

## **'POSITIVE' AND 'NEGATIVE' RIGHTS: A REPLY TO JOHN SALZA**

Fr. Brian W. Harrison, O.S.

I am afraid I find John Salza's two-part response to my letter of March 31 to be vitiated by misrepresentations of Dignitatis Humanae, of the traditional doctrine, and of my own writings on this subject. He also criticizes my letter for all sorts of omissions – for failing to explain various distinctions that need to be made. Well, how much did he expect me to pack into just one 'letter to the editor', for heavens' sake? In this relatively brief defense of my position I will not bore readers by attempting to rebut all of Mr. Salza's arguments; however, I must at least defend my orthodoxy, which Mr. Salza has publicly impugned. He asserts that my position on religious liberty (which in reality is nothing other than my assent to the teaching of nearly all the world's bishops at Vatican II and the last four popes) is not only "utterly nonsensical" but also "entirely heterodox".

The fact is, I never said anything so sweeping and unqualified as that "Man has a right not to be prevented from doing evil". Maybe that statement is "utterly nonsensical"; but it is not my statement. What I said is that if X means "publicly expressing a conscientiously held, but erroneous, religious belief", then Vatican II teaches that sometimes, depending on circumstances and on how harmful the error in question is, there can be a right not to be prevented by government from doing X. The words in bold type here highlight no less than six distinct qualifications that are ignored by Mr. Salza in the crude caricature of my own position that he sets up in order to knock down. For instance, it is clear that, according to both pre-conciliar and conciliar doctrine, the public or private expression of an erroneous but conscientiously held religious belief is not a simple case of "doing evil", on a par with common offences like robbing a bank, committing adultery, or bearing false witness. For unlike these unambiguously sinful acts, the expression of said belief, while objectively wrong, will subjectively be pleasing to God Himself, and may even sanctify the errant religionist, when it outwardly expresses that "free internal act" which is his own best effort to "direct himself to God" (DH 3). The Council here presents this subjectively good aspect of all sincere religious acts as "the reason" why government (at least under modern circumstances) is usually, though not always, obliged in justice to refrain from repressing religious acts that happen to be objectively erroneous.

Your columnist's most serious error is to level the false charge of absurdity and heterodoxy against those of us – including the Fathers of Vatican II – who see a morally significant difference between: (a) "positive" rights (i.e., a real or imagined right to do X); and (b) "negative" rights (a real or imagined right not to be prevented from doing X). In Mr. Salza's own words, there is "no moral difference" between (a) and (b), so that "man's God-given right either includes both (a) and (b) or excludes both (a) and (b). They are collaterally connected." Well, I hereby challenge him to show me and other Remnant readers any traditional (pre-Vatican-II) magisterial statement that teaches this kind of "collateral connection" between positive and negative rights.

I think Mr. Salza will have a hard time meeting this challenge, because in fact his claim implicitly contradicts traditional doctrine. Let's see. If (a) and (b) are "collaterally connected" in the way he says they are, then this connection will always be there regardless of whether the religious acts in question are public or private. In other words, his position implies that if there is never any God-given right to privately express a false religious doctrine (for instance, a right of a Hindu couple to homeschool their children in Hindu doctrine), then there is also never any God-given right not to be prevented from doing so by government. Conversely, it also implies that if there is, under some circumstances, a God-given right not to be prevented by government from privately expressing a false religious doctrine, then there is also (under those same circumstances) a God-given right to privately express such a doctrine.

So what say you, Mr. Salza? Do those Hindu parents have a God-given right to teach their pagan religion to their children at home, or don't they?

If you answer 'Yes', then you'll avoid being constrained by your own "collateral connection" doctrine to grant Catholic governments the right in justice to swoop down and punish those parents, quite likely seizing their

children (contrary to the teaching of St. Thomas) and sending them off to be raised in a Catholic institution or foster home. But unfortunately, your affirmative answer will contradict the traditional teaching reaffirmed by Pope Pius XII in *Ci riesce*, to the effect that there is no God-given right for false religious doctrine even to exist. That means there can be no God-given right even to believe it, much less to spread it to others, either publicly or privately. (By the way, your mistaken claim that this same teaching in *Ci riesce* condemns my own position is based on your misinterpretation and manipulation of the verb *spread*.)

If, on the other hand, you answer 'No', you will avoid falling into the trap of dissent from this traditional doctrine confirmed by Pius XII. But unfortunately you will now be obliged by your "collateral connection" doctrine to deny our Indian couple any God-given right not to be prevented by government from homeschooling their children in their Hindu religion. But the Church herself has never denied them that right! Such a denial would imply that it is perfectly just for government to exercise the kind of tyrannical interference in family and home life outlined in the previous paragraph.

The truth is, of course, that the Catholic magisterium, whether before or after Vatican II, has never taught or even permitted Mr. Salza's "collateral connection" doctrine, according to which rights of types (a) and (b) must either be affirmed together or denied together. In contrast to this erroneous opinion – which would run the risk of granting government quasi-totalitarian powers of interference in the private lives of citizens – the Church teaches that while you can never have (a) without (b), you can sometimes have (b) without (a). That is, you can sometimes have the negative right without having the positive right. So in answer to my above question, we orthodox Catholics will say that, on the one hand, the Indian parents do not have any God-given right to teach their children those false, pantheistic Hindu doctrines. But on the other hand they do have a God-given right not to be prevented by government from doing so. That's because the competence of government simply doesn't extend that far. And Vatican II has now developed this principle by saying that in our own religiously pluralistic modern world that same negative right – the right to immunity from government interference – usually (though not always) extends to public as well as private religious activity.

I'll close by correcting just two more of Mr. Salza's many errors. First, he claims that Vatican II itself teaches a positive as well as a negative right for false religions. Accusing me of not studying the text of DH with sufficient care, my critic asserts again and again that the Council proclaims a (positive) right "to honor the Supreme Deity with public worship" (even when that Deity is not the Blessed Trinity). In fact, it is Mr. Salza himself who is being careless in quoting this text in article 4. The Council does not assert anybody's "right to honor" such a Deity. It says only that devotees "must be allowed" to honor Him/It, i.e., that they must not be prevented from doing so. That of course is the negative right – the only kind that DH ever allows for non-Catholic religions. The Latin text is even clearer here. It literally means that these devotees "are rightfully entitled to immunity [from coercion], so that they may honor the Supreme Deity with public worship (*iure debetur immunitas, ut . . . Numen supremum cultu publico honorent*)".

Finally, it is not true, as Mr. Salza claims, that we had to wait for the Catechism for an explicit denial of any positive right to spread false religious ideas. The Council Fathers were clearly and officially reminded that the text they were being asked to approve did not teach any such phony "right". The relator told them, "Nowhere is it affirmed – nor could it be truly affirmed, as is obvious – that there is any right to propagate error (*ius ad errorem diffundendum*)" (*Acta Synodalia, IV, VI, p. 725*).

As for Mr. Salza's repeated claim that I do not "make the proper distinctions between God-given rights and the toleration of evil", I would refer readers to my online Living Tradition article on this issue: "Religious Liberty: 'Rights' vs. 'Tolerance'". It is the second of the two articles located at [www.rtforum.org/lt/lt16.html](http://www.rtforum.org/lt/lt16.html). I will now leave Mr. Salza to have the 'last word' in this dispute, if he wishes it. It's time for me to move on.

## ***Salza Responds to the Errors of Fr. Harrison***

To Fr. Harrison:

Your reply to my article on religious liberty continues to reveal the heterodoxy of your position, namely, that there is a moral distinction between “positive” and “negative” rights to religious liberty. In your view, man has a negative right, but not a positive right, to religious error. In other words, you believe man has a right not to be prevented from worshipping Satan, but not the right to worship Satan.

Your position is utter madness. It defies logic and St. Thomas’ teaching that every negation is based on an affirmation (if man has a right not to be prevented from acting, then man has a right to act). Have you followed your position to its logical conclusions, especially in regard to the moral consequences? If a sodomite came to you for advice concerning his lifestyle, and you tried to morally coerce him to abandon his errors, he could throw your argument back into your face: “But wait a minute, Fr. Harrison, my religion permits sodomy, and you claim that I have a right not to be prevented from practicing my religion. Your effort to prevent me violates that right.”

According to your principles, the sodomite would be correct. Your effort to morally coerce him would be a violation of his “negative” right to religious freedom and hence a sin against justice. Your position guts the Church of her divine commission. Even though Jesus Christ used moral coercion to save people from hell-fire for their religious errors, you ascribe a negative right to practice such errors in the name of “religious liberty.” Again, your position is deliramentum. Those who refuse the Church’s moral coercion in this life will be physically coerced to bend the knee to Jesus Christ in the next life (Phil 2:10-11).

Not only is your false distinction between positive and negative rights not taught by *Dignitatis Humanae*, the notion of a negative right to error has been repeatedly condemned by the Magisterium. For example, see Pope Pius VI’s *Quod Aliquantum* (1791), Pope Pius VII’s *Post Tam Diuturnas* (1814), Pope Pius IX’s *Quanta Cura* (1864) and Pope Pius XII’s *Ci riesce* (1953).

Your “challenge” about the Hindu parents teaching their children paganism has already been answered by St. Thomas and provides no support for your novel distinction between positive and negative rights. The Hindu parents have a natural right to educate their children, but do not have a right to teach them to reject Jesus Christ and His Church, nor do they have a right not to be prevented from doing so. The parents’ right must be exercised according to the Divine and natural law (ST, Pt II-II, Q 10, Art 12). In other words, the Hindu parents have no right to lead their children to damnation. It is that simple.

You continue to confuse the negative right to religious freedom with the right to immunity from coercion. The Hindu couple has a right not to be coerced into believing the Catholic Faith (immunity from coercion), but not the right not to be prevented from practicing their false religion (negative right). In fact, a Catholic State would have the right and the duty to repress their errors. That the State tolerates the practice of their false religion for the greater good does not give the Hindu parents the objective, natural right to practice it, nor the right not to be hindered from practicing it, for man does not have a right to disobey God either publicly or privately. That is the teaching of the Roman Catholic Church. You incorrectly convert the State’s toleration of false religious practices into an individual, negative “right” to false worship, which is a grave error.

You and your like-minded colleagues seem to be tainted by your own presuppositions concerning the authority of *Dignitatis Humanae* and the other conciliar documents, and will create all kinds of novel distinctions to justify your conclusions even though they are illogical and contrary to pre-conciliar teaching. Teaching that man has an objective, natural right not to be prevented from engaging in an activity that will lead his soul to hell is not Catholic teaching. Rather, it is poison to souls and constitutes treason against Our Lord Jesus Christ.

John Salza