Freedom, Truth, and Human Dignity

I. Introduction

A. I am delighted to comment on the important book of Professors Schindler and Healy on the formation and interpretation of Dignitatis Humanae (DH), Freedom, Truth, and Human Dignity (FTHD). In the interest of full disclosure, let me say that this text has been very helpful to me in preparing talks leading up to the 50th anniversary of DH on December 7th. So I’m not qualified to conduct a peer review; I’m a consumer of this work!

B. The book is notable for the care it accords the text itself of DH. For example, the authors provide a more scholarly English translation of the text than the older translations to which many of us are accustomed. I am not an expert in translations but I feel it’s time for the translations of all the Council documents to be reviewed to ensure that they capture both the literal meaning and the nuances of the conciliar texts. FTHD also carefully studies the interventions on the Council floor and the iterations of the text as it evolved through various schemas. Such scholarly work is vital for interpreting the text more adequately, for if at times the development of the text was contentious, so too the history of its interpretation has been less than harmonious. The goal is not to pick winners or losers but to interpret the text rightly, consonant with what the Council Fathers intended to convey with the help and guidance of the Holy Spirit.
II. Why DH Was Written

A. The Council signaled a new openness of the Church towards the modern world, towards contemporary culture. Exactly what that means remains vague or a matter of dispute. For some it means that the Church is to look, sound, and feel more contemporary. As FTHD points out, however, the openness sought by the Council was more profound. It centers on the relationship of faith and reason and it took shape in discussions concerning faith and science, the relationship of church and state, and the relationship of the Catholic Church to the other religions of the world. This new openness represents not a break with the past but rather a reform in which the Church looks more deeply into the faith she has received, in light of new historical developments presenting both challenges and opportunities.

B. DH therefore is rightly viewed as a pivotal conciliar document because it pertains to the relationship of Church and State as well as the relationship of the State to the society it is supposed to serve. Those relationships were deeply affected by the rise of the modern democratic state as well as the rise of totalitarian governments of the left and the right. The Iron Curtain was firmly in place as the preparations for the Council began but secularism and relativism were also on the rise. Bishops from the United States, influenced by Fr. John Courtney Murray, S.J., tended to trust and reflect the American Constitutional Order. Bishops such as Cardinal Wojtyla from nations in the grip of Communism brought a different perspective, more deeply rooted in theology and philosophy. Others, among them the French bishops, who faced an accelerating secularism, likewise sought a richer scriptural and theological approach to the question of religious freedom. Yet, FTHD does a great service in demonstrating that the drafting of DH was more than a concatenation of national, cultural, and theological perspectives. It wasn’t just a matter of the Potomac, the Seine, or the Vistula flowing into the Tiber. Nor was it merely a matter of the Church’s enhancing her doctrinal formulations by reaching more adequate political
judgments. In the end, it has to do with the Church’s looking more deeply into her own patrimony and deriving from that deeper dive a profound theological anthropology. Indeed, the rich Scriptural, patristic, theological, and philosophical revivals of the first half of the 20th century – all taking place in a new age of martyrdom — this is what led, providentially, to a deeper grasp of the dignity of the human person: the relationship of the human person as an interiorizing subject to truth and freedom, a relationship that is anchored ontologically, in what is good and true, ultimately in God’s creative freedom, a relationship arises from the depths of the person and the human community itself. This is the deepened understanding of the human person which guided the reform of the Church’s relationship to the State and to culture itself.

III. Truth and Freedom

A. For me, this is also the book’s greatest contribution to a genuine understanding of DH. While it opens an historical and textual window on the drama of the conciliar debate, it also shows what is at stake in the struggle between those who sought to advance a merely juridical understanding of religious liberty and those who sought to ground that understanding in the Gospel and natural law. In the aftermath of two world wars and amid the tension of the Cold War, there was a clear need for the Church to speak about religious freedom. But how to do so presented a formidable challenge. How to construct a conception of religious freedom that would be credible, even persuasive to contemporary culture while being true to the Church’s patrimony of faith?

B. Fr. John Courtney Murray, who was himself no relativist or secularist, a thinker who clearly recognized the obligation of the individual to seek the truth, nonetheless believed that the argument for religious freedom to be advanced by the Council should have as few moving parts as possible. He feared that an evangelically based
notion of religious freedom would be dismissed. Perhaps he also feared the nascent document’s entering a philosophical thicket from which it might never emerge. Partially as a tactical matter, he advanced a notion of religious freedom that pertains more to an understanding of the limited nature of government than to an ontologically grounded right of the human person to religious freedom. Religious freedom is thus described in negative terms, as freedom from coercion on the part of the state, and “tied to a human dignity conceived in abstraction from the person’s relation to truth” (p. 105). In this abridged view of the human person, freedom emerges as personal autonomy, the ability to choose one thing over another, individually and communally, so long as the public order is not threatened.

C. Again, Murray did not believe that human beings were radically self-defining; rather he wanted to ensure that religious freedom be accepted as a universal right. But loosened from its moorings in the order of truth and goodness, various council fathers feared that freedom would be imperiled by what Cardinal Ratzinger would much later call, “a dictatorship of relativism”. Even Murray’s supporters, however, raised questions such as these: Did his limited notion of religious freedom cover all threats to religious freedom, including those that arise not from government as such but from society? Did he tie the notion of religious freedom too closely to one form of government?

D. DH clearly recognizes the negative notion of religious freedom, that is, freedom from coercion not merely on the part of the state but also by other individuals and forces within the human community. Yet, FTHD renders a tremendous service by showing how DH roots this negative notion of religious freedom in a positive conception of religious freedom as intrinsic to human dignity. Religious freedom is rooted in a human nature that not only subjectively thinks and wills but rather a human nature that, for all its limitations and sinfulness, is dynamically not tenuously open and oriented toward truth, and in this search for truth is ultimately open to
God and the things of God. There is thus an in-built, intrinsic relationship of freedom and truth within human nature as understood most fully in light of God’s creative and redemptive freedom as found in revelation yet also understood in light of human reason and experience. Thus the moral obligation to use one’s freedom to search for truth and excellence arises from human nature which, while being earth-bound, rises above the contingent world in which it lives, moves, and has its being. This is how we are to hear the echo of Cardinal Wojtyla’s voice in the aula: “There is no freedom without truth.” This is how we are to hear the intervention of Bishop Ancel of France who said, “Not only is there no opposition between religious freedom and the obligation to seek the truth... but in fact religious freedom has its foundation in this obligation itself, and the obligation to seek the truth in turn requires religious freedom” (p. 88). Whether or not an individual uses his or her freedom to search for truth and goodness is another matter. The point is that the recognition of human transcendence is the ultimate way to ground and protect religious freedom as a universal human right. Thus immunity from coercion is not rooted in self-defined autonomy but rather in the transcendent dignity of the human person. The so-called “incompetence” of the state in matters religious is not the seeming inability of public officials to understand theology but rather the transcendence of the human person by nature open to God and to truth. DH does not fully spell out this theological anthropology but is rather like a tool kit. The authors of FTHD have worked long and hard to assemble the parts coherently.

IV. Other Intrinsic Relationships

A. Another service which FTHD provides lies in its explication not only of the intrinsic link between freedom and truth but also in its demonstration of the intrinsic link between the law and the order of what is true and good as well as the intrinsic link between State and the larger society.
B. John Paul II once opened a conversation with Cardinal Francis George by asking, “What have you done for the culture lately?” The Cardinal told this story to illustrate the link between the law and culture. How does the law serve the wider culture? The law mediates and bears witness to what is true and good to the wider culture. It is both an arbiter and a pedagogue of truth, goodness, and virtue. “It bears intrinsic witness to what is true and good” (p. 118). In a just society the State protects and does not supplant the God-given freedom of individuals and of the wider society in their orientation to the truth but also its laws ought to mediate truth and goodness to the society it serves. FTHD through the lens of Pope Benedict helps us see from another perspective why a neutral and negative concept of religious freedom is inadequate: “Either our laws recognize “a creative Reason, a Creator God,” which alone can sustain the idea of nature and natural law necessary for the realization of genuine justice, including just notions of human rights.... Or our laws, lacking this recognition, incline toward an understanding of man as a kind of self-creating freedom which has no inner need to listen to the language of being and incline as well toward dissolving the very idea of nature and natural law” (ibid). The latter view has prevailed in American Constitutional law for quite some time. and, as history has shown, it will not always remain neutral toward religion. Rather it will tend to become hostile to institutions that do maintain as a matter of deeply held religious and moral convictions, the need to listen to nature and to nature’s God in the totality of one’s life, personal and communal. In a culture that is shaped by laws indifferent to the truth there will be felt a growing need to “balance” basic freedoms of speech, religion and assembly over against unbridled expressions of sexual license and political correctness. In that balancing act, freedom of religion, speech, and assembly, all of which travel the road of history arm-in-arm, will be the losers. Indeed, in his address on religious freedom in Philadelphia, Pope Francis warned against the danger of an overarching secularism that tries to eliminate “all differences and traditions in a superficial quest for unity.”
E. One further contribution of FTHD I’d like to mention is its treatment of the notion of “public order” as a possible limitation on the juridical notion of religious freedom. What is the threshold for governmental intervention in matters of conscience and in the internal and external workings of religious institutions? During the Conciliar debate, Cardinal Wojtyla pointed out the expansive nature of the notion of “public order” no doubt influenced by his lived experience. FTHD probes and clarifies how “public order” is intrinsically related to the common good which in turn is rooted in the dignity of the human person.

V. Conclusion

A. Somewhere in the Gospels, Jesus said, “I have many more things to tell you, but you cannot bear them now” (Jn. 16:12). That’s pretty much the point we’ve arrived at now, so I would like to close by reemphasizing what I believe is the greatest contribution of FTHD and noting how FTHD contributes to current debates and struggles over the preservation of religious freedom at home and abroad.

B. In my view, the greatest contribution of the book is to demonstrate persuasively, in the difficult field of religious liberty, the determination of the II Vatican Council to approach the modern world in its achievements, contradictions, and tragedies, with a renewed and deepened anthropology spurred by historical developments but drawn from the inexhaustible well-spring of her Faith in Jesus Christ. Truly it is the Incarnate Son of God, Crucified and Risen, ‘who reveals man to himself and brings to light his most high calling’ (cf. GS, 22). As a Pastor, let me say that this retrieval is at the heart of every form of pastoral renewal worthy of the name.

C. How, then, does a more robust view of DH apply to current challenges? ...To say what is at once obvious, terrifying, and heartbreaking: the persecution of Christians and others in the Middle East which egregiously offends against human dignity. ...As freedom and truth part ways in law and in culture, religious freedom is being
caricatured as “a license to discriminate” especially when it comes to religious dissent to culturally prevailing views on sexual freedom and the redefinition of marriage. This manifests itself in the hostility towards state RFRA’s and the seeming inability of the current Congress even to protect the tax exempt status of religious organizations that teach that marriage is between one man and one woman. If before totalitarian governments set in sharp relief the link between truth and freedom, so now it is aggressive secularism that is demonstrates for us how basic human freedoms are imperiled once divorced from the quest for truth. ...Everson vs Board of Education in 1947 represented a turning point in the interpretation of the First Amendment that continues to impart free exercise. Instead of creating conditions favorable to the practice of religion, conditions in which the free exercise of religion flourish, it decided rather to hold religious groups at arm’s length lest the government be seen as “establishing” one religious group over another. ...It is astonishing that a circuit court would tell the Little Sisters of the Poor what does or does not burden the free exercise of their religious faith in an apostolate of service that began in 1839. In this instance, the court did not exercise judicial restraint but in a larger sense seemed not to perceive the need to tread lightly in matters that touch conscience, religious teaching, religious ministries, and matters that touch the transcendent dignity of the human person. In a larger sense, the HHS mandate, far from declaring its neutrality or incompetence, has defined which ministries are truly religious, and thus deserve an exemption, and which ministries are less religious, and thus less deserving of consideration. Here a regulatory agency is slicing & dicing ministries we see as integrally connected. ...Since the Employment vs Smith decision in 1990, or so it seems to this amateur, the threshold of government intervention in religious matters has been lowered and has been left to the mercies of legislatures and the regulatory authority of the executive branch; in other words, the notion of “public order” has expanded in ways that some of the Council fathers feared it would.
D. I am delighted to thank the authors of this book personally and to have the opportunity to offer a few reflections on how it assists the bishops in their role as teachers and in the wider church in its efforts to proclaim and defend religious freedom.

Thanks for listening!