency to sacrifice every consideration to the formation of a new popular community. Surrounded by enemies, and in a constant struggle, these are the elements of the new State that can and actually do induce many states to sacrifice or considerably limit all liberty, beginning or ending with freedom of religion. Confronted with this awesome and undeniable situation, it is superficial and false for the nations who are faithful to the concept of freedom to resort to a sterile condemnation of the violation of this great principle or to attempt a moral boycott of sorts. None of these methods could change the direction of the path which the ardent and, above all, irreplaceable leaders of these communities have traced.

As a matter of fact, in this political situation that is so full of potential for good and evil, only one power can come to the defense, not only of religious freedom, but of freedom in general. This is the power of the Church, above all the Catholic Church, which sometime in the future, and by means as yet unknown to us, will bring about the unification of all the Christian Churches. The Catholic Church is both a spiritual and an earthly entity. Deeply anchored in the people, it teaches principles of love and justice for all, principles which constitute the most valid and substantial substrate of the contemporary State. Furthermore, the Church is spread throughout the world and, consequently, is present in the international order to which the contemporary State must be securely anchored. This State should by all means seek an ac-

cord with this flourishing and insuppressible Church, a harmony whose first and essential note could not be other than freedom for the Church itself.

We can be sure that this would seem a supreme paradox to men of the past, and to those who live by the ideas of the past—that the best defense of freedom is an accord between the Catholic Church and the State, the first principle of which is a recognition of the Church as an entity endowed with a sovereignty derived from its own spiritual domain. It should be noted, however, that this theory constitutes one of the profound, if subtle, reasons for the unjustifiably maligned efforts of Pope John XXIII in connection with the religious situation in Russia and the Soviet satellites, including the problem of the Russian Orthodox Church. If in fact an agreement were to be reached tomorrow with these countries, Russia in particular, the primary advantage of such a presently improbable accord, religious freedom, would be recognized not only on paper but in the fact of the Russian Orthodox Church. The latter, through the efforts of the Church of Rome, would achieve an indispensable means toward a more intense life of its own—an actual opportunity for the reconquest of souls. The possible consequences are incalculable, not only regarding a rebirth of Christianity among the people who are restored to it, but also for the prospects of a reunion with the largest separated Christian Church.

As we have seen, there are countries in which freedom in general is rarely practiced or where it has been given a totally distinct interpretation, such as “functional liberty,” “popular freedom,” or “controlled liberty,” instances in which the adjective destroys the noun. If, in such countries, freedom of religion can scarcely be pre-

served by means of an accord between these states and the Catholic Church, what is happening today in those countries having a liberal and democratic tradition?

During this last century, a new factor has manifested itself in these states. By means of masses of Catholic voters (in some respects very different from the laity of the past), universal suffrage, extended in almost all countries to include women, has returned political power to the Church. At least since the Renaissance, and including the major part of its prior history, the Church has dealt solely with princes and their ministers, or with the small ruling classes of the liberal society of the eighteenth century. It now finds itself faced with the representatives of a people who are in large measure its own followers. Caesar wears a new face but, underneath, the traits of fidelity to the Church are obvious, at least in numerous European countries and their former colonies. They are particularly significant if we stop to consider that the Catholic Church is the only religious society that affirms a sovereignty originating from within its own domain and which occupies a position of independence that is recognized even in international law.

The danger to freedom of religion is obvious in states hostile to the recognition of liberty for their citizens. We wonder, however, if the situation in democratic countries is not even more fraught with dangers to religious freedom. Viewed from a purely mundane and external position, given the situation of the Catholic Church in some of these states, is there not some danger that religious liberty might come to be regarded in a more or less restricted sense, as perhaps “the liberty of the Church,” for-

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## FREEDOM OF RELIGION

(Continued)

getting not only that freedom must be extended equally to all religious confessions, but neglecting as well the *essential* solidarity that binds together all the rights of freedom?

As Montalembert has remarked, there are still some Catholics who, while they perhaps do not openly admit it, regard freedom as something of a minor, temporary evil. Their "true ideal is the return to a world protected under the wings of a watchful Caesar, whose power includes anything but the maltreatment of priests." However, having left behind narrow thinking, secret grudges and the fears of these Catholics of the past, the Church has long since surpassed the doctrine of thesis and hypothesis with respect to religious liberty and freedom in general. If *Pacem in Terris* has solemnly confirmed that which had been already suggested by Leo XIII, the systematic construction of the Church's teaching on this point was already owed to

the wonderful messages of Pius XII to a world torn apart by World War II.

If it is not quite accurate and, perhaps, even dangerous and mistaken to say that freedom is enough for the contemporary Church, freedom without privileges, without any recognition of its juridical forms and institutions, and without any diplomatic accords, it is entirely true that liberty for the Church cannot exist without "liberty for all," including freedom for error. The latter is at once the consequence and guarantee of freedom for the truth. Thus, the situation of religious liberty in the contemporary State is one of reciprocal guarantees. Liberty for all provides the only complete assurance of a continued freedom for the Church.

The Holy Spirit and the Church, His vehicle, move in a world that grows daily more complex and diverse. As laymen, it is our duty to see to it that the State, this synthesis of our efforts, this conglomeration of our sacrifices and hopes, becomes (like a human being) ever more an instrument of His Justice, more valid and truly Christian, such that we may realize a religious freedom practiced in a profound and real manner.