



Religious Freedom and Civil Coercion St. Thomas and Vatican II

Aquinas Bruce Williams, O.P.

It requires no great profundity to observe that the Second Vatican Council has committed the contemporary Church to an unequivocal endorsement of the right to religious freedom, and that the approach which St. Thomas Aquinas and the whole medieval Church took to this question cannot be our approach today. John Courtney Murray has quite correctly stated that "the medieval state of the question is archaic."¹ It does not follow, however, that the medieval views deserve merely to be dismissed from serious consideration by the modern thinker. Theologians as well as historians can profit from a study of the medieval ideas on this subject, as Murray's own extensive work has shown. The contemporary Catholic position on religious freedom expressed in the conciliar declaration has its basis, as Murray has thoroughly demonstrated, in the medieval principal of *libertas ecclesiae*.²

This principle has been the central point in Murray's interest in the Middle Ages; the concrete application of the principle in medieval society—"limited freedom for the Jew, tolerance for the pagan, intolerance for the heretic"³—is what Murray has in mind by his term "archaistic." Yet even archaic things are of interest to a historian, and in this case it may be suggested that a theologian also has reason to be concerned. The passages in which classic medieval theologians sanctioned the repressive practices abhorrent to modern free societies can at least afford an insight into the way in which theologizing is historically conditioned. It is not even a patently inconceivable possibility that the medieval theologians' arguments, taken out of their archaic historic context, could be found to have yet some applicability to our own times.

Accordingly, we here propose to study the arguments by which St. Thomas Aquinas justifies what we should nowadays consider violations of religious freedom. We shall proceed with two questions in mind: first and primarily, how do St. Thomas' arguments in this matter illustrate the historical conditioning of the enterprise of theology? second, is there any sense at all in which these particular arguments are valid in the context of our own times?

Historical Conditioning

The part which historical circumstances played in the Thomistic arguments for religious intolerance seems to have been fairly evident to St. Thomas himself. The relevant passages of the *Summa Theologiae* show an awareness of history remarkable in a thinker so often accused of disdainful historical considerations in favor of abstract theorizing. In the article on the coercion of non-believers, it is true that the coercion of fallen-away Catholics (heretics or apostates) is justified with the simple remark that such people should be compelled, even by bodily force, to keep their baptismal promises once made; but the waging of war against infidels to protect the Christian faith is endorsed by an explicit appeal to actual Christian practice.⁴ The article on toleration of non-Catholic worship cites a policy of Pope Gregory the Great, recorded in Gratian's *Decretals*, in support of tolerating Jewish worship, and refers to the historical experience of the Church in justifying tolerance of the worship of other non-believers when need or utility indicates.⁵ Admittedly, however, in this article the historical (as well as the theological) arguments are given only

to support the advisability of toleration in the cases just mentioned; the general principle of intolerance in other circumstances seems to be taken for granted.

In the articles dealing with the treatment of heretics, St. Thomas' consciousness of concrete historical conditions is at least equally explicit. He does indeed give formal theological reasons for the repressive practices he endorses: heretics deserve the death penalty because the corruption of the faith is a much more heinous and dangerous crime than civil offenses for which death is inflicted, though the Church is right to show mercy and not have the heretics condemned except after due efforts at correction have been unavailing;⁶ relapsed heretics who repent should be reconciled to the spiritual benefits of the Church but not spared from death, inasmuch as the Church must always intend a person's supernatural good but not necessarily his temporal good which may endanger others' supernatural needs.⁷ Nevertheless, a careful reading of these two articles shows clearly that the foregoing arguments are not deductive syllogisms in which the practical conclusions about heretics are drawn *a priori* from theological premises; they are rather meant to serve as theological justifications for the actually existing and accepted practice of the medieval Church. In both articles the emphasis is constantly on what the Church currently does.

With the Church's actual practice accepted as something given, the theological discussion is undertaken to explain and vindicate this practice. St. Thomas' purpose is not to deduce scientifically that repressive measures against heretics should be adopted, but to show that such measures, already carried out and universally accepted in practice, are consistent with the Gospel message of mercy and love.

Heretic, the Supreme Civil Enemy

What we miss in St. Thomas is not a consciousness of the concrete situation, but rather a spelling out of precisely why a heretic is regarded as the supreme enemy from the civil as well as the ecclesiastical point of view; and the reason this is not spelled out in the *Summa* is that it was self-evident to the age in which St. Thomas wrote. It is we, seven centuries later, who require the explanation; and the explanation can be obtained only through a knowledge of medieval cultural history. The most eminent scholar in this field, Christopher Dawson, has written voluminously on the process whereby the Church at the dawn of the Middle Ages formed a new Western European culture

through a fusion of the customs of the conquering barbarian tribes with the ruins of the old Roman Empire. In one particularly concise and penetrating essay he shows what this Christian culture meant in terms of the fusion of religious and secular power, a phenomenon which we rather inaccurately describe as the union of Church and State—inaccurately, since in the Middle Ages there was nothing reasonably comparable to what we know as the modern State.⁸ Instead of two perfect societies, Church and State, brought into cooperation or confrontation by reason of the people who are members of both at once (a conception, incidentally, which became established only with Leo XIII⁹), the Middle Ages conceived of a single visible, perfect Christian society where both the religious and the secular powers operated. Although the formal distinction between the religious and secular spheres was always present to the medieval mind, the two formally distinct powers were conceived to be operating within the framework of the one Christian society.

In practice, moreover, the two lines of power were often confused, owing largely to the above-mentioned absence of any real equivalent of the modern State with independent means of exercising its operations apart from the Church; actually civil administration itself regularly depended on ecclesiastics, who alone were wont to have the necessary educational equipment. In sum, "the Church was a State Church and the State was a Church State, membership of the latter involved membership of the former and the personnel of government was practically the same."¹⁰ In the same passage Dawson summarizes the medieval outlook as a "unitary conception of society."

All of this helps us to understand the position of the non-believer and the peculiarly odious character of the medieval heretic which was so evident to the men of St. Thomas' era as to require no explanation from him. The heretic was not simply a religious dissenter as we conceive nowadays; in medieval society he was a public enemy, not just in the estimation of the faithful but *in reality*. Given the Catholic faith as the intrinsic determining constituent of the whole medieval social order, heresy was *in fact* not only a corruption of the integrity of the faith but an attack on the basis of society itself. The social and political upheavals involved in the Albigensian heresy are perhaps the most famous example; this episode presumably was quite prominent in St. Thomas' own mind, moreover, since it had been the very occasion for the founding of his own Order just a generation previous. But whatever the specific instances which may have been occupying St. Thomas'

attention, the point remains that any heresy was necessarily a paramount threat to the entire social fabric. Charles Journet has expressed this well:

... on the hypothesis of a society aiming, as the medieval society did, at the political embodiment of the faithful alone, a society composed *essentially*, not merely accidentally, of none but members of the Church, heresy would not only be antagonistic to the Church, but *of necessity and whatever its kind*, it would be openly anti-constitutional, and hence *deserving* of constitutional repression. . . .¹¹

Church and State Formally Distinct

No one should wonder that St. Thomas shared his contemporaries' recognition of heresy as the supreme social evil it was. What could be more easily forgotten is that notwithstanding the fusing of religious and secular lines of power which we have noted above, St. Thomas is relatively attentive to the formal distinction between the two in his discussion of the treatment of heretics. Significantly he never mentions the Church as the agent in the condemnation of heretics to death. The Church excommunicates the obstinate heretic, and refuses to protect the relapsed heretic even though she receives him back to her communion; but in both cases it is the secular power that inflicts the death penalty. In the first instance St. Thomas explicitly has the Church "abandon him to the secular tribunal" for the death sentence; in the second case he has the heretic received back to the Church "but not so as to be spared from the sentence of death" to be inflicted, presumably, by the same secular tribunal. Journet is emphatic on the importance of this distinction:

Thus, then, in St. Thomas' day, the State acted, or at least was held to act, on its own account in dealing with heresy. Certain precautions taken by the canonists whereby, on handing over the delinquents, they invited the secular courts to stop short of effusion of blood and the death penalty, might lead us to think that the ecclesiastical power considered itself still as primarily and principally responsible for the treatment inflicted on the heretics. But these are formulas of an age that had long passed away. By the time of Gregory IX, and much earlier no doubt, the effective responsibility for the punishment of heresy had passed to the secular powers, and the expression *brachio saeculari relinquere* is not in the least to be taken as a legal fiction, still less an hypocrisy, but meant just what it said. That is the opinion of many theologians to-day. I think it was that of St. Thomas himself; there is nothing in his writings to oblige us to rank him among those who threw the judicial responsibility for the death penalty on the Church.¹²

Hence for St. Thomas, the penalties proper to the ecclesiastical and the secular powers—excommunication and capital punishment, respectively—are distinguished clearly. Still, in this area even St. Thomas' precision should not be exaggerated; he has not drawn the lines nearly as sharply as the contemporary political mind would demand. Although it is the secular arm that inflicts civil repression on heresy, the only justifying reason expressly given by St. Thomas for this is the formal character of heresy as a *religious* crime, viz., an outrage against God and a danger to the religious faith of others.¹³ On the other hand, we have noted that in his earlier discussion of toleration for non-Catholic worship (presumably civil toleration is what is meant here) he mentions that "*the Church* has sometimes tolerated even heretical and pagan worship" when this was necessary or useful.¹⁴ The secular arm punishes for a religious offense, and the Church grants or refuses civil tolerance: here are two reflections of that medieval fusion of religious and secular authority discussed earlier.

St. Thomas and Religious Freedom

Such noteworthy exceptions notwithstanding, St. Thomas on the whole offers an admirable example of a theologian approaching practical questions from a concrete, existential point of view. He is reflecting on practices universally recognized as necessary to preserve the basis of society as constituted in his own day, and showing by theological reasoning that these practices are compatible with the Gospel. Certainly he could not be expected to have foreseen the profound development of temporal society in succeeding centuries; hence he cannot be blamed for not having seen the relative, historical character of his own society as clearly as we can see it by hindsight. As it is, he does insist on the formal distinction between the spiritual and the temporal power with such emphasis that Christopher Dawson credits him with having laid the intellectual basis for the development of a truly autonomous temporal order in post-medieval times.¹⁵ Though St. Thomas himself could not have been aware of the concrete implications of his distinction in the subsequent course of history, he did in fact influence that subsequent course and to this extent his thought was actually ahead of its own time.

Interestingly, John Courtney Murray is not willing to say as much for the Second Vatican Council's *Declaration on Religious Freedom*.

Far from being ahead of its time, the current declaration is described by Murray as simply a belated recognition of historical developments:

. . . In itself it did no more than clear up a historical and doctrinal *equivoque*. Its achievement was to bring the Church, at long last, abreast of the consciousness of civilized mankind, which had already accepted religious freedom as a principle and as a legal institution.¹⁶

This is not to denigrate the value of the declaration; Murray at once goes on to acknowledge that "the document was rightly called by Paul VI 'one of the major texts of the Council.'" The point is that the conciliar declaration did, at most, no more than what St. Thomas in his day was doing at the very least: making the theology of the religious liberty question relevant to the contemporary situation. St. Thomas, moreover, occasionally went beyond this point and made contributions which helped influence the future course of political and social development vis-a-vis the Church. At least in Murray's view there is nothing in the new conciliar document to suggest that it is destined for a similar role,—perhaps a sufficient reason to pause before dismissing St. Thomas altogether from serious theological consideration in the conciliar age.

Contemporary Relevance

Clearly enough the problem of religious freedom, whether studied from St. Thomas' point of view or in contemporary terms, cannot be correctly approached without reference to concrete historical and social circumstances. Murray has written eloquently on the fallacy of dealing with the problem "by a process of abstract argument, in a vacuum of historical, political, and jurisdictional experience."¹⁷ The conciliar document was actually a victory of Murray's historically-centered approach over the abstract theologizing which had motivated the opponents of religious freedom and the continental European liberals alike. Yet when all this has been said, we may be permitted to ask whether the medieval views, historically conditioned and archaic as they certainly are, can be isolated from that archaic context in any sense at all that would leave them valid for our own times.

A Negative View

The question becomes more enticing when we recall that one contemporary author, Eric D'Arcy, has abstracted St. Thomas' arguments

about repression of heretics from their historical setting for quite the opposite purpose: his thesis is that the arguments not only would be inapplicable today, but were invalid even within St. Thomas' scheme of thinking. This critic objects to most of St. Thomas' arguments cited above on the ground that they are inconsistent with other cardinal points of Thomistic thought. In particular he sees a conflict between St. Thomas' endorsement of repression against heretics and his earlier defense of the inviolability of conscience, the freedom of the act of faith, and the order of natural justice: the former two are violated, he argues, by forcing heretics to keep their earlier commitment to the faith which their conscience now erroneously judges to be wrong; the third is violated by civil imposition of the death penalty (an unjust deprivation of life) and by the suppression of non-Catholic worship (an attack on the right to worship God freely).¹⁸

Throughout this criticism the author consciously and purposefully prescind from all historical considerations. His direct concern is with freedom of conscience, and this problem, he holds, can be isolated from the question of Church-State relationships as they existed in the Middle Ages or now.¹⁹ He does acknowledge that no general appraisal of St. Thomas' teaching on religious freedom is possible without reference to historical factors, but he disavows any attempt at such an appraisal. What he puts forward is a criticism of St. Thomas' support for religious intolerance specifically in the light of the saint's own teaching on freedom of conscience, and he freely admits that a discussion of this one dimension of the problem does not amount to a complete critique.²⁰

Necessity of Considering Historical Factors

Granted this abstraction, the author argues his case with admirable force; but the one thing he never undertakes to prove, and which is most open to challenge, is the very legitimacy of making such an abstraction. The difficulty is not satisfactorily avoided by disclaiming an attempt at a complete evaluation of St. Thomas' teaching, for it seems that an exclusion of historical considerations renders any theological discussion of religious freedom not only incomplete but invalid. This is the principle which John Courtney Murray vindicated after having fought so strenuously, during the Council and for years prior to it, against the abstract theological approach which European friends as well as opponents of religious freedom were wont to adopt. In fact, precisely one of the pitfalls of an abstract theological defense of re-

ligious freedom which Murray mentions is the likelihood of "setting afoot a futile argument about the rights of the erroneous conscience."²¹

In the present case it appears that an unwarranted accusation of inconsistency against St. Thomas has resulted directly from the critic's deliberate refusal to weigh the historical factors; due consideration of these factors might have reminded him of other moral principles in addition to the ones he focused on, principles which bear directly on the issue he raised and which would seem to dissolve the apparent inconsistencies that troubled him. Specifically, the relevant historical circumstance is that in the intrinsically Christian formation of St. Thomas' society, a non-believer was at best an alien (hostile or not as the case might be) and a heretic or apostate was actually a traitor. The moral principle which this fact forces us to consider is the right and obligation of human society to protect itself against enemy aliens and, with more severe measures, against homegrown traitors. Granted that conscience cannot be coerced, society must, through its organs of coercive power (*viz.*, the State), act against those who—whether from a sincerely misinformed conscience or not—threaten its ultimate public interest.

Civil Coercion Today

In the autonomous secular society of our own times, it is not religious heretics who are the public enemies. But secular society does have its own "heretics," and we still take repressive measures against such people. In the United States at least, it is true that even in regard to non-religious matters we have developed an increased sensibility to the right of freedom of conscience and a correspondingly increased abhorrence of coercion. The Supreme Court has, for example, declared it unconstitutional to require that Communists register with the government or to penalize those who refuse military service out of personal conviction even of a non-religious character. But in other matters, most notably in the segregation crisis, the Federal Government (under the original inspiration of the Court itself) has not hesitated to use the coercive power of the law against the racial policies of the white southerners who claim to be acting out of the conviction of their own consciences. How explain the sensitivity toward freedom of conscience in the case of Communists and non-religious conscientious objectors, and the insensitivity toward the white southerners' consciences? The explanation is evidently that while racial inequality

is almost universally acknowledged as incompatible with the fundamental principles of American society, such a consensus does not currently exist regarding the danger of Communism or the legitimacy of furthering our national interests at times by military force. In cases where the threat to the basis of society seems more obvious, there is less inclination to defer to the conscience of the dissidents and a greater readiness to use civil coercion. In that respect our thinking has not changed since St. Thomas' time; what has changed is civil society's system of basic values and hence its definition of a public enemy. It may be asked whether in modern secular society there can still be instances where men's religious beliefs or practices could result in their being public enemies deserving of civil coercion; without speculating on the likelihood of such an eventuality, we may simply note that the declaration of Vatican II refuses to rule it out as a possibility.²²

Conclusion

Is it at all valid, then, to deal with St. Thomas' arguments from a point of view that transcends history? Yes, indeed; but not until his thought has first been understood in its historical context, and our own contemporary thought understood in the same fashion, can such transhistorical generalizations be made. We cannot take shortcuts by isolating specific philosophical or theological principles (such as freedom of conscience) from historical situations and the related principles of social and political morality. To do so would be, in Journet's words, "to condemn oneself to understand nothing of his thought, and to see no more in his argumentation, for all its clarity, than a subject for scandal";²³ Journet is speaking of St. Thomas' teaching, but his warning seems applicable to any theological discussion of religious freedom including our own contemporary framework of thought.

On the other hand, if we are prepared to give historical conditions their due consideration, we are enabled to understand not only how St. Thomas' thought was appropriate for its own time but how much value it retains in our own. In the realm of general principles, St. Thomas has indeed insisted on the inviolability of conscience, the freedom of the act of faith, and the demands of natural justice; these in fact constitute the main philosophical and theological principles on which the declaration of Vatican II proceeds.²⁴ Likewise, both St. Thomas and modern thinkers within and without the Church recognize that the free exercise of one's conscience is limited by the just

demands of the common good of society. As human society has adopted autonomous temporal values in place of the thoroughly and explicitly Christian-oriented values of the Middle Ages, the application of all these principles to the problem of the free exercise of religion in society has necessarily altered. The evolution of human society, however, does not give us a reason to deprecate the work of St. Thomas. Rather, the changed times challenge today's Christian thinkers to emulate St. Thomas' own example of showing how the vital operations of contemporary society are consonant with the message of the Gospel.

FOOTNOTES

¹ John Courtney Murray, *The Problem of Religious Freedom* (Westminster, Newman, 1965), p. 49.

² *Ibid.*, pp. 48, 60, 67, 68, 70, 77-78. Cf. Vatican II, *Declaration on Religious Freedom*, No. 13.

³ Murray, *op. cit.*, p. 48.

⁴ *Summa Theol.*, II-II, q. 10, a. 8, c. and ad 3.

⁵ *Ibid.*, a. 11, *sed contra* and c.

⁶ *Ibid.*, a. 11, a. 3, c. and ad 2.

⁷ *Ibid.*, a. 4, c. and ad 2.

⁸ Christopher Dawson, "Church and State in the Middle Ages," *Readings in History of Western Civilization*, ed. Thomas P. O'Neill (Westminster, Newman, 1961), Vol. I, pp. 165-166.

⁹ Murray, *op. cit.*, p. 59.

¹⁰ Dawson, *op. cit.*, p. 167.

¹¹ Charles Journet, *The Church of the Word Incarnate*, tr. A. H. C. Downes (London and New York, Sheed and Ward, 1955), Vol. I. p. 284 (emphasis added).

¹² *Ibid.*, pp. 290-291. The final phrase refers principally to Suarez.

¹³ *Summa Theol.*, II-II, q. 11, a. 3 and 4.

¹⁴ *Ibid.*, q. 10, a. 11.

¹⁵ Dawson, *op. cit.*, pp. 174-175.

¹⁶ John Courtney Murray, "The Declaration on Religious Freedom: Its Deeper Significance," *America*, CXIV (No. 17: April 23, 1966). 592.

¹⁷ Murray, *Problem of Religious Freedom*, pp. 20-21.

¹⁸ Eric D'Arcy, *Conscience and its Right to Freedom* (New York, Sheed and Ward, 1961), pp. 161-162, 166, 169, 170.

¹⁹ *Ibid.*, pp. 168-169.

²⁰ *Ibid.*, pp. 178-180.

²¹ Murray, *Problem of Religious Freedom*, p. 22.

²² See No. 6 and 7 of the *Declaration on Religious Freedom*.

²³ Journet, *op. cit.*, p. 285.

²⁴ *Summa Theol.*, II-II, q. 4, a. 2; q. 10, a. 8 and a. 12, Vatican II, *Declaration on Religious Freedom*, No. 2, 3, 10.