

Thomas Pink and Religious Liberty: A Failure to Achieve the Impossible

I. Introduction

In the eighteenth and nineteenth centuries, the popes repeatedly condemned religious liberty – the notion that everyone should be permitted to worship as he sees fit.¹ In 1965, however, the Second Vatican Council issued the declaration *Dignitatis Humanae*, announcing that every man has a right to religious liberty, subject to certain limitations. In the decades since the Council, many have attempted to reconcile *Dignitatis Humanae* with the earlier teachings. One of these reconcilers is Thomas Pink, a British professor whose theory of religious liberty has gained some attention in recent years. Pink believes that man has a natural right to religious liberty against the State, because he also believes the State cannot coerce on religious matters without authorization from the Church. Following this interpretation, Pink reads the prior papal condemnations of religious liberty as the Church commanding the State to coerce on its behalf, and he reads Vatican II as the Church addressing the State in its natural position of a civil power, when it lacks authorization to coerce religiously.

Although some now regard this as the definitive solution to the problem, it is my contention that Pink's thesis is mistaken, and distorts the traditional Catholic doctrine on Church and State. Under the traditional teaching, there is no natural right to religious liberty, and States do have the authority – and often, the duty – to coerce religiously. This paper will explain why Pink's presentation of the Church's traditional doctrine is wrong, while prescinding from the fundamental question of whether *Dignitatis Humanae* is incompatible with the traditional teaching – although some of the texts cited in this paper are directly relevant to that issue.

II. Thomas Pink's Theory

Thomas Pink begins with Leo XIII's distinction between the powers of Church and State.

In his encyclical *Immortale Dei*, the pope explains that God established Church and State over their respective orders, and that each is supreme within its own province.

The Almighty, therefore, has given the charge of the human race to two powers, the ecclesiastical and the civil, the one being set over divine, and the other over human, things. Each in its kind is supreme, each has fixed limits within which it is contained, limits which are defined by the nature and special object of the province of each, so that there is, we may say, an orbit

¹ Though according to the traditional teaching, it is sometimes appropriate for States to tolerate false religions. This is discussed later in the paper.

traced out within which the action of each is brought into play by its own native right.²

The pope further writes:

Whatever, therefore in things human is of a sacred character, whatever belongs either of its own nature or by reason of the end to which it is referred, to the salvation of souls, or to the worship of God, is subject to the power and judgment of the Church. Whatever is to be ranged under the civil and political order is rightly subject to the civil authority. Jesus Christ has Himself given command that what is Caesar's is to be rendered to Caesar, and that what belongs to God is to be rendered to God.³

The pontiff also allows for overlap between the two powers, noting that the same subject may be under the jurisdiction of both Church and State⁴.

From this distinction of the two orders, Pink concludes that the State's inherent coercive power is limited to the civil order, and that the Church alone has inherent authority to coerce on religious matters. Since Pink also holds that men have a right not to be coerced by incompetent authorities⁵, it would follow that man has a natural right to religious liberty against the State. For Pink, this means that the State cannot coerce anyone on religious matters under its own authority – although the Church may call upon a baptized State to coerce on the Church's behalf⁶. But in such an instance, the State is utilizing the Church's authority, not its own.

[T]he authority to coerce in matters of religion belongs to the Church; so that even if civil law is involved, the authority behind the penalties—the authority that legitimizes their application—is that of the Church rather than the state. The state is being authorized by the Church to act on her behalf, as her agent, to enforce her ecclesial directives. But then the authority to coerce does not ultimately belong to the state at all, but to another body, the nature and constitution of which is not given in natural law, but through a divine law that is revealed—the divine law of the New Covenant.⁷

² Leo XIII, *Immortale Dei*, par. 13. https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_01111885_immortale-dei.html

³ *Ibid*, par. 14.

⁴ *Ibid*, par. 13.

⁵ Thomas Pink, "Dignitatis Humanae: continuity after Leo XIII", p. 12.

https://www.academia.edu/32742609/Dignitatis_Humanae_continuity_after_Leo_XIII

⁶ *Ibid*, p. 10-11.

⁷ Thomas Pink, "The Interpretation of Dignitatis Humanae: A Reply to Martin Rhonheimer", p. 6-7.

https://www.academia.edu/2911284/The_Interpretation_of_Dignitatis_Humanae_A_Reply_to_Martin_Rhonheimer

This is what Pink believes the Church did in prior ages. From late antiquity until modernity, the State was coercing religiously, but Pink believes the State was only doing so at the behest of the Church, utilizing the Church's coercive authority. Consequently, he reads the eighteenth and nineteenth century condemnations as the popes calling for States to coerce on the Church's behalf⁸. As for *Dignitatis Humanae*, Pink believes it is merely teaching the natural right to religious liberty that men have when the Church is not enlisting the State as its secular arm.

It is clear that in *Dignitatis Humanae* something very new has happened. The Church is no longer choosing to address the state as her religiously coercive agent, inviting it to act in defence of Catholic truth. She is now addressing it as detached from such a role – as *potestas* of the civil order only.⁹

Thus, for Pink there is no genuine contradiction between the traditional teaching and Vatican II's declaration. All that has changed is the Church is no longer asking the State to coerce.

Thomas Pink repeatedly refers to his theory as “Leonine”, and thinks he is presenting Leo XIII's teaching on Church-State relations. For instance, Pink says that:

[A]ccording to Leo XIII's teaching the state acting on its own, apart from the church, has no authority whatever to impose legal obligations on us for religious ends. Hence when the state is acting purely on its own authority, purely as *civilis potestas* as it now does, we have a moral right, based on the dignity of our nature, to religious liberty against the state or any other body acting in the civil order, just as *Dignitatis Humanae* teaches. We have a right not to be coerced by civil authority for any religious end.¹⁰

But actually, Leo XIII never says anything like this, and these claims fly in the face of what the pope explicitly taught. Pink's mistake arises in part from misreading the two-orders distinction in *Immortale Dei*, though it will not be necessary to prove this directly. It will suffice to show that Pink's thesis is incompatible with the pope's teachings elsewhere.

⁸ Thomas Pink, “The Interpretation of *Dignitatis Humanae*: A Reply to Martin Rhonheimer”, p. 3. https://www.academia.edu/2911284/The_Interpretation_of_Dignitatis_Humanae_A_Reply_to_Martin_Rhonheimer

⁹ *Ibid*, p. 21.

¹⁰ Thomas Pink, “On *Dignitatis Humanae* – A Reply to Thomas Storck”. <https://thejosias.com/2021/10/28/on-dignitatis-humanae-a-reply-to-thomas-storck/>

III. Thomas Pink vs Leo XIII

Under the genuine Leonine understanding, there is *no* natural right to religious liberty, and States may only tolerate false religions under certain conditions¹¹. Pope Leo also teaches that States have a positive duty to worship God, and that religious liberty is state atheism. As we will see, this means that the State must have the inherent ability to avoid granting religious liberty.

First, Pink contradicts Leo XIII when he claims there is a natural right to religious liberty against the State. In his encyclical *Libertas*, the pope writes:

[I]t is quite unlawful to demand, to defend, or to grant [indiscriminate] freedom of thought, of speech, or writing, or of worship, as if these were so many rights given by nature to man. **For, if nature had really granted them, it would be lawful to refuse obedience to God, and there would be no restraint on human liberty.** It likewise follows that freedom in these things may be tolerated wherever there is just cause, but only with such moderation as will prevent its degenerating into license and excess. And, where such liberties are in use, men should employ them in doing good, and should estimate them as the Church does; **for liberty is to be regarded as legitimate in so far only as it affords greater facility for doing good, but no farther.**¹²

So nature has *not* bestowed a right to religious liberty, and liberty is only legitimate if it helps people to do good. This alone is enough to refute Pink's thesis, because his attempt to reconcile Vatican II with the previous teaching rests on the existence of a natural right to religious liberty in the traditional teaching. Leo XIII denies any such right, which means that Pink's thesis falls. As the pontiff says elsewhere, "[l]iberty is a power perfecting man, and hence should have truth and goodness for its object."¹³ Religious liberty, he says, is "hurtful to the true liberty of rulers and subjects"¹⁴, and a false liberty¹⁵. Moreover, "any liberty, except that which consists in submission to God and in subjection to His will, is unintelligible."¹⁶

¹¹ See below.

¹² Leo XIII, *Libertas*, par. 42. https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_20061888_libertas.html. Emphasis added. The Latin says "promiscuam", which is closer to "indiscriminate" than "unconditional".

¹³ Leo XIII, *Immortale Dei*, par. 32. https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_01111885_immortale-dei.html.

¹⁴ Leo XIII, *Libertas*, par. 22. https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_20061888_libertas.html.

¹⁵ *Ibid*, par. 20.

¹⁶ *Ibid*, par. 36.

Second, Leo XIII teaches that the State, like man, is required by the natural law to worship God.¹⁷ Religious liberty, according to the pope, is contrary to this duty.

This kind of liberty, if considered in relation to the State, clearly implies that there is no reason why the State should offer any homage to God, or should desire any public recognition of Him; that no one form of worship is to be preferred to another, but that all stand on an equal footing, no account being taken of the religion of the people, even if they profess the Catholic faith. But, to justify this, it must needs be taken as true that the State has no duties toward God, or that such duties, if they exist, can be abandoned with impunity, both of which assertions are manifestly false. For it cannot be doubted but that, by the will of God, men are united in civil society; whether its component parts be considered; or its form, which implies authority; or the object of its existence; or the abundance of the vast services which it renders to man. God it is who has made man for society, and has placed him in the company of others like himself, so that what was wanting to his nature, and beyond his attainment if left to his own resources, he might obtain by association with others. **Wherefore, civil society [because it is a society] must acknowledge God as its Founder and Parent, and must obey and reverence His power and authority. Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of action which would end in godlessness-namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges.** Since, then, the profession of one religion is necessary in the State, that religion must be professed which alone is true, and which can be recognized without difficulty, especially in Catholic States, because the marks of truth are, as it were, engravers upon it.¹⁸

In the same encyclical, Leo XIII condemns religious liberty as contrary to the virtue of religion.¹⁹ This is the virtue “that disposes us to offer to God the worship and honor that belong to Him as the supreme Author of all things.”²⁰ As Monsignor Joseph Clifford Fenton explains, “the debt of religion is a real obligation incumbent upon every human being and every social unit, and from a recognition of the truth

¹⁷ Leo XIII, *Immortale Dei*, par. 6. https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_01111885_immortale-dei.html.

¹⁸ Leo XIII, *Libertas*, par. 21. https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_20061888_libertas.html. Emphasis added.

¹⁹ *Ibid*, par. 19.

²⁰ John A. McHugh, O.P. and Charles J. Callan, O.P., *Moral Theology: A Complete Course Based on St. Thomas Aquinas and the Best Modern Authorities*, par. 2145. <https://www.gutenberg.org/cache/epub/35354/pg35354-images.html>

that there is only one objectively acceptable religious worship, that which is paid to God within the framework of Our Lord's Mystical Body".²¹

However, the State may tolerate false religions under certain conditions.

[W]ith the discernment of a true mother, the Church weighs the great burden of human weakness, and well knows the course down which the minds and actions of men are in this our age being borne. **For this reason, while not conceding any right to anything save what is true and honest, she does not forbid public authority to tolerate what is at variance with truth and justice, for the sake of avoiding some greater evil, or of obtaining or preserving some greater good.** [...] But if, in such circumstances, for the sake of the common good (and this is the only legitimate reason), human law may or even should tolerate evil, it may not and should not approve or desire evil for its own sake; for evil of itself, being a privation of good, is opposed to the common welfare which every legislator is bound to desire and defend to the best of his ability.²²

St. Thomas says the same, writing that "though unbelievers sin in their rites, they may be tolerated, either on account of some good that ensues therefrom, or because of some evil avoided."²³

Following this distinction, Fenton says that while there are some instances in which a State may fail to worship God without being morally culpable, "that failure to worship, despite its practical necessity, remains something objectively deplorable".²⁴ Antonius Straub distinguishes these concepts by explaining that the Church *per se* cannot approve of religious liberty, but *per accidens* it may be necessary to tolerate false religions in certain instances.²⁵

In any event, this distinction does not aid Pink's case, because Pink does not present Vatican II's teaching as a prudential tolerance, but instead as a natural right. And as we saw above, the pope rejects that idea.

²¹ Joseph Clifford Fenton, "Principles Underlying the Traditional Church-State Doctrine," in *The Church of Christ: A Collection of Essays by Monsignor Joseph C. Fenton*, ed. Christian D. Washburn (Tacoma, WA: Cluny Media, 2016).

²² Leo XIII, *Libertas*, par. 33. https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_20061888_libertas.html. Emphasis added.

²³ St. Thomas Aquinas, *Summa Theologiae*, IIa-IIæ, q. 10, a. 11. Second edition. Translated by the Fathers of the English Dominican Province. <https://www.newadvent.org/summa/3010.htm#article11>

²⁴ Joseph Clifford Fenton, "Principles Underlying the Traditional Church-State Doctrine," in *The Church of Christ: A Collection of Essays by Monsignor Joseph C. Fenton*, ed. Christian D. Washburn (Tacoma, WA: Cluny Media, 2016).

²⁵ Antonius Straub, *De Ecclesia Christi*, no. 380, 382.

What is especially important here, however, is that the pope says that the State, by virtue of being a society, has a duty to worship God, and that religious liberty is contrary to this duty. Although this duty may, as Fenton says, sometimes be set aside without fault²⁶, the point is that the State has certain innate obligations toward God. And from these obligations arise the capacity to fulfill them.

God does not demand the impossible. If the State has a *duty* to worship God, it also has the *ability* to worship God, and the ability to avoid doing that which is incompatible with worshipping God. This duty arises from the State being a society²⁷, and it is commanded by the natural law. The State, by its very nature, has the duty and the ability to worship God, and to avoid granting religious liberty, subject to the exceptions mentioned above.²⁸ So contrary to Pink, the State does *not* need to obtain this authority from the Church. It has it already.

Leo XIII says explicitly that the only justification for a state tolerating false religions is the common good.

But if, in such circumstances, for the sake of the common good (and this is the only legitimate reason), human law may or even should tolerate evil, it may not and should not approve or desire evil for its own sake; for evil of itself, being a privation of good, is opposed to the common welfare which every legislator is bound to desire and defend to the best of his ability.²⁹

Consequently, in all other instances, the State must constrain false religions, and has the necessary authority to do so. It therefore cannot be right to say that the State is obligated to grant religious liberty merely because it lacks the authority to coerce on religious matters. The determinative issue is *not* whether the State is authorized to coerce, but rather what serves the common good.

Additionally, Dr. Anton Gisler writes in his book on Modernism that the State has, “by its own right”³⁰ imposed the death penalty on heretics. And he considers it an open question whether the Church has the right to impose this penalty. Gisler wrote after *Immortale Dei*, and evidently did not share Pink’s interpretation of that text.

Whether the Church herself possesses the *ius gladii*, i.e., the right to impose, on its own and by the force of a right instituted by God, the death penalty on

²⁶ Joseph Clifford Fenton, “Principles Underlying the Traditional Church-State Doctrine,” in *The Church of Christ: A Collection of Essays by Monsignor Joseph C. Fenton*, ed. Christian D. Washburn (Tacoma, WA: Cluny Media, 2016).

²⁷ Leo XIII, *Libertas*, par. 21. https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_20061888_libertas.html.

²⁸ *Ibid*, par. 33.

²⁹ *Ibid*.

³⁰ Dr. Anton Gisler, *Der Modernismus*, pp. 212-213.

a heretic or to demand that the death penalty be imposed by the State - or whether the Church does not have this right, anyone can affirm or deny this question completely freely. Some older canonists have affirmed this question; others, and almost all modern ones, decisively deny it; among them, especially Cardinal Cavagnis, highly esteemed as a canonist.

But let us set aside this academic question. Historically, it is certain that the Church has never actually imposed the death penalty on a heresy herself, nor has she demanded its imposition by the State. For all times, the statement holds true : *ecclesia non sitit sanguinem* - the Church does not thirst for blood; this statement is a canonical axiom. Therefore, it is a purely theoretical doctrinal question without any practical significance whether the Church herself, by divine institution, possesses the *ius gladii* - the right to kill heretics - or not.

The State, however, has, on its own and by its own right, imposed the death penalty for the crime of heresy; it did this because it wanted to protect, on the one hand, the Church and, on the other hand, the extremely valuable social good of religious unity, and the Church manifestly agreed with this legislation.”³¹

According to Dr. Gisler, the State has within itself the authority to impose the death penalty for heresy. This is also contrary to Pink, who says the State has no inherent authority to coerce on religious matters.

IV. Conclusion

Thomas Pink’s attempt to justify religious liberty fails. Pope Leo XIII says there is no natural right to religious liberty, and that religious liberty is state atheism. Pink says there *is* a natural right to religious liberty, and that States must grant it when they are not being authorized by the Church to coerce on the Church’s behalf. Compounding the problem, Pink regards his thesis as “Leonine”, and sets his readers under the illusion that his ideas are faithful to Pope Leo’s teachings.

Pink, therefore, has failed to reconcile Vatican II with the earlier teaching, because his attempt to harmonize them has resulted in a theory that conflicts with the traditional teaching of the Catholic Church.

³¹ Ibid. Emphasis added.