

RELIGIOUS MAJORITIES AND RESTRICTIONS ON RELIGION

Brett G. Scharffs*

INTRODUCTION

What if dominant religious majorities are the most significant obstacle to religious freedom, and religious doctrine the most powerful force in eliminating that obstacle?

Social scientists studying freedom of religion and belief have focused upon two types of restrictions on religious freedom, formal restrictions that take the form of laws and other official legal limitations on freedom of religion and belief, and informal restrictions that take the form of social hostilities towards religion or towards particular religious groups, usually minorities. This Article seeks to build upon this work in three ways: first, by noting the striking correlations between countries with very high or high legal restrictions and social hostilities regarding religion and the frequent presence of a dominant religious group in those countries; second, by suggesting that dominant national religious majority groups may create an even more formidable obstacle to religious freedom than laws and regulations and other forms of social hostility towards religious groups; and third, by noting a dramatic exception to this pattern, countries where Catholics are the dominant religious group. Countries with Catholic majorities are, for the most part, places where there are not high legal or social restrictions on freedom of religion. This Article concludes by considering the role that *Dignitatis*

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* Brett G. Scharffs is the Francis R. Kirkham Professor of Law and Associate Dean for Faculty and Curriculum, J. Reuben Clark Law School, Brigham Young University, and Associate Director of the International Center for Law and Religion Studies. This Article has been jointly developed through a series of presentations with my colleague at the International Center for Law and Religion Studies, Donlu Thayer. The usual expression of gratitude is altogether insufficient to acknowledge her contribution to our collaborative thinking and work on this topic. Heartfelt thanks is also expressed to Professor Rick Garnett and the student editors of the *Notre Dame Law Review*, as well as the other participants in the symposium for their comments and questions.

Humanae may have played in this remarkable pattern of low legal restrictions and social hostilities in Catholic-majority countries.

I. LEGAL RESTRICTIONS AND SOCIAL HOSTILITIES

A series of studies published by the Pew Research Center (“Pew”) over the past decade paint a rather dire picture of the state of religious freedom in the world, as well as trends regarding legal restrictions and social hostilities involving religion.

The studies rate 198 countries and self-governing territories (197 before the addition of South Sudan in the most recent report) according to two indexes: the “Government Restrictions Index” (GRI), which measures “government laws, policies and actions that restrict religious beliefs and practices,”¹ and the “Social Hostilities Index” (SHI), which measures “acts of religious hostility by private individuals, organizations or groups in society.”² The GRI watches twenty measures of restriction, “including efforts by government to ban particular faiths, prohibit conversion, limit preaching or give preferential treatment to one or more religious groups.”³ The thirteen measures of the SHI consider such factors as “mob or sectarian violence, harassment over attire for religious reasons or other religion-related intimidation or abuse.”⁴

In their survey published in February 2015, Pew reported that thirty-nine percent of the world’s countries (2013 data) had high or very high overall restrictions on religious freedom, with sixty-one percent having moderate or low restrictions on religious freedom.⁵ Because the countries with high or very high restrictions include some with very large populations, such as India and China, these countries include more than three-fourths (seventy-seven percent) of the world’s population, with twenty-three percent of the world’s population living in countries with moderate or low restrictions on religious freedom.⁶ These graphs represent a composite of both legal and social restrictions on religion⁷:

1 PEW RESEARCH CTR., LATEST TRENDS IN RELIGIOUS RESTRICTIONS AND HOSTILITIES 6 (2015), http://www.pewforum.org/files/2015/02/Restrictions2015_fullReport.pdf.

2 *Id.*

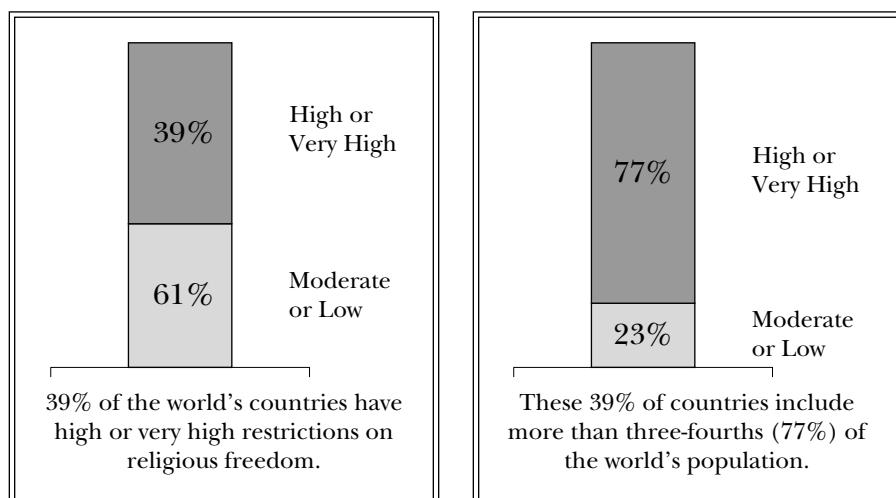
3 *Id.*

4 *Id.*

5 *Id.* at 4. The percentages for high and very high restrictions are taken from page four of this report. The percentages for moderate and low restrictions are not specifically mentioned in the report but are simply what remains.

6 *Id.*

7 *Id.*



The trends over time between 2007 and 2013 are also discouraging, with the percentage of countries reporting high or very high restrictions on religion trending generally upwards, from twenty-nine percent in 2007 to thirty-nine at the end of 2013.⁸ During that same period of time, the percentage of countries with moderate or low restrictions has decreased from seventy-one percent to sixty-one percent.⁹

Again, because many of the countries with high or very high restrictions have large populations, the percentage of the global population living in countries with high or very high restrictions has increased, from sixty-eight percent in 2007 to seventy-seven percent at the end of 2013.¹⁰ The percentage of the world's population living in countries with moderate restrictions has remained relatively steady, increasing from eighteen percent to nineteen percent, and the percentage of the world's population living in countries with low restrictions has decreased from fourteen percent to four percent.¹¹ Thus, over this period of time there has been an approximate increase of ten percent in the world's population living in countries with high or very high restrictions, and a decrease of ten percent in those living in countries with low restrictions on religious freedom.¹²

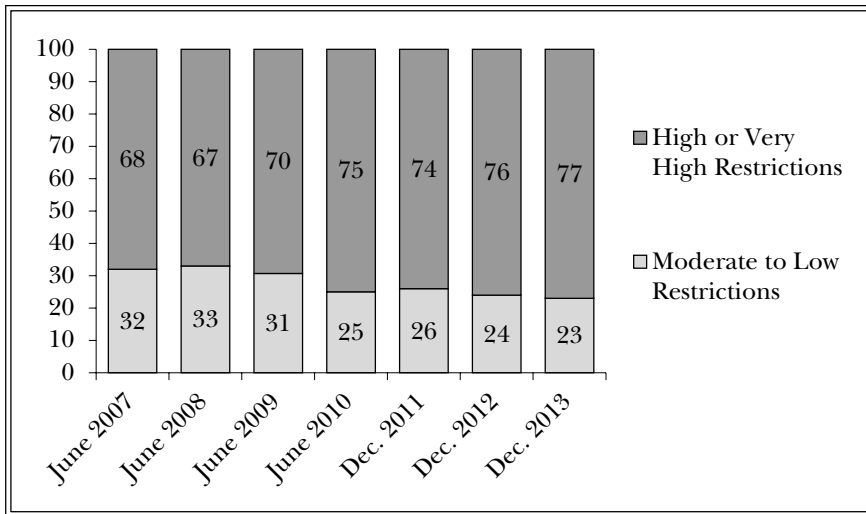
8 *Id.* (regarding 2013 data); PEW RESEARCH CTR., RELIGIOUS HOSTILITIES REACH SIX-YEAR HIGH 8 (2014) [hereinafter PEW, RELIGIOUS HOSTILITIES], <http://www.pewforum.org/files/2014/01/RestrictionsV-full-report.pdf> (regarding data for 2007–2012).

9 See PEW, RELIGIOUS HOSTILITIES., *supra* note 8, at 8 fig. Note that separate calculations for moderate and low restrictions were not made for the 2013 data.

10 PEW RESEARCH CTR., *supra* note 1, at 4.

11 *Id.*

12 *Id.* at 4 (providing data for 2013); PEW, RELIGIOUS HOSTILITIES, *supra* note 8, at 8 (providing data for the years 2007–2012). The following chart, indicating the percentage of the world's population living in countries with various levels of restrictions, was adapted from these two sources.



II. CORRELATIONS BETWEEN VERY HIGH AND HIGH RESTRICTIONS ON RELIGION AND A DOMINANT RELIGIOUS GROUP

In reviewing this Pew data, it is noteworthy that most of the countries with very high or high legal or social restrictions on religion are places where the largest religious group represents either a supermajority (which here is calculated as being over seventy percent) or at least a majority (over fifty percent). Utilizing statistics involving self-reporting as a way of establishing religious affiliation, there is a strong set of correlations.¹³

A. Government/Legal Restrictions on Religious Freedom and Dominant Religious Groups

There is a high correlation between countries with very high or high legal restrictions on religious freedom and countries where the dominant religious majority group represents a supermajority of more than seventy percent of the population of that country. In the February 2015 Pew Report, there were eighteen countries with very high and thirty-six countries with high government/legal restrictions on religious freedom.¹⁴

¹³ For the sources of Pew's demographic data, see PEW RESEARCH CTR., *supra* note 1, at 35–37. Primary sources include “reports from U.S. government agencies, several independent, nongovernmental organizations and a variety of European and United Nations bodies.” *Id.* at 35.

¹⁴ *Id.*, app. 2, at 51.

GOVERNMENT/LEGAL RESTRICTIONS ON RELIGIOUS FREEDOMS (2013)

VERY HIGH		HIGH		
China	Russia	Maldives	Qatar	Oman
Indonesia	Turkey	Bahrain	Kazakhstan	Djibouti
Uzbekistan	Azerbaijan	Pakistan	Mauritania	India
Iran	Sudan	Turkmenistan	Yemen	Angola
Egypt	Brunei	Iraq	Kyrgyzstan	Bhutan
Afghanistan	Tajikistan	Belarus	Israel	Tunisia
Saudi Arabia	Singapore	Morocco	Kuwait	Libya
Burma (Myanmar)		Jordan	Bulgaria	UAE
		Western Sahara	Sri Lanka	Ethiopia
		Laos	Bangladesh	Romania
		Vietnam	Armenia	Germany
		Algeria	Cuba	

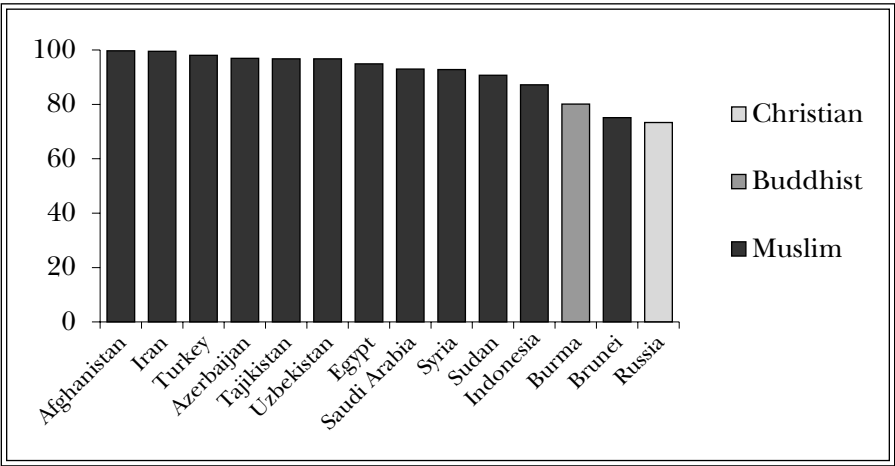
1. Very High Legal Restrictions

Fourteen of the eighteen countries with very high legal restrictions have a dominant religious group of seventy percent of the population or higher.

Many of these countries have a Muslim supermajority, but there is also one country with a Buddhist supermajority (Myanmar/Burma), and one with a Christian supermajority (Russia).¹⁵

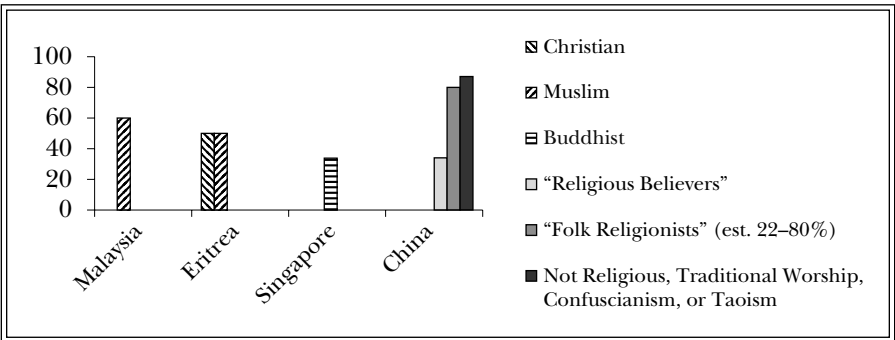
15 *Id.* (listing countries with very high government restrictions on religion); PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE 45–50 (2012), <http://www.pewforum.org/files/2014/01/global-religion-full.pdf> (providing religious composition of various countries). Note that the data for Russia from this report were “[e]stimates based on 2004 Generations and Gender Survey, adjusted to account for underrepresented religious [sic] and projected to 2010.” *Id.* at 78. More recent estimates are that between 42.5% and sixty-eight percent of Russian are Orthodox Christians, with several other Christian denominations at less than five percent each. *See, e.g.*, studies and surveys reported in U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, RUSSIA 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 2 (2014), <http://www.state.gov/documents/organization/238638.pdf>.

VERY HIGH GOVERNMENT/LEGAL RESTRICTIONS ON RELIGIOUS FREEDOM
(DOMINANT RELIGIOUS GROUP IS MORE THAN SEVENTY PERCENT
OF THE POPULATION)



Of the remaining four countries with very high legal restrictions, the dominant religious group represents more than half of the population in only one: Malaysia (with Muslims representing over sixty percent of the population).¹⁶ Eritrea, Singapore, and China are the only countries with very high legal restrictions that do not have a specific religious majority comprising more than sixty percent of the population.¹⁷

VERY HIGH GOVERNMENT/LEGAL RESTRICTIONS ON RELIGIOUS FREEDOM
(DOMINANT RELIGIOUS GROUP IS LESS THAN SEVENTY PERCENT
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16 See PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 48.

17 U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, ERITREA 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 2 (2014), <http://www.state.gov/documents/organization/238424.pdf>; PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 46, 48 (providing data on Singapore and China).

In Eritrea, where population data are particularly difficult to obtain, 2012–2013 Pew research estimated that Christians (three major denominations combined) comprised about sixty-three percent of the population, while thirty-six percent of Eritreans followed Sunni Islam.¹⁸ For the same period, however, and continuing to the present, United Nations estimates put the populations of Christians and Muslims at essentially the same number.¹⁹

China has an official state ideology of atheism. However, a Chinese Family Panel Studies survey of 2012 asserted that only 6.3% of Chinese should be characterized as atheist in the sense of not believing in the supernatural. The others are not religious in the sense that they do not belong to an organized religion, while they pray to or worship gods and ancestors in the manner of the traditional popular religion.²⁰

In addition, an apparently government-tolerated survey conducted by East China Normal University in 2007 found that an estimated 300 million people, some 31.4% of the adult population, were “religious believers.”²¹ Other reports have asserted that “from 30% to 80%” of Chinese are believers in some sort of “folk religion.”²²

2. High Legal Restrictions

Thirty of the thirty-six countries with high legal restrictions have a dominant religious group of seventy percent of the population or higher.²³

This list is again dominated by countries with a Muslim supermajority, but there is also a smattering of countries with Christian, Hindu, Jewish, and Buddhist supermajorities.

18 PEW RESEARCH CTR., *THE GLOBAL RELIGIOUS LANDSCAPE*, *supra* note 15, at 46.

19 See, e.g., U.S. DEP’T OF STATE, *supra* note 17, at 2.

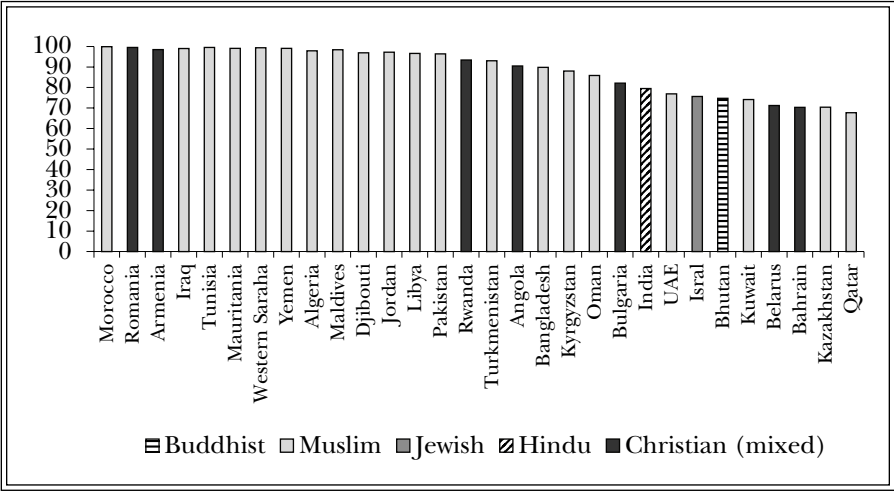
20 *Contemporary Religious Situation in China Report*, PU SHI INST. FOR SOC. SCI. (2012) (reporting the results of the Renmin University’s Chinese General Social Survey for the years 2006, 2008, 2010, and 2011, and their average), <http://www.pacilution.com/ShowArticle.asp?ArticleID=5675>.

21 This data was reported in a Chinese government approved publication, Wu Jiao, *Religious Believers Thrice the Estimate*, CHINA DAILY (Feb. 7, 2007), http://www.chinadaily.com.cn/china/2007-02/07/content_802994.htm, and has been subsequently cited in *Religion in China on the Eve of the 2008 Beijing Olympics*, PEW RES. CTR. (May 2, 2008), <http://www.pewforum.org/2008/05/01/religion-in-china-on-the-eve-of-the-2008-beijing-olympics/>, as well as in U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, CHINA (INCLUDES TIBET, HONG KONG, AND MACAU) 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 3 (2014), <http://www.state.gov/documents/organization/238500.pdf>.

22 Though folk religions are not among the five government-recognized religions in China, they are “pervasive” in the population. PEW RESEARCH CTR., *THE GLOBAL RELIGIOUS LANDSCAPE*, *supra* note 15, at 34 (2012). Pew Forum has estimated that fifty-nine percent of the people in Macau and twenty-two percent of the population of China overall practice folk religions. *Id.* at 35–36.

23 PEW RESEARCH CTR., *supra* note 1, app. 2, at 51 (outlining countries with high legal restrictions); PEW RESEARCH CTR., *THE GLOBAL RELIGIOUS LANDSCAPE*, *supra* note 15, at 45–50 (providing the religious composition of different countries).

HIGH GOVERNMENT/LEGAL RESTRICTIONS ON RELIGIOUS FREEDOM
(DOMINANT RELIGIOUS GROUP IS MORE THAN SEVENTY PERCENT
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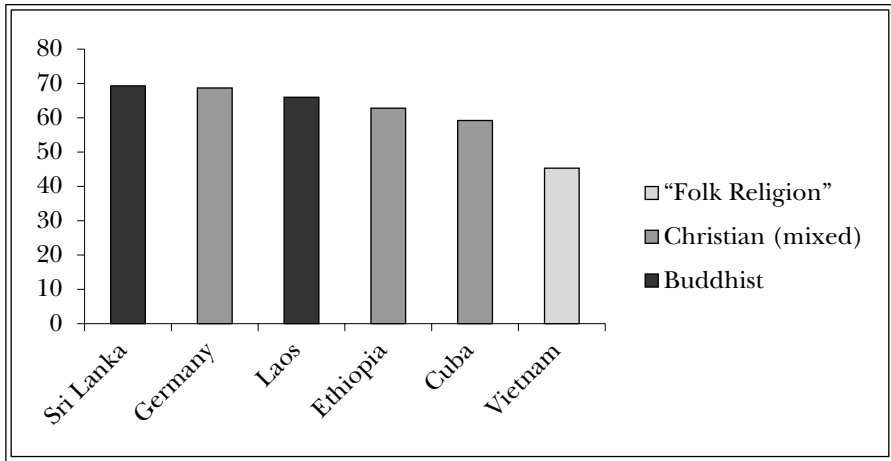


Of the remaining six countries with high legal restrictions, the dominant religious group represents more than sixty percent of the population in five of them.²⁴

Vietnam is the only country with high legal restrictions where the largest religious group does not represent more than sixty percent of the population. Vietnam is another country where, until recently, the government has pursued an aggressive policy of regulating religion and promoting atheism.²⁵

24 PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 45–50. Note that the Pew data for Cuba, placing the “Mixed Christian” total for the country at 59.2%, *id.* at 46, is an estimate based on the 2010 World Religion Database, *id.* at 72. Other sources, however, give a higher total. The Roman Catholic Church, for example, estimates that sixty to seventy percent of the population of Cuba is Catholic (though admittedly the number actually attending mass is much lower, perhaps as low as four to five percent of nominal Catholics. See *Comunidades de Fe en Cuba: Primera Parte de la Serie de Fondo de Wola Sobre la Religión en Cuba*, WOLA (Mar. 26, 2012), http://www.wola.org/es/comentario/comunidades_de_fe_en_cuba_primera_parte_de_la_serie_de_fondo_de_wola_sobre_la_religion_en. However, “[t]here is no independent, authoritative source on the overall size or composition of religious groups” in this Communist-controlled country. See U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, CUBA 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 1 (2014), <http://www.state.gov/documents/organization/238748.pdf> (providing data on Cuba).

25 See, e.g., PHAM VAN BICH, THE VIETNAMESE FAMILY IN CHANGE 223 (1999).



3. Strong Correlations

These correlations are striking. Of the fifty-four countries with very high or high legal restrictions, forty-four have a dominant religious group of seventy percent or more of the population, and six of the remaining ten have a dominant religious group of sixty percent or more of the population. In all, fifty of fifty-four countries with high or very high legal restrictions have a dominant religious group representing more than sixty percent of the population. Only four countries (Eritrea, China, Singapore, and Vietnam) with very high or high restrictions are countries where the dominant religious group is less than sixty percent of the population.²⁶

B. Social Hostilities Involving Religion and Dominant Religious Groups

A similar pattern is evident in countries with very high or high social hostilities involving religion and the existence of a majority religious group. According to the 2015 Pew report, there are seventeen countries with very high social hostilities involving religion, and thirty-six countries with high social hostilities.²⁷ There is significant, but not absolute, overlap between countries with very high or high legal restrictions and countries with very high or high social hostilities.

²⁶ U.S. DEP'T OF STATE, *supra* note 17, at 2 (providing population statistics for Eritrea); PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 45–50 (providing population statistics for other countries); PEW RESEARCH CTR., *supra* note 1, app. 2, at 51 (showing countries with very high and high legal restrictions). See *supra* note 24 for the special considerations involving Cuba.

²⁷ PEW RESEARCH CTR., *supra* note 1, app. 3, at 54.

SOCIAL HOSTILITIES INVOLVING RELIGION:
VERY HIGH

Israel	Somalia
India	Afghanistan
Palestinian Terr.	Tanzania
Pakistan	Egypt
Nigeria	CAR
Bangladesh	Iraq
Ssri Lanka	Kenya
Russia	
Syria	

HIGH

Yemen	United Kingdom	Georgia	Moldova
Libya	Kosovo	China	Tuvalu
Burma	Armenia	Germany	Mexico
Sudan	Romania	Sweden	Italy
Thailand	Greece	Bosnia-	Kuwait
Lebanon	Iran	Herzegovina	Bulgaria
Algeria	France	Uganda	Vietnam
Nepal	Ethiopia	Niger	Mali
Tunisia	Turkey	Maldives	Saudi Arabia

1. Very High Social Hostilities

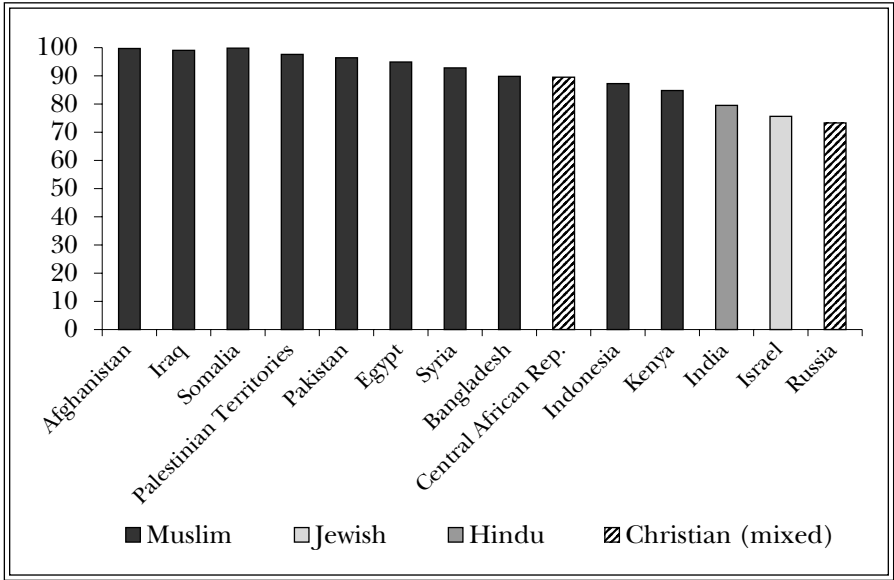
Fourteen of the seventeen countries with very high social hostilities have a dominant religious group representing seventy percent or more of the population.²⁸

As we might expect, this includes a number of Muslim-majority countries, but also countries with a Hindu majority (India), a Jewish majority (Israel) and an Orthodox Christian majority (Russia).²⁹

28 *Id.* (listing the countries with very high social hostilities); PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 45–50 (providing the religious composition of different countries).

29 PEW RESEARCH CTR., *supra* note 1, app. 3 at 54.

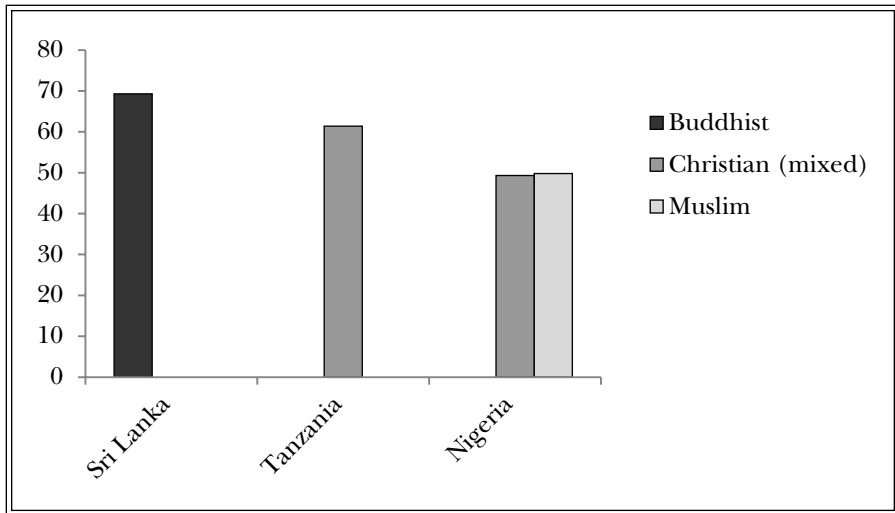
VERY HIGH SOCIAL HOSTILITIES INVOLVING RELIGION
(DOMINANT RELIGIOUS GROUP MORE THAN SEVENTY PERCENT
OF THE POPULATION)



Of the remaining three countries with very high social hostilities involving religion, two have a religious majority of more than fifty percent, including one with a Buddhist majority (Sri Lanka) and one with a Christian majority (Tanzania).³⁰

30 *Id.* (listing the countries with very high social hostilities); PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 45–50 (providing the religious composition of different countries).

VERY HIGH SOCIAL HOSTILITIES INVOLVING RELIGION
(DOMINANT RELIGIOUS GROUPS IS LESS THAN SEVENTY PERCENT
OF THE POPULATION)



Of the countries with very high social hostilities, only Nigeria does not have a majority religious group of over fifty percent, and that country is almost evenly divided between a Muslim-dominated northern half and a Christian-dominated southern half, with the overall population of the country almost evenly divided between Christians and Muslims.³¹

2. High Social Hostilities

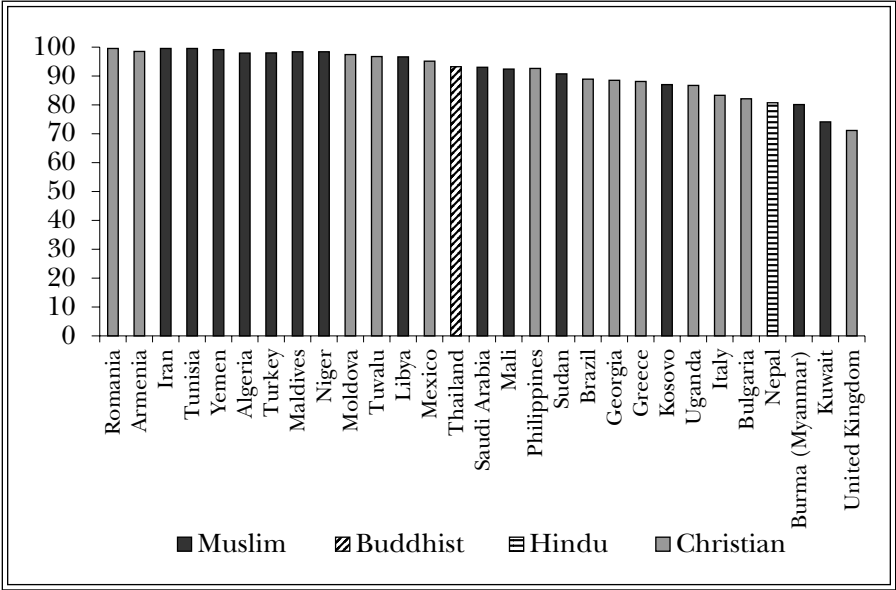
There is also a very strong correlation between high social hostilities and countries where the dominant religious group is a majority or supermajority.

Twenty-eight of the thirty-six countries with high social hostilities have a dominant religious group with seventy percent or more of the population.³²

31 The 2015 Pew Report (citing 2013 data) reported that Nigeria was almost evenly divided between Christian (49.3%) and Muslim (48.8%). PEW RESEARCH CTR., *THE GLOBAL RELIGIOUS LANDSCAPE*, *supra* note 15, at 48. According to the U.S. State Department Report for 2014, “[m]ost observers estimate approximately 50 percent of the population is Muslim and 50 percent Christian.” U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, *NIGERIA 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 2* (2014), <http://www.state.gov/documents/organization/238460.pdf>.

32 PEW RESEARCH CTR., *supra* note 1, app. 3, at 54 (listing the countries with high social hostilities); PEW RESEARCH CTR., *GLOBAL RELIGIOUS LANDSCAPE*, *supra* note 15, at 45–50 (providing the religious composition of different countries).

HIGH SOCIAL HOSTILITIES INVOLVING RELIGION
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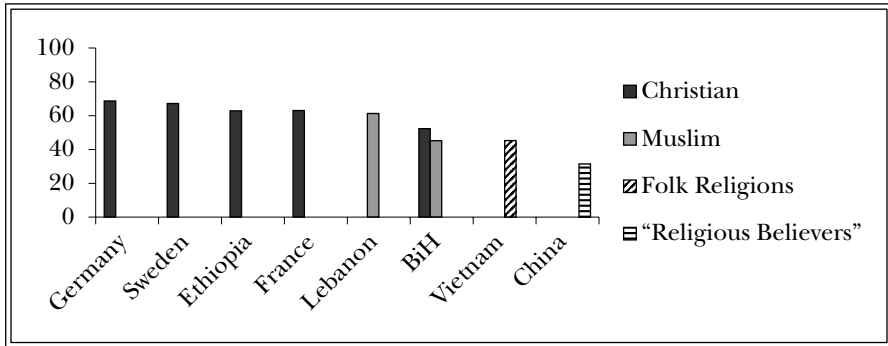
Six of the remaining eight countries with high social hostilities involving religion have a dominant religious group with fifty percent or more of the population.³³

Only two (Vietnam and China) of the thirty-six countries with high social hostilities do not have a religious group comprising more than fifty percent of the population, and as noted above, both countries have advocated state atheism.³⁴

33 *Id.* The religious balance in Bosnia and Herzegovina is approximately 52% Christian and 45% Muslim. PEW RESEARCH CTR., GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 45.

34 PEW RESEARCH CTR., *supra* note 1, app. 3, at 54 (listing the countries with high social hostilities); PEW RESEARCH CTR., GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 45–50 (providing the religious composition of different countries). For a detailed explanation of the situation in China, see *supra* notes 20–22 and accompanying text. For a discussion of the situation in Vietnam, see *supra* text accompanying note 25.

HIGH SOCIAL HOSTILITIES INVOLVING RELIGION
(DOMINANT RELIGIOUS GROUP IS LESS THAN SEVENTY PERCENT
OF THE POPULATION)



3. Strong Correlations

These correlations once again are striking. Of the fifty-three countries with very high or high social hostilities, forty-two have a dominant religious group of seventy percent or more of the population, and seven of the remaining eleven have a dominant religious group of sixty percent or more of the population.³⁵ In all, forty-nine of fifty-three countries with high or very high social hostilities relating to religion have a dominant religious group representing more than sixty percent of the population.³⁶ Only four countries (Nigeria, China, Bosnia and Herzegovina, and Vietnam) with very high or high social hostilities are countries where the dominant religious group is less than sixty percent of the population.³⁷

III. CATHOLIC-MAJORITY COUNTRIES

We might be tempted to think that where there is a large religious majority or supermajority this will always or almost always correlate with very high or high legal and social restrictions on religion. But this is not the case. Countries where the dominant religious group is the Catholic Church are noteworthy for their low legal restrictions as well as low social hostilities regarding religion.

A. Legal Restrictions

The pattern with respect to legal restrictions is striking. Of the countries included in the Pew research, there are thirty-three countries where Catholics represent a supermajority of seventy percent or more of the popu-

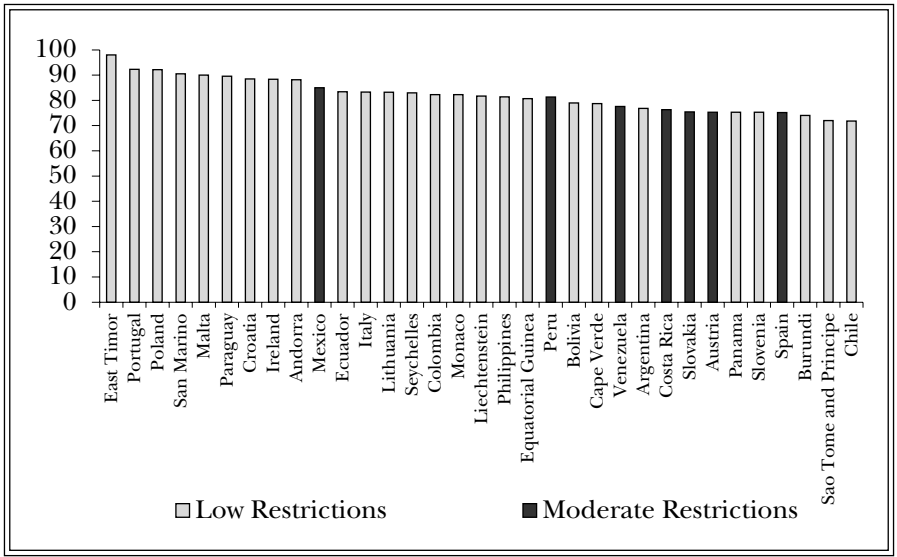
³⁵ PEW RESEARCH CTR., *supra* note 1, app. 3, at 54 (listing the countries with high or very high social hostilities); PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 45–50 (providing the religious composition of different countries).

³⁶ PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 45–50.

³⁷ *Id.*

lation. In none of these thirty-three countries are there high or very high legal restrictions on religion. Seven (Mexico, Peru, Venezuela, Costa Rica, Slovakia, Austria, and Spain) of the thirty-three countries with a Catholic supermajority have moderate legal restrictions, and the remaining twenty-six have low legal restrictions.³⁸

GOVERNMENT/LEGAL RESTRICTIONS ON RELIGION
(COUNTRIES WHERE CATHOLICS ARE SEVENTY PERCENT OR MORE
OF THE POPULATION)



Thus, while fourteen of the eighteen countries with very high legal restrictions on religion have a dominant religious group with seventy percent or more of the population, none of those countries has a Catholic supermajority or Catholic majority. And while thirty of thirty-six countries with high legal restrictions have a dominant religious group of seventy percent or more, none of those countries has a Catholic supermajority, and only one (Cuba) has a Catholic majority.³⁹

38 PEW RESEARCH CTR., *supra* note 1, app. 2, at 51–52 (rating countries’ legal restrictions on religion). Data for Catholic majorities are from PEW RESEARCH CTR., TABLE: CHRISTIAN POPULATION AS PERCENTAGES OF TOTAL POPULATION BY COUNTRY (2011), <http://www.pewforum.org/2011/12/19/table-christian-population-as-percentages-of-total-population-by-country/>. The Pew studies, using “censuses, surveys and official population registers,” are based on self-identification of believers. They do “not attempt to measure the degree to which members of these groups actively practice their faiths or how religious they are.” PEW RESEARCH CTR., THE GLOBAL RELIGIOUS LANDSCAPE, *supra* note 15, at 7, 15.

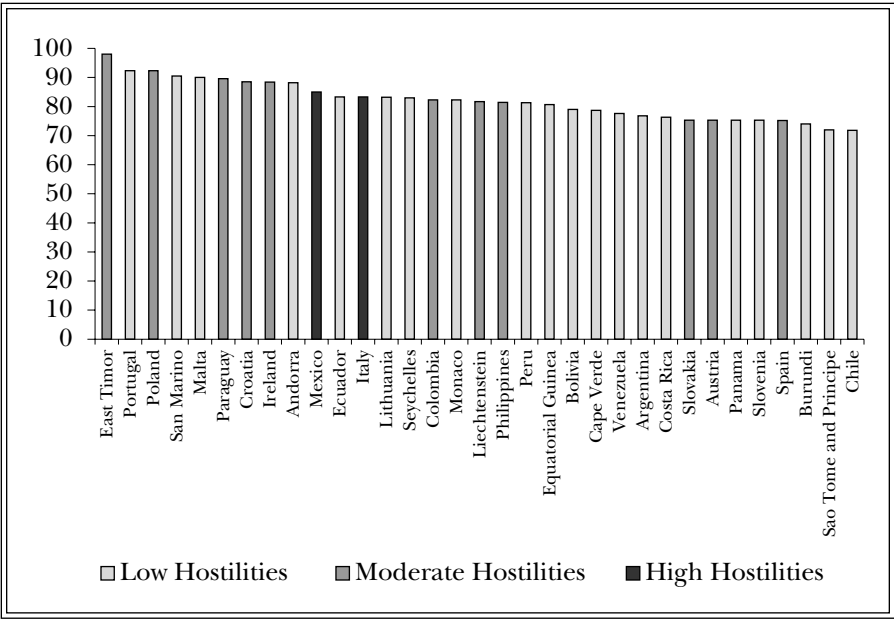
39 PEW RESEARCH CTR., *supra* note 1, app. 2, at 51–52.

B. Social Hostilities

Of the thirty-three countries where Catholics represent more than seventy percent of the population, none are countries where social hostilities involving religion are very high, and in only two (Italy and Mexico) are social hostilities high. Social hostilities are moderate in eleven and low in twenty of the thirty-three countries with a Catholic supermajority.⁴⁰

Thus, while fourteen of the seventeen countries with very high social hostilities toward religion have a dominant religious group representing seventy percent or more of the population, none of those countries has a Catholic supermajority. And while twenty-eight out of thirty-six countries with high social hostilities toward religion have a dominant religious group with seventy percent or more of the population, only two of those thirty countries (Italy and Mexico) have a Catholic supermajority. And while five of the remaining six countries with high social restrictions on religion have a dominant religious group representing between fifty percent and seventy percent of the population, only one of those countries (Cuba) has a Catholic majority.⁴¹

SOCIAL HOSTILITIES INVOLVING RELIGION
(COUNTRIES WHERE CATHOLICS ARE SEVENTY PERCENT OR MORE
OF THE POPULATION)



40 See *id.*, app. 3, at 54–55 (rating countries’ social hostilities toward religion).
41 *Id.*

C. *Interim Conclusions*

This data suggests two interim conclusions. The first is that religion itself may be an important category of limitation on religious freedom. While the Pew research focuses on legal restrictions and social hostilities, and while religion may be a source of both legal restrictions and social hostilities, it seems helpful to isolate religion itself, and especially dominant religious majorities, as a source of limitations on religious freedom. For those of us who care about freedom of thought, conscience, and belief, and who believe in the positive contributions of religion in general to society (and I count myself among them), the high correlations between religious majorities and restrictions on freedom of religion and belief is rather sobering and discouraging.

It is beyond the scope of this Article to address the question of what it is about religious majorities that accounts for the high correlation between religious majorities and high or very high legal restrictions and social hostilities involving religion, although I will offer a few preliminary suggestions, especially in considering why the pattern in Catholic-majority countries is so different.

A second interim conclusion is that it may be within religious traditions themselves that we will find the most effective resources for defending religious freedom. I do not think it is an accident that in Catholic-majority and supermajority countries there are nevertheless very low legal and social restrictions on religion and a high degree of freedom of religion. But while the Catholic Church itself may account for the low degree of restrictions on religious freedom in Catholic-majority countries, this was not always the case. This also suggests that changes in religious doctrine, such as the change in the attitude towards religious freedom encapsulated in Vatican II, can have significant effects on religious freedom. It is to this possibility that I turn next.

IV. BEFORE VATICAN II

Two hundred (or even one hundred) years ago, if you asked, "What is the most powerful institution on earth opposed to religious freedom?" the answer may well have been, "The Catholic Church." If you asked the inverse question today, you might well identify the Catholic Church as the most influential institution on earth that is a defender of religious freedom. This transformation is one of the most interesting subplots in the history of the emergence of freedom of thought, conscience, and belief as a fundamental human right. *Dignitatis Humanae* is at the center of that drama.

A. *Pope Pius VI*

Writing in 1791, at the time of the French Revolution, Pope Pius VI viewed religious freedom as an assault on the Catholic Church, calling it a "monstrous right" and an "imaginary dream." In decrying the principles in

the Declaration of the Rights of Man, he described the “necessary effect” of the French Constitution to be “to annihilate the Catholic Religion”:

With this purpose it establishes as a right of man in society this absolute liberty that not only insures the right to be indifferent to religious opinions, but also grants full license to freely think, speak, write, and even print whatever one wishes on religious matters—even the most disordered imaginings. It is a monstrous right, which the Assembly claims, however, results from equality and the natural liberties of all men.⁴²

The liberal ideas of liberty and equality would facilitate not only what Pius VI decried as “indifferentism,” but also freedom to attack religion. Pius VI went on to state, “After creating man in a place filled with delectable things, didn’t God threaten him with death should he eat the fruit of the tree of good and evil? And with this first prohibition didn’t He establish limits to his liberty?” The idea here is that from the fall of Adam and Eve, God has placed limits on human liberty. Disobedience to God’s commands resulted in further obligations, including the Ten Commandments delivered to Moses. Pius VI adds, “[w]here then, is this liberty of thinking and acting that the Assembly grants . . . ? Is this invented right not contrary to the right of the Supreme Creator to whom we owe our existence and all that we have?”⁴³

Pius further states that “Man should use his reason first of all to recognize his Sovereign Maker, honoring Him and admiring Him, and submitting his entire person to Him.” He then concludes that “[t]his inflated equality and liberty, therefore, are for him, from the moment he is born, no more than imaginary dreams and senseless words.”⁴⁴

B. Pope Pius VII

When Pius VII became Pope, he lost no time in adding his voice to the condemnation of the principles underlying the French Revolution. In his encyclical, *Diu Satis*, delivered on May 15, 1800, he noted that the principles of freedom of speech would spread abroad. “[U]nless this great license of thinking, speaking, writing, and reading is repressed . . . it will spread abroad and be strengthened to reach over the whole world.”⁴⁵

C. Pope Gregory XVI

The sharp critique of religious freedom was continued by Pope Gregory XVI. For example, writing in his first encyclical in 1832, *Mirari Vos* (On Liberalism and Religious Indifferentism), Gregory XVI denounced religious freedom as leading to “indifferentism” towards truth, stating, “[t]his shameful font of indifferentism gives rise to that absurd and erroneous proposition

42 Pius VI, Brief *Quod Aliquantum*, March 10, 1791, in RECUEIL DES ALLOCUTIONS 45, 53–55, (Adrien Leclerc ed., 1865).

43 *Id.*

44 *Id.*

45 Pius VII, Encyclical *Diu Satis* para. 16 (May 15, 1800), <http://www.papalencyclicals.net/Pius07/p7diusat.htm>.

which claims that *liberty of conscience* must be maintained for everyone.”⁴⁶ For Gregory, religious liberty led to the false conclusion that one religion is as good as any other. He was not persuaded by the argument that the publication of books that defended true religion would compensate for allowing those that published error:

Some are so carried away that they contentiously assert that the flock of errors arising from them is sufficiently compensated by the publication of some book which defends religion and truth. Every law condemns deliberately doing evil simply because there is some hope that good may result. Is there any sane man who would say poison ought to be distributed, sold publicly, stored, and even drunk because some antidote is available and those who use it may be snatched from death again and again?⁴⁷

A little over a decade later, in 1844, Gregory XVI, in another encyclical, *Inter Praecipuas* (On Biblical Societies), denounced Bible Societies that translated and distributed the Bible in vernacular languages. “Experience shows that there is no more direct way of alienating the populace from fidelity and obedience to their leaders than through that indifference to religion propagated by the sect members under the name of religious liberty.”⁴⁸ He warns that if “complete liberty of conscience, as they call it, spreads among the Italian people, political liberty will result of its own accord.”⁴⁹

He noted that St. Jerome complained in his day of those who make the art of understanding the Scriptures without a teacher “common to babbling old women and crazy old men and verbose sophists,” and to anyone who can read, no matter what his status. Indeed, what is even more absurd . . . they do not exclude the common people of the infidels from sharing this kind of a knowledge.⁵⁰

The meaning of scripture can be distorted through “artifice” and “through interpretation,” and errors enter into translations “either through ignorance or deception.”⁵¹

These errors, because of the very number and variety of translations, are long hidden and hence lead the faithful astray. It is of little concern to these societies if men reading their vernacular Bibles fall into error. They are concerned primarily that the reader becomes accustomed to judging for himself the meaning of the books of Scripture, to scorning divine tradition preserved by the Catholic Church in the teaching of the Fathers, and to repudiating the very authority of the Church.⁵²

46 Gregory XVI, Encyclical *Mirari Vos* para. 14 (Aug. 15, 1832), <http://www.papalencyclicals.net/Greg16/g16mirar.htm>.

47 *Id.* para. 15.

48 Gregory XVI, Encyclical *Inter Praecipuas* para. 14 (May 8, 1844), <http://www.papalencyclicals.net/Greg16/g16inter.htm>.

49 *Id.*

50 *Id.* para. 1.

51 *Id.* para. 2.

52 *Id.*

D. Pope Pius IX

In 1864, Pope Pius IX issued his *Syllabus Errorum* (Syllabus of Errors), which clarified Catholic teaching on a variety of issues of the day, and was widely viewed as an attack on modernism, secularization, separation of church and state, and religious freedom.⁵³ The encyclical includes denunciations of indifferentism, communism, Bible Societies, and modern liberalism. Pius declared it an error, “in some Catholic countries, that persons coming to reside therein shall enjoy the public exercise of their own peculiar worship.”⁵⁴ Also an error was that the Pope ought to reconcile himself “and come to terms with progress, liberalism and modern civilization.”⁵⁵

E. Pope Leo XIII

Pope Leo XIII spoke derisively of those who hid under the mask of universal tolerance and respect for all religions. Writing in 1892 in denunciation of Freemasonry, Leo stated:

Every familiarity should be avoided, not only with those impious libertines who openly promote the character of the sect, but also with those who hide under the mask of universal tolerance, respect for all religions, and the craving to reconcile the maxims of the Gospel with those of the revolution. These men seek to reconcile Christ and Belial, the Church of God and the state without God.⁵⁶

In 1900, Leo spoke of a “power greater than human”⁵⁷ that:

[M]ust be called in to teach men’s hearts, awaken in them the sense of duty, and make them better. This is the power which once before saved the world from destruction when groaning under much more terrible evils. Once remove all impediments and allow the Christian spirit to revive and grow strong in a nation, and that nation will be healed. The strife between the classes and the masses will die away; mutual rights will be respected . . .

. . . The world has heard enough of the so-called “rights of man.” Let it hear something of the rights of God.⁵⁸

V. VATICAN II

But if, before the Second Vatican Council, the Catholic Church as an institution was powerfully opposed to religious freedom, *Dignitatis Humanae*,

53 Pius IX, Papal Document *Syllabus Errorum* (Dec. 8, 1864), <http://www.papalencyclicals.net/Pius09/p9syll.htm>.

54 *Id.* para. 78.

55 *Id.* para. 80.

56 Leo XIII, Encyclical *Custodi Di Quella Fede* para. 15 (Dec. 8, 1892), http://w2.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_08121892_custodi-di-quella-fede.html.

57 Leo XIII, Encyclical *Tametsi Futura Prospicientibus* para. 12 (Nov. 1, 1900), http://w2.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_01111900_tametsi-futura-prospicientibus.html.

58 *Id.* paras. 12, 13.

the Council's Declaration on Religious Freedom, represented a dramatic recalibration of the Church's teaching on this matter.⁵⁹ And in the fifty years since Vatican II, the Catholic Church has quite possibly become the most influential institution on earth in defense of religious freedom. This is evident on the face of the *Dignitatis Humanae* Declaration.

Dignitatis Humanae, On the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious was promulgated by His Holiness Pope Paul VI, on December 7, 1965. The Declaration begins by noting that:

A sense of the dignity of the human person has been impressing itself more and more deeply on the consciousness of contemporary man, and the demand is increasingly made that men should act on their own judgment, enjoying and making use of a responsible freedom, not driven by coercion but motivated by a sense of duty.⁶⁰

The Council declares the demand for freedom of religion to be “greatly in accord with truth and justice.”⁶¹ The Declaration self-consciously “searches into the sacred tradition and doctrine of the Church—the treasury out of which the Church continually brings forth new things that are in harmony with the things that are old.”⁶²

Thus, the Declaration seeks to find within Catholic tradition and doctrine the doctrines and resources that support the idea of freedom of religion. The Council notes that “all men are bound to seek the truth, especially in what concerns God and his Church, and to embrace the truth they come to know, and to hold fast to it.”⁶³ But such obligations fall to human conscience. “The truth cannot impose itself except by virtue of its own truth, as it makes its entrance into the mind at once quietly and with power.”⁶⁴ Religious freedom, in turn, demands that men be permitted “to fulfill their duty to worship God” with “immunity from coercion in civil society.”⁶⁵ Thus, the doctrine of religious freedom does not undermine “traditional Catholic doctrine on the moral duty of men and societies toward the true religion and toward the one Church of Christ.” Thus, importantly, in declaring the centrality of human freedom, the Church also asserts the human duty to pursue truth, which the Church asserts is found within the Catholic Church.

In paragraph 2 of *Dignitatis Humanae*, Pope Paul VI states:

This Vatican Council declares that the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to

59 See generally Paul VI, Declaration *Dignitatis Humanae* (Dec. 7, 1965), http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html [hereinafter *Dignitatis Humanae*].

60 *Id.* para. 1.

61 *Id.*

62 *Id.*

63 *Id.*

64 *Id.*

65 *Id.*

his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits.⁶⁶

He goes on:

The council . . . declares that the right to religious freedom has its foundation in the very dignity of the human person This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right.

It is in accordance with their dignity as persons—that is, beings endowed with reason and free will and therefore privileged to bear personal responsibility—that all men should be at once impelled by nature and also bound by a moral obligation to seek the truth, especially religious truth. They are also bound to adhere to the truth, once it is known, and to order their whole lives in accord with the demands of truth. However, men cannot discharge these obligations in a manner in keeping with their own nature unless they enjoy immunity from external coercion as well as psychological freedom. Therefore the right to religious freedom has its foundation not in the subjective disposition of the person, but in his very nature. In consequence, the right to this immunity continues to exist even in those who do not live up to their obligation of seeking the truth and adhering to it and the exercise of this right is not to be impeded, provided that just public order be observed.⁶⁷

Thus, truth exists in harmony with religious freedom. Religious freedom does not imply indifferentism, but rather creates a sphere of personal responsibility wherein human beings can pursue the truth free from physical and psychological coercion. *Dignitatis Humanae* is designed both to appeal to public reason and to be rooted in the doctrinal understandings of truth Catholic faith. The understanding of human dignity becomes the wellspring from which this powerful defense of religious freedom emerges.

The Second Vatican Council signals the culmination of a dramatic change in Catholic thinking about religious freedom. The right to religious freedom is viewed as having “its foundation in the dignity of the person.”⁶⁸ Furthermore, “this doctrine of freedom has roots in divine revelation, and for this reason Christians are bound to respect it all the more conscientiously.”⁶⁹ Divine revelation “gives evidence of the respect which Christ showed toward the freedom with which man is to fulfill his duty of belief in the word of God and it gives us lessons in the spirit which disciples of such a Master ought to adopt and continually follow.”⁷⁰

Religious freedom is not just compatible with Catholic doctrine; it is a tenet of Catholic doctrine. *Dignitatis Humanae* paragraph 10 declares, “[i]t is one of the major tenets of Catholic doctrine that man’s response to God in

66 *Id.* para. 2.

67 *Id.*

68 *Id.* para. 9

69 *Id.*

70 *Id.*

faith must be free: no one therefore is to be forced to embrace the Christian faith against his own will.”⁷¹

VI. AFTER VATICAN II

Popes after Vatican II have been consistent and articulate in their defense of religious freedom.

A. *Pope Benedict XVI*

Pope Benedict XVI, in a Papal Address to the Philippine Ambassador in 2008, stated:

The Catholic Church is eager to share the richness of the Gospel’s social message, for it enlivens hearts with a hope for the fulfillment of justice and a love that makes all men and women truly brothers and sisters in Christ Jesus. She carries out this mission fully aware of the respective autonomy and competence of Church and State. Indeed, we may say that the distinction between religion and politics is a specific achievement of Christianity and one of its fundamental historical and cultural contributions.⁷²

B. *Pope Francis*

In September 2015, Pope Francis visited the United States, a journey in which his commitment to religious freedom was repeated in a series of appearances. Meeting with the Hispanic community and other immigrants, Francis affirmed that religious freedom:

[I]s a fundamental right which shapes the way we interact socially and personally with our neighbors whose religious views differ from our own. . . .

Religious freedom certainly means the right to worship God, individually and in community, as our consciences dictate. . . . [R]eligious liberty, by its nature, transcends places of worship and the private sphere of individuals and families. Because religion itself, the religious dimension, is not a subculture; it is part of the culture of every people and every nation.⁷³

⁷¹ *Id.* para. 10.

⁷² Pope Benedict XVI, Address to H.E. Mrs. Cristina Castañer-Ponce Enrile, New Ambassador of the Republic of the Philippines to the Holy See (Oct. 27, 2008), http://w2.vatican.va/content/benedict-xvi/en/speeches/2008/october/documents/hf_ben-xvi_spe_20081027_ambassador-philippines.html.

⁷³ Pope Francis, Address of the Holy Father: Meeting for Religious Liberty with the Hispanic Community and Other Immigrants (Sept. 26, 2015), http://w2.vatican.va/content/francesco/en/speeches/2015/september/documents/papa-francesco_20150926_usa-liberta-religiosa.html. See also U.S. CONFERENCE OF CATHOLIC BISHOPS, POPE FRANCIS & RELIGIOUS FREEDOM (2015), <http://www.usccb.org/issues-and-action/religious-liberty/fort-night-for-freedom/upload/Pope-Francis-Quotes-on-Religious-Freedom.pdf> (providing excerpts of Pope Francis’s address to the Hispanic community, among other addresses he made during his visit to the United States).

In February 2016, after “decades of overtures to the Russian church,”⁷⁴ Pope Francis met with Patriarch Kirill of Moscow and All Russia in Havana, Cuba, in a “meeting that bridged a nearly 1,000-year rift in Christianity.”⁷⁵ To conclude the meeting, the Pope and the Patriarch issued a joint statement in which they “affirm[ed] the foremost value of religious freedom”⁷⁶ and asserted,

Interreligious dialogue is indispensable in our disturbing times. Differences in the understanding of religious truths must not impede people of different faiths to live in peace and harmony. In our current context, religious leaders have the particular responsibility to educate their faithful in a spirit which is respectful of the convictions of those belonging to other religious traditions.⁷⁷

CONCLUSION

Vatican II suggests that freedom of thought, conscience, and belief is most likely to be promoted when the dominant religious groups find within their own religious traditions the resources and arguments in defense of freedom, conscience, and human dignity. The Catholic Church, in my judgment, is far ahead of virtually every other religious tradition in doing this. Many religious traditions, including Orthodox Christians, Muslims, Buddhists, and Hindus can profitably look to the experience of the Catholic Church for insight and guidance for finding within their own religious traditions the resources that are going to be most persuasive to the people in their spheres of influence.

Dignitatis Humanae does not so much represent a fork in the road as it is a culmination of thinking and development that had been taking place for a long time, not only within Catholic thinking but within human thinking more broadly about human dignity, human rights, going back at least to the American experience in the Revolutionary War. When the Universal Declaration of Human Rights was compiled, it was the result not of a project of grand theory, but of consensus that had emerged collectively from the crucible of World War II. When *Dignitatis Humanae* reflected back the importance of freedom of conscience and religion, it did so in a powerful way, because it did not just echo the post-World War II consensus about human rights; rather it did something altogether more profound and meaningful. It found within the religious tradition, within the doctrine and truths of the Church itself, a powerful defense of religious freedom.

74 Nick Miroff & Brian Murphy, *History in Havana: Pope Seeks to End 1,000-year Schism*, STAR-TELEGRAM (Fort Worth) (Feb. 12, 2016), <http://www.star-telegram.com/news/nation-world/world/article60162481.html>.

75 *Id.*

76 Pope Francis and Patriarch Kirill, Joint Declaration of Pope Francis and Patriarch Kirill of Moscow and All Russia para. 14, (Feb. 12, 2016), http://en.radiovaticana.va/news/2016/02/12/joint_declaration_of_pope_francis_and_patriarch_kirill/1208117.

77 *Id.* para. 13.

It is hard to believe it is a coincidence that when we look at the patterns of restriction of religious freedom that exist around the world, including legal restrictions and social hostilities, in places with high or very high restrictions, there is almost always a dominant religious group that is a majority or supermajority. But there are no countries with high or very high legal restrictions and very few countries with high social hostilities that have a Catholic majority or supermajority. This provides a powerful invitation for those of us who live in countries with high restrictions to reflect upon the role that the dominant religious groups may have in perpetuating those restrictions, and the potential role that those dominant religious group may have in overcoming those patterns of restriction and hostility.

Among the most important resources for promoting religious freedom will be religious reasons and doctrines found within religious traditions. Freedom of thought, conscience, and belief is most likely to be promoted when dominant religious groups find within their own religious traditions the resources and arguments in defense of freedom, conscience, and human dignity. Many religious traditions, including Orthodox Christian, Muslim, Buddhist, and Hindu, can look to the experience of the Catholic Church for insight and inspiration.

