Fifty years ago the world applauded as the Catholic Church announced its new political pluralism in *Dignitatis humanae*. That pluralism was grounded partly in practical considerations (the end of Catholic hegemony in many places) and partly in philosophical ones: “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. The demand is likewise made that constitutional limits should be set to the powers of government, in order that there may be no encroachment on the rightful freedom of the person and of associations. This demand for freedom in human society chiefly regards the quest for the values proper to the human spirit.”

On this line of thought the dignity of man entails responsible judgment; responsible judgment entails both duty and freedom; freedom requires constitutional limits on governmental power. While the word “pluralism” does not appear in the Declaration, its affirmation of religious freedom constitutes recognition in principle of the political legitimacy of competing world views and diverse communities with their respective modes of life. It expects only a common commitment to the dignity of man, and an acknowledgement that freedom is not merely freedom from constraint but rather freedom for the proper development of the human spirit.

Today, however, this Catholic pluralism is *passé*, if it were not already so at the time of its promulgation. Another kind of pluralism is in the ascendancy. Some call it normative pluralism, but we may
(with a certain irony) call it the new catholicism. For though it seems at first glance to involve a much more radical affirmation of diversity – set out in conscious opposition to the Catholic affirmation, which it dismisses as belated and begrudging – it turns out to be even more restrictive and politically repressive than the pre-conciliar Catholicism to which it so objects.

**THE PROBLEM WITH NORMATIVE PLURALISM**

The character of this pluralism stands out clearly in the Loyola case, on which the Supreme Court of Canada has now ruled.² Professor Georges Leroux, the Ministry of Education’s expert witness and a leading apologist for the Ethics and Religious Culture (ERC) program, sees that program as a “revolutionary” development in Quebec. And normative pluralism, he says, is its very *raison d’être*. Professor Leroux is quoted as saying: “The first reason that we, the Government and all those who have supported it, judged that it is necessary, even essential, to draw up the course of ethics and religious culture, is normative pluralism. It is essential that diversified experience, both on the moral and the religious level, be valued in its diversity.”³

Now a Catholic ought to understand this and, more than anyone else perhaps, receive it sympathetically. Otherness is no threat, but in principle a joy, to one who holds the Nicene faith, which posits not only the otherness of God but also otherness in God. No xenophobic culture can claim, in that respect, to be Catholic. Diversity, as J.S. Mill says – well, actually, as Genesis 1 says – is not an evil but a good. But there is a problem here, as I argued before the lower court.⁴ The problem is with the kind of pluralism in view and, more particularly, with its tendency to suppress, rather than to appreciate, genuine otherness.

Let it be said straight away that the expression “normative pluralism” does not, as some suppose, signify a fact on the ground; *viz.*, the sometimes fraught coexistence (needing a little encouragement or even management) of culturally and religiously diverse communities, living side by side within a larger social and legal framework. What would be new or revolutionary about that? Rather, it signifies a determination that valuing diverse moral and religious practices or perspectives should *become* the norm, such that “no one principle, ideal, or way of life can dominate.”⁵ None, that is, save pluralism itself, which is to serve society as the *norma normans non normata.*
Alas, wherever this norming norm appears, whether in Europe or in the Americas, it immediately generates conflicts with the right to religious freedom and to freedom of conscience. In the case at hand, the conflict was not in the entirely reasonable demand from the Ministry of Education that respect be shown to others in the process of exploring religious or ethical topics and cultures, but rather in the demand that Loyola High School abandon its own Catholic posture and pedagogy in favour of the putatively neutral posture and pedagogy of the Ministry. This demand Loyola rightly rejected. How can a Catholic person, whether a natural or (in the case of the school) a legal person, be asked not to be Catholic for a specified period or task? Could that person agree to do so without denying catholicity tout court? Does catholicity not entail the claim that all of life, that the cosmos itself in all its richness and diversity, belongs comprehensively to God in Christ? Would the Catholic faith not lapse into complete incoherence were it allowed that there is even some tiny interstice which does not belong to God? To act deliberately as if one did not oneself, in this matter or that, belong to God in Jesus Christ – is that not the very essence of sin, from a Catholic perspective?

Catholics propose this faith to others, but they do not impose it on others. Their own pluralism is a pluralism open to the other as other. But they expect the same openness in return. The trial judge grasped the nub of the problem. “In short,” he observed, “the Minister wants that subject, erc, to be taught in a lay manner [de façon laïque], whereas Loyola agrees to teach it but must teach it in a denominational manner [de façon confessionnelle] so that the school complies with the precepts of the Catholic religion that governs it and that it has applied since it was founded in 1848.” The Minister’s posture he found surprising “in this era of respect for fundamental rights, tolerance, reasonable accommodation and multiculturalism.” It left Loyola in an untenable position, because the latter could not be true to its own mandate or identity without violating the law; and, for that, there could be no Charter justification, absent any dispute about the basic objectives of the program. Justice Dugré did not mince his words: “The obligation imposed on Loyola to teach the erc course in a secular [laïque] manner is totalitarian in nature and essentially tantamount to the command given to Galileo by the Inquisition to abjure the cosmology of Copernicus.”

That might have been the end of it, though the case immediately attracted international attention. Unfortunately – such is the hold of
normative pluralism and the consequent attentuation of respect for religious freedom – the justices of the Court of Appeal saw no problem at all, opining without explanation that the Minister’s demand infringed only trivially on any claim to religious freedom. Catholics, after all, can think and teach like Catholics part of the day; why should they demand to do so all day? The Supreme Court, in its final disposition of Loyola, adopted a view much closer to that of the trial judge, but not without some hesitation, which deserves our scrutiny.

Chief Justice McLachlin and Justice Moldaver, writing the minority’s concurring reasons for a unanimous decision in favour of Loyola, argue that the school’s Catholic identity must be respected, not only in its teaching about Catholicism but in all its teaching. Otherwise, “faced with a position that is fundamentally at odds with the Catholic faith, Loyola’s teachers would be coerced into adopting a false and facile posture of neutrality” or indeed be rendered mute. Moreover, they are critical of the fact that ERC “compels teachers to adopt a professional posture of strict neutrality, such that all points of view and all religious perspectives are presented as equally valid.” They challenge the assumption that “if a religious perspective is offered, then all other viewpoints that do not conform to it will necessarily be derogated and disrespected.” They recognize “subtle but important distinctions … between the respectful treatment of differing viewpoints that Loyola proposes, and the strict neutrality required under the generic ERC Program.”

These distinctions are too subtle for the majority, however. Justice Abella (writing for the latter) employs the adjectives “respectful” and “objective” and “neutral” almost as if they were synonyms, and sometimes seems to share the Minister’s assumption that all three may serve as antonyms for “religious.” She is not unaware that (normative) pluralism can be overly authoritarian, but she is concerned lest religious claims trump “core national values” or escape “the context of a secular, multicultural and democratic society with a strong interest in protecting dignity and diversity, promoting equality, and ensuring the vitality of a common belief in human rights.” For it is pluralism, not religion, that protects these values and fosters social peace.

While Justice Abella acknowledges that it is both impractical and unjust to demand that Loyola teach about Catholicism or ethics from a neutral point of view, she does not think it either impractical
or unjust that it be asked to teach about other religions neutrally.\textsuperscript{16} Taking a page from Richard Moon, she even worries that “the alternative program that Loyola submitted to the Minister would teach other ethical frameworks primarily through the lens of Catholic ethics and morality,” such that “other religions would necessarily be seen not as differently legitimate belief systems, but as worthy of respect only to the extent that they aligned with the tenets of Catholicism.”\textsuperscript{17} In Professor Moon’s own words: “If religion is an aspect of the individual’s identity, then when the state treats his or her religious practices or beliefs as \textit{less important or less true} than the practices of others, or when it marginalizes her or his religious community in some way, it is not simply rejecting the individual’s views and values, it is denying her or his equal worth.”\textsuperscript{18}

Justices McLachlin and Moldaver notice the difficulty here, which goes beyond the tendency to sublate Loyola’s interests within those of the state. Their words are trenchant and worth quoting in full:

This position presents a false dichotomy ... Requiring a religious school to present the viewpoints of other religions as equally legitimate and equally credible is incompatible with religious freedom. Indeed, \textit{presenting fundamentally incompatible religious doctrines as equally legitimate and equally credible could imply that they are both equally false}. Surely this cannot be a perspective that a religious school can be compelled to adopt. Loyola’s teachers cannot be expected to teach ethics or religious doctrines that are contrary to the Catholic faith in a way that portrays them as equally credible or worthy of belief. Respect, tolerance, and understanding are all properly required, and the highlighting of differences must not give rise to denigration or derision. However, ensuring that all viewpoints are regarded as equally credible or worthy of belief would require a degree of disconnect from, and suppression of, Loyola’s own religious perspective that is incompatible with freedom of religion.\textsuperscript{19}

It needs only to be added that requiring \textit{anyone} to adopt such a posture is to require of them an absurdity. The very suggestion that incompatible beliefs can be equally valuable and equally true is an absurdity. So is the notion that to deny the truth or value of what someone claims, whether about others or about themselves, is to
deny their equal worth as a person. But it is to just such absurdities that normative pluralism leads – unless perchance it is from them that it comes.

Normative pluralism, as Loyola illustrates, leaves us in a quandary. We mean to be tolerant of diversity, if not to celebrate it. But how can tolerance tolerate, much less celebrate, intolerance? How and where shall a line be drawn, limiting diversity for the sake of diversity, limiting tolerance without appearing intolerant? That is our dilemma, or at all events the court’s dilemma, and it is not fully resolved in Loyola. Boundaries there must be, but who can say where? Trump cards are necessary, but who will choose them? And if these questions cannot be answered, or if we cannot say exactly what our “core national values” are, or whence they arise, or what they imply about the world we live in, who will prevent our pluralism from degenerating into what Richard John Neuhaus once called “the monism of indifference”?20

Recall a much earlier case, Ross v. New Brunswick School District No. 15. In deciding that the School District was justified in removing Ross from the classroom for his anti-Semitism, the court remarks as follows: “Ours is a free society built upon a foundation of diversity of views; it is also a society that seeks to accommodate this diversity to the greatest extent possible. Such accommodation reflects an adherence to the principle of equality, valuing all divergent views equally and recognizing the contribution that a wide range of beliefs may make in the search for truth. However, to give protection to views that attack and condemn the views, beliefs and practices of others is to undermine the principle that all views deserve equal protection and muzzles the voice of truth.”21

A closer look at this passage reveals the same underlying confusion. Indeed, it reveals a confusion of pluralisms. On the one hand, there is insistence upon a free society, with the understanding that listening to “a wide range of voices” is characteristic of a free society. There is also a recognition that such a society is engaged in “the search for truth” and that it is open to “the voice of truth.” It seeks “the values proper to the human spirit,” to import the conciliar expression. On the other hand, the court makes the very odd claim that our society is “built upon a foundation of diversity of views” – what sort of foundation could that be? – and the still odder claim that it values “all divergent views equally.” Surely to value all divergent views equally is to value no view in particular.22 To build on a foundation of diversity
of views is to build on no foundation at all. It is, in Jesus’ famous saying, to build on sand. The search for truth is abandoned. Tolerance becomes, or tries to become, all encompassing.23

So what is left with which to censure Mr Ross? Not so much his anti-Semitism as his anti-Semitism. Ross, we are told, has “attacked and condemned the views, beliefs and practices of others.” There is therefore no place for him in a public classroom. But on this logic there would be no place either for Cicero, say, or for Moses for that matter. Ross’s anti-Semitism is trumped by nothing more than the court’s anti-anti-ism. This is not the kind of thinking that preserves the foundations on which the country is built. It is not a resolution to the dilemma. It is the self-defeating logic of infinite regress.

COMPETING VISIONS OF HUMAN DIGNITY

I do not mean to make too much of Ross, of which I have not offered a full account.24 Or too little of Loyola, which legal scholars have yet to digest. I only mean to say that in both cases the court appears to be halting between two opinions of pluralism, or rather between two different types of pluralism: the one making the truth about human dignity the basis for generating the political conditions under which responsible freedom can flourish; the other making freedom and diversity (or, as Mill has it, freedom and “a variety of situations”) the basis for generating the conditions under which human dignity can flourish.

Let me unpack that a little. For the former, human dignity is a divine gift, consisting in the love of God that enables man, as a uniquely rational and volitional animal, to pursue a vocation to happiness through participation in God. Proper recognition of human dignity requires a polis in which man is aided rather than impeded in this pursuit. And he is not aided, but rather impeded, where attempts are made either to compel his pursuit or to discourage it. The polis is properly pluralistic where the pursuit is encouraged but not regimented or (per impossible) enforced. Hence the distancing at Vatican II from some political or legal practices once common in Christendom. Hence also, of course, the resistance to political systems or religious communities in which compulsion is prominent.

For the latter, however, human dignity is self-grounded, and the human vocation also. It is not denied that all men seek happiness, but happiness (being strictly individual) remains indeterminate.
Likewise dignity, which is detached from objective reference points and rendered largely subjective, is a matter of feeling. As the court itself puts it in *Carter*, “an individual’s response … is a matter critical to their dignity and autonomy.”²⁵ The concept of rights has followed a similar trajectory, as it must, if rights are grounded in dignity. So has the philosophy of education, which comes to the fore in *Loyola*, and much else that concerns the law.

Here the relation between dignity and freedom is reversed. Instead of freedom deriving (as Anselm taught) from our simultaneous ordering to happiness and to justice,²⁶ which ordering is our dignity, freedom becomes (as Mill taught) a precondition for our self-directed pursuit of happiness. Freedom means as little restraint to the spontaneous exercise of free choice as possible, and requires only opportunity or a variety of situations – in a word, pluralism – as its positive counterpart. And from freedom flows the possibility of self-realization, hence of dignity.²⁷

This reversal began, not in the eighteenth century, but in the tenth or eleventh; that is, with the advent of nominalism.²⁸ It gained much ground in the thirteenth and fourteenth, when Ockham taught us to think of free will in terms of the freedom of indifference: that is, to think that the will is free even before it engages the intellect, free before it stands at the intersection created by the pursuit of happiness (which is man’s highest end) and the pressing question of justice in that pursuit; to think that the will is free absolutely, simply as the power of choice and without reference to what is being chosen or even to what the will is for.²⁹

In this way of thinking, liberty, like free will, is essentially a negative concept. Whether individual or corporate, it is freedom *from* rather than freedom *for*. Liberty is simply the absence of constraint. As such it is detached from any positive claim respecting happiness, which itself is reduced to a feeling – an elusive and indefinable and, in any case, incommunicable feeling. As for justice, it is reconceived as an attempt to protect liberty, so understood. It is merely the weighing against each other of the constraints on individual freedom of choice that life (more specifically, life in society) inevitably produces.

This is the line of thought extended recently by Rawls, with his reduction of justice to fairness and his eschewal, for public purposes, of any comprehensive doctrine, even that of liberalism. Rawls makes a virtue out of necessity, we might say, for not surprisingly we have
experienced a loss of common vision, of shared hope, of rational consensus on matters of substance. The crumbling of the foundations has created deep fissures in the life of the polis. And what have we done in response? Nothing more than some political bootstrapping. We have tried to make plurality itself the very basis of unity. Which cannot be done.

The outcome, in fact, can only be a political monism averse both to the voice of truth and to the voice of those who dissent for the sake of truth; averse indeed to authentic cultural diversity. The guiding mantra, to be sure, is “diversity not an evil, but a good.” Yet those who adopt this mantra are working to Mill’s equation: freedom plus diversity equals spontaneous development, or individual and social progress. And their faith in that equation is such that they are quite ready to force dissenters to embrace diversity, just as Rousseau would force them to be free. What normative pluralism comes to mean in practice, then, is that those of Catholic faith, or those who for some other reason do not admit the new norming norm, are subject to economic, political, and even legal disenfranchisement.

Thus, for example, does Professor Leroux speak happily of the state becoming the *seul acteur* and indeed the “sole owner” in education. Thus does the ERC program forbid the use of local priests, rabbis, imams, etc., in its classrooms. Thus are statutes set in place requiring GSAs (gay-straight alliances) in every school, or policies requiring instruction of children, even very young children, in forms of sexual activity their parents (whose resistance is often crushed by collusion between radical activists and state authorities) deem dangerously disordered. Meanwhile, pro-life clubs are prohibited. And it does not stop there; that is, with hegemony over the formation of the next generation. Medical staff are trained in procedures that violate their beliefs and convictions, and disciplined or fired for refusing to be complicit in processes they regard as immoral, even in practices they deem murderous. Of doctors it is demanded that they either abort or refer for abortion, euthanize, or refer for euthanasia, and of pharmacists that they dispense drugs injurious or fatal to life. Civil servants fare little better, as freedom of conscience comes under attack along with freedom of religion. Even clergy are no longer exempt from pressure to yield up to state authorities that which cannot be yielded, the sanctity of the confessional or the integrity of holy matrimony. The pluralism that tries to make diversity the
ground of unity, the normative pluralism that insists that all views be valued equally, produces in the end only a false and oppressive unity – conformity by compulsion.

**THE DOCTRINE OF DOUBLE TRUTH**

How does this happen? First, the relation between dignity and freedom is reversed, as we have seen. But, second, truth is divided. It is not just that entirely discrete moral or religious claims are set alongside each other, without need of adjudication or hope of reconciliation. More than that, or rather because of that, a barrier is set up between private and public truth – not unlike the barrier set up long ago, in thirteenth-century Paris, between theological and philosophical truth – as if truth itself had no unity!

The Paris episode is worth recalling. Aristotle, that intrepid architect of one discipline after another, was at the centre of it. Much of his work, which had gone missing during the collapse of the Western empire, had now been recovered. It was being enthusiastically devoured in the new universities of Latin Christendom, where he was widely admired as *the* philosopher, together with the work of Averroes, who was regarded as his greatest commentator. In Paris, the Faculty of Arts had begun establishing its independence from the Faculty of Theology, and by AD 1260 was teaching Aristotle as the basis of its curriculum. But Aristotle, not surprisingly, had ideas about the world that didn’t fit with Christian ideas. So, of course, did the eccentrically Islamic Averroes. Some philosophy professors followed an Averroean line of thought into several positions contrary to Christian faith. For example, they taught the eternity of the world and the notion that there was a single world soul (the doctrine of monopsychism); they effectively denied free will and the Christian doctrine of divine providence. These teachings, along with a good many others emanating from both faculties, were condemned by the bishop of Paris in 1277.

Bishop Etienne Tempier was undoubtedly heavy-handed. He was concerned, however, not only with the particular points in dispute, but also with the epistemological implications of trying to hold both to Christian faith and to Aristotle on points where they were incompatible. These professors seemed to be advocating a doctrine of double truth; that is, to be saying that some things “are true according
to philosophy but not according to the Catholic faith, ‘as if there were two contrary truths.’” To take such an approach was to put the whole notion of a universitas in jeopardy; it was neither Aristotelian nor Christian to deny the unity of truth and of knowledge. A university was a society of scholars united in the pursuit of truth, and commitment to the unity of truth was as essential to the university as to the Church herself.

Perhaps no one at the time really held this “doctrine of double truth” to which the bishop objected. What, after all, could be less Aristotelian than to defy the law of non-contradiction, or even to skirt it by pretending that truth could be divided neatly into hermetically sealed spheres? What could be less Catholic than to assert that truth itself is not kata holon – that there is no unity or wholeness to truth? But whatever the case then, today it seems that some people do hold such a doctrine, that they really do think that truth can be divided.

Justin Trudeau, for one, recently declared that the truth taught him by the Catholic Church via his father is one thing and the truth to which he and his caucus colleagues must adhere is another. Here is Trudeau fils, as reported in various interviews, brandishing the Liberal Party flag at the barricade between public and private truth in defence of abortion: “I had an extraordinary example in a father who had deeply, deeply held personal views that were informed by the fact that he went to church every Sunday, read the Bible regularly to us, and raised us very religious, very Catholic … He held his personal views very, very strongly. But he understood that as leaders, as political figures, as representatives of a larger community, our utmost responsibility is to stand up for people’s rights.” “The policy going forward is that every single Liberal MP will be expected to stand up for women’s rights to choose.” “That doesn’t impact or prevent someone from holding personal views – religious views – but it does mean that with our votes the Liberal party protects women’s rights.”

And here is Trudeau père, commenting on the same issue some forty years earlier: “You know, at some point you are killing life in the foetus in self-defence – of what? Of the mother’s health or her happiness or of her social rights or her privilege as a human being? I think she should have to answer for it and explain. Now, whether it should be to three doctors or one doctor or to a priest or a bishop or to her mother-in-law is a question you might want to argue ...
You do have a right over your own body – it is your body. But the foetus is not your body; it’s someone else’s body. And if you kill it, you’ll have to explain.”

It will not do, of course, to mistake Pierre Trudeau’s view for that of the Church. One does not explain that which is intrinsically evil; rather, one repents of it. And where the evil in question is killing the innocent, civil law, like natural and divine law, must forbid it. But what are we to make of Justin’s notion that something can be fundamentally wrong according to sound religion and fundamentally right according to sound politics? We can draw but one of two conclusions. Either truth is indeed a house divided against itself, or else the realm of religion – of “deeply held personal views” – is not really the realm of truth or rationality at all.

The result again is repression. A more sensible man, Rex Murphy, put his finger on the problem that immediately arises for those who neither subscribe to a two-truths theory nor accept the bracketing of religion with the irrational: they are excluded from public life.

What kind of politics are they which require an MP to renounce his deepest moral commitments; indeed, to go beyond renunciation and declare himself positively in favour of ideas and actions that his faith condemns, his Church forbids, and his conscience cannot abide? Religion, under these conditions, cannot survive political engagement. An understanding of politics based on an exclusion of thoughtful and engaged religious people – on the rejection of ideas and understandings offered by the great religious teachers and the massive legacy of thought our churches have to offer – is radically incomplete. As things now are, a truly religious person must actually stay out of politics – must forgo an active role in democratic government – because in our brazen and new age, he or she will be faced with irreconcilable moral choices. If elected, he or she will be required to betray their faith and themselves, and on those very issues that matter most: issues of life, family, autonomy and the dignity of persons.

That is the effect of the doctrine of double truth as we encounter it today.

I will grant Justin Trudeau this, however: that he does not seem to be proposing that truth be divided within the sphere of politics, such that contraries are affirmed and a vain attempt made to value all
views equally. He knows, or thinks he knows, what is right and what qualifies as a right. He knows, or thinks he knows, that there is a moral as well as a legal right to kill one’s baby – a right it would be wrong for the state not to defend. He is confident enough of that, that he is not prepared to tolerate any diversity on the subject within his own party. Nor is he prepared to allow that people who say otherwise might be right. He is not for “a variety of truths” in the public sphere. But whether one says that all views must be valued equally (except, of course, the view that all views should not be valued equally) or whether one simply brackets out religious and moral teaching whenever it contradicts one’s preferred view, the consequence is the same. Truth is divided; falsehood prevails. And not only falsehood, but oppression. Why oppression? Because people are indeed required to betray the truth, and to betray it at the very points where it matters most.45

So truth is divided and conquered: there is one kind of truth for the private sphere and another for the public sphere. That is the second step on the path by which pluralism becomes a form of oppression. But there is a further step, which is the misconstrual of the public sphere as such. The public sphere is viewed as a realm detached, not merely from religious and moral tradition, but from tradition generally. It becomes the realm of common process, but not of common good. It wastes away under a progressively thinner form of public reason.

This happens wherever reason is regarded as “public” only insofar as it can be detached from the traditions that define the particular communities that actually constitute civil society.46 For this suppresses awareness of the plurality of perspectives that contribute to the search for a common good, and also sets the public sphere, as something primarily procedural or bureaucratic, at odds with the traditional – at odds, that is, with the practice of reverence for the established results of that search and for the authorities that have guided it.47

In reality, of course, this procedural republic (to use Sandel’s label48), which is meant to be neutral and to “value all divergent views equally,” regularly takes sides when disputes arise, as indeed it must. And the side it takes is usually that of liberal modernity, which
imagines the individual in Romantic terms as someone needing the state to liberate him or her from other individuals and especially from traditional communities and their habits. Recall Mill’s own advice:

As it is useful that while mankind are imperfect there should be different opinions, so is it that there should be different experiments of living; that free scope should be given to varieties of character, short of injury to others; and that the worth of different modes of life should be proved practically, when any one thinks fit to try them. It is desirable, in short, that in things which do not primarily concern others, individuality should assert itself. Where, not the person’s own character, but the traditions or customs of other people are the rule of conduct, there is wanting one of the principal ingredients of human happiness, and quite the chief ingredient of individual and social progress … [S]ociety has now fairly got the better of individuality; and the danger which threatens human nature is not the excess, but the deficiency, of personal impulses and preferences.49

Working with this conception of the individual and with this prejudice against society, the state steadily accrues to itself functions that once belonged to social institutions. It adopts, at the urging of its “liberal” elite, a subjectivist approach to rights, in which the dignity of the person and “the values proper to the human spirit” are understood along nominalist and Romantic rather than Judeo-Christian lines. It then deploys the legal and political means at its disposal to refashion us in just that image. Ironically, liberty itself is the main casualty. “Responsible freedom … motivated by a sense of duty” loses its meaning, or comes to mean only that one is obliged (a) not to interfere with one’s neighbour and (b) to be subject to the state and to the state alone. No greater vision, and no greater good, informs either freedom or duty. The traditional communities whose beliefs and whose labours actually did build the country are marginalized, if not deliberately deconstructed.

Whether this is done in the name of liberalism or of secularism or of normative pluralism or even of multiculturalism hardly matters. What we are witnessing, as I said, is the emergence of a kind of inverse catholicism on the political level: not a common hope or a commonwealth of which local communities are particular and unique
expressions, but merely a common abstraction, a collective emptiness, that sucks the life out of local communities, which increasingly are constrained to act on judgments about human flourishing that are not their own.50

Meanwhile, some hardier souls seek a deeper and more authentic pluralism, one that faces up to the fact that the citizen of any state knows multiple allegiances and acknowledges diverse sources of authority. They ask a certain modesty of the state so that actual communities and their traditions may flourish. Some (such as my law colleague, Victor Muñiz-Fraticelli) try valiantly to mount “a defence of the autonomy of associations and of the institutions necessary for that autonomy to flourish” and to flesh out a theory of private law that can function within a broader constitutional frame of reference.51 This counter-movement may be welcomed, since it is pluralism of the (quite traditional) type “that ‘refuses to limit the domain of law to the law of the state’ and that refuses to regard non-state ‘authority’ as existing and exercised only by state concession.”52 It is unclear, however, just what authority and autonomy are, and how they are related.53 It is unclear how the state itself derives its own authority, and how far it can or will cede authority to associations.54 Moreover, the moral or value pluralism that is presupposed here remains problematic, as does the tendency to legal positivism. What, if any, is the role of natural law in deep pluralism? Can the real problems it seeks to address actually be addressed where the question of natural law and of moral validity is bracketed?55

This movement should not be mistaken for Catholic pluralism, though it overlaps it at certain points. What it serves to highlight is the unresolved dispute in the Rawlsian camp between comprehensive liberalism and political liberalism. Deep pluralism certainly inclines to the latter, or rather it extends and seeks to entrench the latter, but at the expense of the commitment to the unity of truth still (defectively) at work in the former. It must also be observed that ever-expanding webs of dependency, generated by urbanization and technological advances, are overwhelming us economically, politically, culturally, and even biologically, and that all this works both for and against autonomy, whether individual or institutional. Private law will work only where private economies also function. For this reason, too, I am not at all confident that deep pluralism is viable, or that it is capable of being given a Christian baptism.
RECOVERING CATHOLIC PLURALISM

The relation between dignity and freedom reversed; truth divided and indeed multiplied; public reason truncated to exclude tradition and traditional truth-claims: all of this leads to oppression because it refuses to allow for the truth of truth. We seek a unity based on diversity, a foundation of diversity of views. We call it pluralism, and we make of it a kind of civil religion, a comprehensive piety for everyone, to overcome the (putative) divisiveness of all other pieties. But this normative pluralism is no proper substitute for Catholic pluralism, and it affords – so we are beginning to discover – no real freedom.

Is it possible, then, to recover the vision of Dignitatis? Only if we are prepared to go back behind that document, rediscovering the tradition to which it belongs, as we have tried to do here with the tradition to which normative pluralism belongs. For, contrary to popular opinion, Dignitatis is not a brand-new departure. It represents only an adjustment to the trajectory of Catholic political thought. It belongs to a series of responses that the magisterium has felt itself compelled to make to the changing conditions of modernity.

One of those responses came in 1888, when, some thirty years after Mill’s famous work on the subject, Leo XIII issued his encyclical, Libertas praestantissimum. Its opening gambit was to identify liberty as “the highest of natural endowments” belonging to rational creatures, hence as the one that requires the most care. Leo went on to challenge the faux liberalism rooted in nominalism and rationalism, and especially that “worst kind of liberalism” in which is “cast off all obedience to [God] in public matters, or even in private and domestic affairs.” Authentic liberty, he insisted, “stands in need of light and strength to direct its actions to good and to restrain them from evil. Without this, the freedom of our will would be our ruin.”

It requires the light of revelation as well, so that it may aspire to its highest end; that is, to God. Otherwise the human will, in its fallen condition, detaches itself from reason and corrupts the very essence of freedom. Good and evil, honour and dishonour, soon differ “not in their nature, but in the opinion and judgment of each one.” Pleasure now becomes “the measure of what is lawful.” Truth and goodness become subject to majority vote. An unnatural chasm opens up between reason and religion, then between private and public reason. “And as to tolerance,” observes Leo, “it is surprising how far removed from the equity and prudence of the Church are
those who profess what is called liberalism. For, in allowing that boundless license of which We have spoken, they exceed all limits, and end at last by making no apparent distinction between truth and error, honesty and dishonesty.”

This analysis is accurate and describes all too well our situation today. Leo, like other modern popes, read well the trajectory that leads to normative pluralism and its relativist bedfellows. Though he was not familiar with such labels, he grasped the principles and forces in play. Likewise, he understood the trajectory that leads to the kind of freedom that we (ought to) desire, the freedom Dignitatis speaks of, that “responsible freedom, not driven by coercion but motivated by a sense of duty” and by “the values proper to the human spirit.” These alternatives are starkly summarized by Leo at the outset: “Man, indeed, is free to obey his reason, to seek moral good, and to strive unswervingly after his last end. Yet he is free also to turn aside to all other things; and, in pursuing the empty semblance of good, to disturb rightful order and to fall headlong into the destruction which he has voluntarily chosen.”

But what about us? Do we even grasp the fact that there are two trajectories to trace, rather than just one? The opening paragraph of Dignitatis falls, we might say, at the point on the graph where these two trajectories intersect. And this is confusing to some, particularly to those who remain unfamiliar with the exposition to be found in Gaudium et spes, or who fail to recognize there also – for that whole document shines a spotlight at precisely the same point – the convergence and divergence of trajectories. That there is such a convergence and divergence is the message of the cross and resurrection of Jesus Christ, the very source of our joy and hope. To deny that there are two trajectories is to set the cross at nought and to rob the resurrection and ascension of their meaning. In Gaudium’s own words, “earthly progress must be carefully distinguished from the growth of Christ’s kingdom,” for the kingdom is present only in a mystery.

If we really mean to recover the trajectory on which lies that other and very different kind of pluralism proffered in Dignitatis, we will have to identify, then, not only what can be affirmed in the aspirations and self-perception of modern man but also what must be rejected. In the present context this means at least three things.

First, we must offer a potent and relentless critique of our society’s habitual evasion of truth. What we need to point out to our fellow citizens, taking a page from Leo, is that man is not and cannot be
philosophically or theologically neutral. Neither then can politics, if politics means to be human. There is no presuppositionless political sphere, no sphere in which nothing is directly implied about the nature of God or of man. There is no polis that has no determinate loves, that makes no commitments, that renders no firm judgment of good and evil, that has no God or gods.

We can speak with Rawls of a public reason based on reciprocation and tolerance and respect for basic rights, but we cannot speak of it as a self-standing form, that from itself and by itself serves as the very criterion of reasonableness. We cannot speak of shared public reasons that can be given strictly “in terms of political conceptions of justice,” as if the latter were quite detachable from other and higher conceptions of justice. Nor can we speak of an overlapping consensus, one that eliminates certain comprehensive doctrines but not others, without pressing the question as to how this consensus has arisen and how it is to be maintained, and whether its core principles suffice for handling the difficult disagreements that must in fact be handled.

Rawls recognized that abortion is among these, but his comments on that subject betray the fact that he never really faced up to the limits of his theory, and indeed to its inadequacy. The abortion issue forces us to say who is included in our reciprocity, and who is not. It also forces us to reckon with the fact that we cannot order political values without ordering our ends, which is the very business of comprehensive world views. It forces us, as well, to consider the problem of complicity that necessarily arises with our reciprocal obligations. Rawls hints that justice in the matter means leaving some free to say they will abort so long as others are free to say they won’t. But abortion requires public organization and approval. It requires medical training and facilities and money. It involves both the willing and the unwilling – the fetus, of course, is unwilling, but so are many others who perforce are involved. Abortion is a bloody token of our collective evasion of truth.

Second, we must offer a reminder that it is impossible to love freedom without loving truth. The task today, as all the recent popes have emphasized, is to reconnect truth and freedom. And to reconnect both with happiness. For happiness is a, nay, the political subject. To cultivate a new conversation about human happiness is our task, our public and not merely our private task.
This means that we must aim to break the nominalist/secularist/pluralist stranglehold on public discourse and political reason. We can only do that by speaking boldly of things our interlocutors may not be used to hearing: that is, by deliberately transgressing what Charles Taylor calls the immanent frame. It is altogether a mistake, on my view, to concede that frame or to be restricted by its false premises.\textsuperscript{66} We do not concede it if we insist on talking about freedom only in the context of truth and of happiness.

Who will deny that all men seek happiness? What need have we of liberty, if not to pursue happiness? Yet in the nominalist era the pursuit of happiness has become problematic for political reason, making political reason itself problematic. Only the individual, we suppose, can say what happiness is or what its pursuit entails; hence the organization of society must be such as to allow, as far as possible, for personal experimentation with happiness. But the very notion of happiness, since it is now empty of content and tethered to nothing in particular, ceases to do any positive work.\textsuperscript{67} It cannot order in any coherent fashion the particular goods that people band together in society to seek. This it could do only if it were itself a comprehensive good, or if it were allied to a comprehensive good. But to appeal to a comprehensive good is forbidden to political reason, as an assault on individual freedom and on the political order that exists chiefly to protect that freedom.\textsuperscript{68}

Mill claims (and Rawls does not demur) that the only freedom that deserves the name is that of pursuing our own good in our own way, so long as we do not harm others. This is false. Why should we not say, rather, that the only freedom worthy of the name is that of pursuing our own good, and the other’s good, in a way worthy of God – for who is free if not God? Why should we not say that liberty not in its right relation to happiness is not liberty, and that there is no other source of happiness than God himself?\textsuperscript{69} These things are true, and we must not be afraid to say them, whether to the government, the guilds, the media, or even the courts.

But of course we must say something else as well – something I sometimes wonder whether we still know how to say. \textit{Anyone} ought to be able to say, and should say, what has just been said. One need not be a Christian to say such things, though Christians may have said them better than anyone else.\textsuperscript{70} But if we are Christians then we must say, in addition to all of this, that God has clarified the path
to happiness and so clarified politics itself. We must say what we
know in light of the resurrection and ascension of Jesus. We must
say that Jesus is Lord, and that his dominion extends from sea to
sea. His kingdom, to be sure, is not of this world, but his rule extends
over this world. By divine justice he has acceded to power. He has
been given true auctoritas and all judgment has been delivered into
his hands.

This only Christians can say with conviction. They are not Chris-
tians if they do not say it and believe it, hoping that others will come
to believe it as well. It is not only over Christians that Christ rules. It
is not only on Christians that Christ shall pass judgment. We are
only playing at politics, or for that matter at political philosophy –
worse, we are only playing at being Christians – if we do not, with
prudence and fortitude in equal measure, make this clear. “You are
the light of the world. A city set on a hill cannot be hidden.”

Am I now repudiating Catholic pluralism along with normative
pluralism? By no means. Catholic pluralism does not teach that sec-
cular politics and secular government have no obligation to Christ,
any more than it teaches that citizens at large have no obligation
to Christ. It only teaches that secular government, whether Christian
in inspiration or not, has an obligation to aid, and not to impede or
to force, its citizens in their pursuit of their proper vocation, and in
particular not to impede the Church in its attempt to instruct them
on that subject. It teaches the kind of modesty congruent with lib-
erty, and the kind of liberty congruent with truth. It asks for oppor-
tunity to make its own message heard and for room for its own
communities to thrive, and therefore it leaves room for others to be
heard and to thrive as well. It is not, however, so foolish as to pro-
pose that all messages or manners of life or forms of religion are to
be valued equally, and it does not deny the lordship of Christ.

Now it will be said that this kind of pluralism was ruled out thirty
years ago in R. v. Big M Drug Mart, which effectively forbade laws
favouring any particular religion or religious aim. Big M opened
the door to the advance of normative pluralism through Charter
jurisprudence, while also setting us on the path toward one of the
most ridiculous and most dangerous of all putative rights – the right
not to be offended. It did so on the basis of faulty reasoning
respecting both the Lord’s Day Act and section 2 of the Charter,
amply exposed by analysts such as Professor Waldron. The court’s
confusion of a provision for religious practice with actual religious
compulsion, hence with a violation of religious freedom, served to give freedom from religion – particularly from Christianity as the majority religion – the upper hand on freedom of and for religion.

Catholic pluralism cannot prevail over normative pluralism without correction of the Big M trajectory. It cannot prevail without overcoming the notion that a law is invalidated by reason of a religious purpose. It cannot prevail without rediscovery of an analogia iuris that keeps positive law in touch with natural law. It cannot prevail without recovering the essential connection between the supremacy of God and the rule of law. Arguably, it cannot prevail without making clear that the “Confederation compromise,” which permits religious schools their place in public education, is not the exception that proves the secularist rule, but fundamental to the fabric of Canadian life. Toward all of that – yes, toward a very different understanding of the separation of church and state, and of the relation between religious freedom and the state’s own religious commitments – Christian jurists and philosophers and educators must labour, however difficult the circumstances in which they labour. But resistance to normative pluralism requires a still more dedicated effort.

Truth be told, what Loyola did, in resisting the Ministry all the way to the Supreme Court, is anything but typical of Catholic schools and their constituencies. Loyola took seriously, not a thirty-year legal tradition in Charter jurisprudence, but something Leo said a hundred and thirty years ago in Affari vos, in response to the Manitoba schools controversy. It took seriously the right and responsibility to provide children with a genuinely Catholic education. That is the third thing we must do; and we must do it, insists Leo, as a matter of the utmost importance:

For our children cannot go for instruction to schools which either ignore or of set purpose combat the Catholic religion, or in which its teachings are despised and its fundamental principles repudiated. Wherever the Church has allowed this to be done, it has only been with pain and through necessity, at the same time surrounding her children with many safeguards which, nevertheless … have been insufficient to cope successfully with the danger attending it. Similarly it is necessary to avoid at all costs, as most dangerous, those schools in which all beliefs are welcomed and treated as equal, as if, in what regards God and divine
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things, it makes no difference whether one believes rightly or wrongly, and takes up with truth or error. You know well, Venerable Brethren, that every school of this kind has been condemned by the Church, because nothing can be more harmful or better calculated to ruin the integrity of the faith and to turn aside the tender minds of the young from the way of truth.80

Canadian Catholics, if I dare say so, have been rather careless about all this in the intervening century. We have not properly protected children from predators within our own schools – I mean both the physically and the ideologically abusive – and much of our leadership remains supine in the face of ever-bolder subversion of Catholic mores.81 We have developed a habit of compliance with the government, the courts, the guilds, and the wider culture in the general shape and character of the education we offer, even where that habit threatens our own communal identity. On the whole, we are no longer producing a distinctive result, to judge by the 2012 Cardus Education Survey.82 Meanwhile, the very education rights of which Leo speaks are in grave danger; family and parental rights likewise, as the Drummondville case showed.83 Thankfully, the Supreme Court restored some of those rights in Loyola, insisting (in the words of its minority) that “suppression of Loyola’s own religious perspective ... is incompatible with freedom of religion.”84 But the future of freedom for Catholics, and for our non-Catholic neighbours too, will depend more on whether we are prepared – at all costs! – to provide the next generation with a properly Catholic education than on anything decided in Ottawa.85