

# PREFACE

## **Freedom of religion: a human right based on human dignity**

Human dignity is the basis and foundation of freedom of religion. In order to talk about freedom of religion, it is important to keep in mind that the human person and human dignity are essential points of reference.

Starting from this, we can see that freedom of religion is first of all a human right. Of course, it entails duties too, in particular that of respecting the freedom of others. And admittedly, the effective experience of freedom of religion depends to a large extent on how this duty is respected. However, it would be wrong to view everyone's freedom of religion as rooted in other people's duty not to impinge upon it. Freedom of religion exists first and foremost as a right that belongs to each and every person.

The concept of freedom of religion as a human right closely connected to human dignity has many implications. Here are a few.

First, the human person has a right to freedom of religion even before such a right can be recognised by the State or any other competent authority. Even though the State promulgates human rights, it does not create them. It simply recognises their existence.

This does not mean that State recognition is unimportant. On the contrary, in every society organised for the promotion of human dignity, democracy and the rule of law must be accompanied by measures that guarantee the effective protection of human rights.

Upholding human rights is therefore a vital element in the legitimacy of a democratic system, and one of the primordial roles of any legal system is to ensure the protection of such rights. However, the role of the State – important as it may be – has to be limited with respect to human rights. When a government measure breaches a fundamental human right, the legitimacy of such a measure is called into question. This poses the delicate question as to who is competent to decide. Ultimately, this responsibility falls to the conscience of the individual. Thus, even at the risk of very painful consequences, conscientious objection is the highest expression of the choice for dignity.

A second implication of the role of human dignity is that freedom of religion cannot be viewed in isolation, independently of other fundamental rights. Human dignity concerns the human person as one, all of his dimensions considered together. In this sense, human rights must be seen holistically for they are indivisible. When they are implemented together, in a coordinated and harmonious fashion, they are mutually reinforcing.

Trying to come up with a hierarchy of rights is a tricky undertaking though. As legitimate as it might be when it is meant to ensure a better protection of desired values, like life and matters of the spirit, a pecking order often leads to priorities that do not fully respect human dignity. This is the case, for example, when civil and political rights are seen as less important than economic, social and cultural rights, or vice versa.

The need for a global approach must also not obscure another necessity, namely paying as much attention as necessary to the protection of high-order values. In particular, the spiritual dimension in human dignity is so important that it requires special attention if we want to implement effectively freedom of religion.

The latter deserves special attention because it touches what is the highest value in humans. Moreover, respecting this freedom in any society constitutes an excellent

test to measure how human rights are generally respected in that society. Being rooted in human dignity, freedom of religion concerns not only the whole human being but also each individual. Like other human rights, freedom of religion is universal. It cannot be culturally relativised by claiming that it belongs to another culture.

That said, we must acknowledge that the ways of defining and expressing this freedom of religion have evolved over time and that distinct historical and sociological factors have influenced this evolution in each particular society.

Consequently, no one society can necessarily be based on the desire to impose its notion of religious freedom on others. Instead, each society must be capable of engaging in dialogue with societies that hold different ideas. But the need for mutual respect between cultures should not lead us to relativise freedom of religion or base it only on the lowest common denominator. Here again the original reference to the dignity of the human person must serve as common ground and will not permit of minimalist or exclusively negative approaches.

The fundamental reference to human dignity has another implication as well. Since every human being is not only a unique and irreplaceable individual, but is also by nature a social being that actively relies on others, his affiliation to a social group or organised society are indispensable to his fulfilment. His rights make no sense unless he can exercise them with others. Freedom of religion especially makes no sense if it is limited to an individual's inner self. It has no reason to exist unless it can be exercised in the social context in which the individual lives.

Consequently, individuals who share the same religion have a right to practise it together. Thus, the group they constitute is also entitled to freedom of religion. This means that freedom of religion must be exercised in ways that are visibly meaningful in society so long as public order and other groups' rights are maintained. In some Western societies, freedom of religion developed mainly as the right not to believe under the historical circumstances of the 18<sup>th</sup> and 19<sup>th</sup> centuries. It is important though to remember that its corollary is the right to believe, openly and as a group.

Conceptualised in this manner, freedom of religion is essential to the common good, defined as "the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfilment" (*Gaudium and Spes*, 26.1).

A society can be said to respect the public good if it helps to create the conditions that allow each individual to fulfil his potential in all the dimensions that his human dignity allows. Hence, society must reject all forms of totalitarianism, including religious totalitarianism. By the same token, it cannot settle for a purely individualistic approach.

Since government institutions are just and legitimate to the extent that they aim for the common good, the State and other public bodies have a duty to respect freedom of religion and ensure that it is respected. Likewise, if public authorities have a duty to promote the public good, so do private individuals, groups and intermediate bodies. Not only is it incumbent upon the State to respect freedom of religion but so do the various social actors.

As part of the common good, freedom of religion benefits each member of society, as well as society as a whole. Seen in terms of its positive (right to believe) and negative (right not to believe) aspects, freedom of religion favours peace as well as individual and collective wellbeing.

Denying the spiritual dimension of the human person or relegating it to the inner

self fails to meet the challenges that humanity's natural religious aspirations generate in society, especially when they are expressed in ways that are perceived as threatening by other segments in society.

A solution that meets the needs of human dignity requires the recognition and protection not only of the right not to believe, but also of the right to believe, at both the individual and group levels, including in ways that are meaningfully visible to all, within the constraints of public order and an obligation to uphold the rights of those who hold different ideas.

Societies that violate freedom of religion not only abuse individuals, but also the community. Even though the path to an open and constructive attitude is full of pitfalls, it is the only one by which we can respect everyone's dignity as well as the good of every human community

***Nicolas Michel***

Professor of international law (Geneva)  
and consultant for the Pontifical Council Justice and Peace