

A Declaration of Christian Freedoms

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A DECLARATION OF CHRISTIAN FREEDOMS*

Theological Foundations

THIS DOCUMENT attempts a preliminary declaration of Christian freedoms against a background of theological, historical and legal understanding. The freedoms with which we are concerned are Christian freedoms, and it is out of an understanding of Christian existence that they arise. But they are also true human freedoms, for the Christian revelation of God is also a statement about man.

In the New Testament, Christian existence is described in a variety of metaphors which emphasize the radical newness of man's redeemed state: for example, it is said to be a state of rebirth from above, the possession of eternal life, the condition of divine adoptive sonship, even a new creation. In these and other ways, the New Testament theologians seek to express the fundamental Christian belief that the incarnation and redemption have given man a new basis for understanding his life in the world, a new dignity in which God's gracious giving transforms our acknowledged sinfulness into a sharing of the divine life itself. The gift of God to man in Jesus Christ is a revelation that comes to man not as a voice from the total otherness of a God eternally remote from the world, but as a word spoken in man himself, the Word whose real humanity embodies a new possibility for authentic human existence.

* This is the summation paper of the Symposium on a Declaration of Christian Freedoms sponsored by the Canon Law Society of America and The Catholic University of America, Washington, D.C., October 5-6, 1968.

In the theology of St. Paul in particular, the specificity of authentic human existence in Christ is freedom: "Where the Spirit of the Lord is, there is freedom." The redemption is an emancipation: "For freedom Christ has set us free." The Christian is one to whom the external restraint of law is secondary because he possesses within himself in faith the Spirit of Christ, the Holy Spirit of freedom. Man's freedom is the very autonomy of God. Christian moral living is not a means of acquiring the Spirit but the fruit of possessing God's free gift of the Spirit; it is a response to grace. The observance of law does not constitute man a child of God, but rather obedience to the unique "law of Christ," the law of love, gives expression to the newness of Christian existence. The Christian acts as a Christian, that is as a "new man," only when love speaks through him in the community of men.

Radical Christian freedom is total freedom, but it is not absolute freedom. The newness of Christian existence is an achieved reality in Christ, but it is also a reality to be fully achieved in each man. Though redeemed from the power of sin and death, man remains capable of sin. In his state of being already emancipated but not yet fully free, he needs and seeks guidance in learning how love most truly expresses his new being. It is in the Christian community that he learns how his liberty is to be specified by communal charity. The Christian community mediates to him the revealed model of love in action that is the person of Jesus Christ. And because the Christian community is the Body of Christ,

the presence of Christ in the world, it has the right and duty to discern the forms that love takes in human society, the specifications that a man's freedom must assume for the mutual protection of all men's freedoms. But the law of the Christian community will never be more than the necessary expression of inner Christian freedom in society in the changing patterns of times and cultures. It must be oriented to the protection of human freedoms and rooted in the faith that the Christian freedom it ensures and the love it specifies are the work of God and only thus the noblest work of men.

Historical Development

The New Testament does not specify any detailed pattern of constitutional organization for the Church. Peter, the apostles and the people of God existed from the beginning; but the role played by Peter's successors in the life of the Church has changed extensively during the course of the centuries, and so have the relationships between bishops and their people.

The structural forms of the Church are necessarily related to the changing patterns of human culture. We acknowledge the presence of divine and human elements in the structure of the Church. Since, however, the Church exists among men in the form of a human association, the Church expresses its life in terms of human relations and the forms of human society. This fact is not at all to be deplored, nor even to be borne with as an exigency of the human condition. Rather, it is to be respected as a central aspect of the Church's essential sacramentality.

Accordingly, the Church's structural forms should never be static; nor have they been static during the course of history. The existing forms which we may take for granted have been progressively shaped by a variety of social and political environments down the course of the centuries.

The Christian Church began its life as a grouping of communities that were conscious of their identity as the eschatological Israel. The structural forms of these communities were, as a consequence, strongly influenced by those of the old Israel, and most specifically by those of the Jewish synagogue. The body of elders (or presbyters) of the synagogue formed a model for the presbyteral body which played an important part in the government of the early Christian community.

The early bishops were the chosen leaders of tightly knit little communities whose members participated actively in every aspect of the Church's life. During the late third and early fourth centuries a combination of circumstances and pressures brought about the additional development of higher levels of ecclesiastical organization, drawing in this instance on the forms of governmental structuring of the Roman Empire. Similarly, when the Church lived on into the Middle Ages after the collapse of Rome, the Church adopted many of the structural forms of feudal society.

But the Church was never a mere passive imitator of secular institutions. The Church adapted them and transformed in accordance with the needs of its own intrinsic nature. The forms of

ecclesiastical organization that resulted from this process in turn profoundly influenced the development of Western forms of government. The structure of the early modern state—both in its monarchical and constitutionalist aspects—was deeply influenced by the model of the medieval Church. Indeed, until recently, the whole structure of Western institutions was shaped by a continuing interplay between Church and State.

Thus, many different forms of Church structure can serve the needs of the Christian community. But inappropriate structures can restrict freedom and so impede the expression of love. And such abuses will inevitably arise if Church institutions are allowed to become fossilized—if they shackle on the Christian people rules and disciplines which are no longer expressions of the spontaneous life of the people but moribund survivals from an alien culture. The modern Code of Canon Law reflects both the Church's heritage of Roman law and the mood of intense, inward-looking defensiveness that characterized the Tridentine age. The Code's regulations and procedures are often inappropriate to the life of the modern world. In some spheres they are shackling the liberty of the Christian people. Meanwhile secular law has come to concern itself extensively with the protection of basic human freedoms. In these circumstances a resumption of the ancient dialogue between the divine and secular elements in the structure of Christian society could help to revitalize the Church and so to fit it better for its task of vivifying the world.

Legal Considerations

Legal reforms begin with protests within a society against the established government. The protests are specific and concrete; they are centered on individuals and on the punishments imposed on them. The protests engender discussions and debates that soon rise to the level of general principles. In the American branch of the Catholic Church there have been many controversies in recent years over violations of the rights of individuals, groups and institutions. Some of these controversies have been well publicized; most have been buried in obscurity.

The inadequacy of existing procedures for dealing with such controversies has recently been illustrated by the events following the publication of Pope Paul VI's encyclical on human life. No matter what stand is taken on the doctrinal question, it is manifest that some procedures invoked are out of keeping with the best standards of the Church's legal tradition. It is the purpose of this paper to reaffirm that tradition and to advance it.

In proposing this document, we are intensely aware of the analogy that must be kept in mind when discussing the Church as a society. In some ways the Church resembles civil society, but in others there are crucial differences. In the Church, as in civil society, there is a loss of freedom as well as a gain of freedom. In the Church, as in civil society, the more intimately a member is identified with officialdom, the greater is his loss and gain of liberty. On the other hand, the Church, unlike civil

society, is a society of belief and love. There is diversity and development within the Church, but not the sweep of ideological and practical pluralism that characterizes many civil societies. Owing to these similarities and dissimilarities between the Church and civil society, the freedoms characteristic of civil society have a relevance, but emphatically only an analogical relevance, to freedom within the Church.

This document is intended as a working paper toward a declaration of freedoms within the Church. We have chosen areas of immediate concern without attempting to be complete in our selection. We have enunciated general principles without attempting to specify them beyond their obvious application. We are aware that there are many complicated problems of liberty and authority within the Church that must be carefully studied, articulated and solved. We intend to work in the years ahead toward a more detailed, concrete and enforceable statement of Christian freedoms.

One area that is in special need of study is that concerned with the imposition of penalties such as excommunication and suspension, with the definition of the conditions of employment within the Church, of the qualifications of those entitled to participate closely in the government of the Church, and of eligibility for offices such as those of priest, bishop and Pope. A Christian may engage in a course of speech or conduct that would disqualify him from employment or office in the Church but not from communion in the Eucharistic Celebration. Far more work and study is necessary before there

can be an adequate specification of the situations in which deprivation of office, employment or membership would be appropriate.

Another area for intensive research and formulation is that of remedies and procedures. Rights without remedies are meaningless, mere legal hoaxes. At present, although canon law states that every right shall have a remedy, there are no effective remedial procedures within the Church for dealing with claims of violations of basic Christian freedoms. The possibilities for effective legal remedies are manifold. Useful analogies may be found in the French system of administrative courts, in some of the Anglo-American appellate procedures, and in many of the systems of mediation and arbitration that various nations have developed. In any event, as pointed out in *Towards Constitutional Development Within the Church*,¹ there must be a structure of courts, staffed by independent and professional judges, for the Church to function in the world as an effective sign of freedom.

On the subject of due process within the Church, we have been able to arrive at a preliminary statement that is included among the freedoms mentioned in the second part of this document. It is obvious, however, from the legal experience of mankind and from the silence of the New Testament about any comprehensive blueprint of due process, that there is no reason for a single system of procedure, in local and regional matters, throughout the universal Church. Cul-

tural variations are necessary and desirable. The Church must not only be, but must seem to be, entirely fair, impartial and objective in its administrative and judicial procedures.

Still another problem that awaits future study is the matter of the rights and freedoms of those who are not members of the Church. The mission of the Church is universal; therefore, all men have rights and freedoms with regard to the Church. Some of these rights and freedoms are negative—for example, the right not to be subjected to a coercive political establishment of the Church by a State. Some of the rights and freedoms are positive—for example, to hear the message of the Gospel. The specification of these rights and freedoms has been begun in the encyclicals of Pope John XXIII and in the Declaration on Religious Liberty of the Second Vatican Council. The elaboration of these rights and freedoms is a task to which we gladly commit ourselves, in union with other scholars, in the years ahead.

No statement of Christian freedoms would be possible today, were it not for the reaffirmation in our own time of the Church's tradition of freedom by the late Pope John XXIII, and by the bishops and Pope Paul VI, assembled at the Second Vatican Council. It is in the spirit of their work and with the help of analogies from secular society that we offer the following section of this paper, a provisional statement of some of the Christian freedoms we deem indispensable for our times. Vindication of the rights of persons is the surest sign of an awareness of the dignity of persons.

¹ WE, THE PEOPLE OF GOD (Our Sunday Visitor Press, 1968) at 5-18 (especially 11-13).

Christian Freedoms

Within the tradition exemplified by *Pacem in Terris, Mater et Magistra, Gaudium et Spes*,² the United Nations Universal Declaration of Human Rights and the United States Bill of Rights, we affirm the following inalienable and inviolable rights and freedoms of persons in the Christian community:

1. The right to freedom in the search for truth, without fear of administrative sanctions. We affirm in particular the right to develop conceptual and metaphysical systems aimed at reflecting the dynamic character of the universe and of human society within it. The Church neither stands nor falls on any system of "perennial philosophy" or an established metaphysics.

2. The right to freedom in expressing personal beliefs and opinions as they appear to the individual, including freedom of communication and publication. In particular, we affirm the right of competent persons publicly to express dissent from doctrines that are taught authoritatively but not infallibly. We wish to emphasize the special significance of these rights for persons working in the scholarly community, where freedom of discovery and expression are the clearest safeguards of truth.

3. The right of individuals to access to objective information, in particular about the internal and external operations of the Church. We believe that man is free only when he understands himself,

his society, and his place within it. We believe that there should be no arbitrary restrictions placed upon man's ability to acquire information necessary to this understanding. In this respect, the freedom of the press is an essential Christian freedom.

4. The right to develop the unique potentialities and personality traits proper to the individual without fear of repression by the Christian community or Church authorities. We recognize the right to diversity in human qualities and we oppose any attempt to suppress the human personality in the interests of institutional stability.

5. The right to work out one's salvation in response to the unique challenges offered by the age and society in which the Christian lives. We recognize the great diversity in human cultures and are firmly opposed to any attempt to define Christian values solely in terms of any one cultural system.

6. The rights of persons employed by, or engaged in the service of, the Church to conditions of work consonant with human dignity as well as their right to professional practices comparable to those in the society at large. These conditions should include recognition of professional competencies, freedom from excessive bureaucratic structures and regulations, and freedom from the arbitrary use of coercive authority, including arbitrary job transfers.

7. All members of the Church have the right to freedom of assembly and of association. In all centuries the Church has been enriched by the spontaneous growth of new forms of organiza-

² The Pastoral Constitution on the Church in the Modern World, the Second Vatican Council.

tion and by the participation of its members in societies outside the Church.

8. In accordance with the recommendations of *Towards Constitutional Development Within the Church*,³ all members of the Church have the right to participate, according to their gift from the Spirit, in the teaching, government and sanctification of the Church.

9. All members of the Church are entitled to all the rights and freedoms of Christians without discrimination on the basis of race, color, sex, birth, language, political opinion, national or social origin.

10. All members of the Church have a right to effective remedies for the redress of grievances and the vindication of their rights.

11. In all proceedings in which one of the parties may suffer substantial disadvantage, the procedure must be fair and impartial, with an opportunity for submission to boards of mediation and arbitration.

12. In all procedures, administrative or judicial, in which penalties may be imposed, the accused shall not be deprived of any right, office or communion with the Church except by due process of law; said due process shall include, but not be limited to: the right not to be a witness against oneself; the right to a speedy and public trial; the right to be informed in advance of the specific charge against him; the right to confront the witnesses against him; the right to have the assistance of experts and of counsel for his defense; and a right of appeal.

³ *Supra* note 1, at 9.

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*Ecclesial Rights in the Early Chris-
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