Let Freedom Ring!—Catholics, Moral Pluralism, and Religious Freedom in an Election Year

by Dawn M. Nothwehr, O.S.F.

In their September 2011 meeting, the US Catholic Bishops' Administrative Board voted to reissue their 2008 statement “Forming Consciences for Faithful Citizenship,” for the 2012 election cycle.1 This document provides guidelines for Catholics who seek to act as “Faithful Citizens.” However, what received far more pre-election attention was the Bishops’ flurry of activity in opposition to a policy decision concerning the implementation of the Affordable Care Act.2 The Bishops strongly asserted the policy violated Catholic morality but, more significantly, also imperiled religious freedom.

Here my intent is not to debate the intricacies of this later topic but only to point to several factors that account for the divergence of moral conviction among Catholics that surfaced on this occasion. Briefly, moral pluralism exists not only in US democratic society but also in the divergences of the Church’s self-perception of its role in a pluralistic democratic state.3 Important guides in this exploration are John Courtney Murray and the Vatican Council II’s “Declaration on Religious Freedom, Dignitatis Humanae: On the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious” (DH).4 Also important is the fact that Karol Wojtyla

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challenged the Council’s choice (following Murray) to base religious freedom primarily on “human dignity” rather than on “truth.” As Pope John Paul II, Wojtyla exerted a substantial counter influence, yet to date these contestations remain largely unresolved.

**Moral Pluralism in the US and the Right to “Religious Liberty”**

The actual language of the First Amendment of the US Constitution describes “religious liberty” as a protection of “the free exercise” of religion and the prohibition against state preference of one religion over another. No one is to be forcibly constrained to act against their conscience; no one is to be forcibly restrained from acting according to their conscience. There is no Constitutional guarantee for freedom from error or a freedom for the truth to be established. John A. Coleman put it succinctly: “The First Amendment is an exercise of epistemic humility, in that the state admits it has no competency to adjudicate matters of religion.” Thus, implementation of this amendment requires the state to do a balancing act to find a consensus that everyone can live with.

**Vatican Council II, the “Declaration On Religious Freedom, Dignitatis Humanae: On the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious”**

From the side of Catholicism, there is a mixed history concerning “religious freedom.” Prior to Vatican II the Church held the “error has no rights.” That is to say, ideally Catholicism should be the established religion. When that was not possible, Catholics were to work to make it so, or at least assert their right to conscience and belief in the truth. Due largely to the efforts of John Courtney Murray, on December 7, 1965, by a vote of 2, 308-70, the Church took a vast (though contested) leap into the modern world in order to deal more effectively with religious freedom and religious pluralism in democratic societies.

The declaration (DH) asserts the following:

(1) Every human person has the right to religious freedom. (2) This right has as its object or content an immunity from coercion at the hands of individuals, social groups, or public powers. (3) The immunity is understood in two senses: (a) no one must be forced to act against his conscience in religious matters; (b) no one must be restrained—in those same religious matters—from acting in conformity with his conscience, whether privately or publically, whether alone or in association with others within limits. (4) The right has its foundation in the dignity of the human person as this dignity is known in the light of revelation as well as through reason. (5) This right demands recognition and sanction in the constitutional whereby society is governed.

The Church’s shift to support religious freedom involved a development of doctrine. The line of development included: Christ’s non-coercive teaching; Pius XII’s acceptance of democratic rule; the positive experience of ecu-

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5 “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”
6 “One Nation Under God: Can We Please Both Church and State in a Pluralistic Society?” America 206, no. 8 (March 12, 2012), 19.
8 See DH §12.
emenical cooperation during post-WWII reconstruction of Europe; John XXIII’s assertion of religious freedom;10 and the reality (confirmed by the ecumenical movement) that the Church’s former arcane stance was scandalous in the modern world.  

Yet *DH* was the most widely debated declaration of Vatican II, and it remained open to interpretation upon its passage.

*DH* was written by committee and thus lacks clarity in several important areas. Perhaps most significant is “the tension in the declaration between the duties toward truth . . . and . . . the objective grounding of freedom in human dignity [that] remain unresolved.”12 John A. Colman contends that *DH* leaves the door open for a kind of “quasi-establishment position for the church’s moral teaching as civil law.”13 This later case was advanced by John Paul II’s assertion that the church’s positions on numerous issues must be incorporated into civil law.14 Indeed, John Courtney Murrey’s position won the day December 7, 1965, but Karol Wojtyla’s interpretive influence has brought the discussion nearly full circle.

**John Courtney Murray, Morality, Politics, Pluralistic Democracy and Law**

John Courtney Murray provided helpful insights in his teaching and responses to Wojtyla.15 Murray held that legal prohibitions are not capable of dealing with every kind of moral evil. Lawmaking or jurisprudence is “a subtle discipline, at once a science and an art, that mediates between the interpretations of the moral order and the commands or prohibitions of civil law.”16 Indeed, what is legal is not always moral, and vice versa. However, as Gregory A. Kalscheur elaborates: “If society wishes to elevate and maintain moral standards above the minimal level required for the healthy functioning of the social order, it must look to institutions other than the law.”17

What laws can accomplish is limited. In fact, Murray thought that forcing the law to do the work of morality was self-defeating. He agreed with Aquinas that laws must be shaped to fit the level of virtue possible to expect from the people required to comply with them. Murray understood American pragmatism, jurisprudence, and human behavior. Fear and coercion are among the least effective tools for achieving changes in moral living. Murray’s wisdom signals the possibility that when there is no public consensus on an issue, legal efforts to force change will be “unenforceable, ineffective, and resented as unduly restrictive of freedom.”18

Murray held that unless people genuinely understand and believe that particular moral values exist for the common good, there will be a disconnect between a law and the people’s lived morality. Recourse to education and genuine respectful dialogue, done in a spirit of sincere pursuit of the truth, is the most viable and effective option. In the meantime, the obligation for Catholic politicians and voters is to pursue other effective means to limit known evil.

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13 Coleman, 12.
14 Coleman, 12. Coleman cites legal scholar, Leslie Griffin, “Commentary on *Dignitatis Humanae*,” 256-59. See especially two interventions during the debate of *DH* by Karol Wojtyla on September 1964 and September 22, 1965, quoted by Griffin at 257.
17 Kalscheur, “American Catholics and the State,” 17.
18 Kalscheur, 18.
Benedict XVI has wisely affirmed this line of thinking in *Deus Caritas Est* §28:

> The Church wishes to help form consciences in political life and to stimulate greater insight into the authentic requirements of justice as well as greater readiness to act accordingly, even when this might involve conflict with situations of personal interest. . . . The Church cannot and must not take upon herself the political battle to bring about the most just society possible. She cannot and must not replace the State. Yet at the same time she cannot and must not remain on the sidelines in the fight for justice.19

In the US and in many other nations, Catholics are privileged to be able to exercise their religiously-grounded moral choices. The vision of *DH* promotes genuine freedom of conscience and religion, requiring us to work with a persuasion-through-dialogue model in the context of electoral politics in a morally plural democratic society. As we live through the 2012 election cycle, let us take advantage of that great opportunity to teach and learn from our fellow citizens and neighbors of other moral positions. But let us also be genuine agents of the Gospel who “proclaim liberty throughout the land, and to all its inhabitants!” (Leviticus 25:10).

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