

(Address given by the Rev. Theodore M. Hesburgh, C.S.C., President, University of Notre Dame, at the Bicentennial Conference on Religious Liberty, Philadelphia, Pennsylvania, April 29, 1976)

It is a curious paradox that America is one of the most criticized countries on earth, especially if one listens to U. N. debates, and yet, at the same time, America is the country which most people would prefer to live in, if they were free to choose. The reason for the worldwide criticism is, I believe, that our political ideals are so high, so universally human, so transcendent that any betrayal of these ideals in our national life is considered by all the world to be a kind of global sin, a sin against the hopes and aspirations of all mankind for human freedom, justice, and dignity. The reason that so many peoples of every nation would like to live in America is that whatever our national faults, there is a true opportunity here for everyone to enjoy life, liberty, and the pursuit of happiness, unlike any other nation on earth.

When one considers this paradox of fierce criticism and obvious envy of America, it should be clear to all Americans that we have a special responsibility before all the world. In a sense, we always have had such a world responsibility because we had such a great opportunity to create, among other things, the greatest haven of religious freedom that the world has ever seen. America was, in its very birth, an answer to religious intolerance, prejudice, and

persecution. Whether one considers the Puritans in Massachusetts, the Quakers in Pennsylvania, or the Catholics in Maryland, they all came to America to get away from a human condition that was inimical to their deepest religious beliefs. They came here to create a new human condition and indeed they did. The amazing fact is that what they created far transcended both their wisdom and insights and needs at that historical moment. What they did is still valid today, not only for us, but for the world situation as well.

Over a century later, the American Catholic Bishops, meeting for their Third Council in Baltimore, said: "We consider the establishment of our country's independence, the shaping of its liberties and laws, as the work of a special Providence, its framers building better than they knew, the Almighty's hand guiding them."

What was written in their Declaration of Independence spoke to the whole world, in solemn tones, and with a majesty of language that truly speaks, even today, to the heart of humankind, everywhere in the world. What they said changed the world then, and is still capable, as an idea, of changing the world today.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

Note that when these words flowed from the pen of Thomas Jefferson in the final draft, the 56 signers had no idea of what kind of a

government they would create to elicit the support of the governed and to secure these rights. Thank God, Jefferson changed the usual version of states rights: life, liberty, and property, to life, liberty, and the pursuit of happiness. There are great human aspirations stored up in that pregnant phrase, "pursuit of happiness."

While the promise of religious freedom brought early settlers to America, and ultimately to this day of independence, what the founders really legislated was far beyond religious liberty, and yet not uninspired by the religious liberty they now enjoyed. It has perhaps been the grateful role of free religious leaders in all the future of America to help enlarge human dignity and human rights beyond the religious base to that more complete panoply of total human rights to which all people fundamentally aspire.

It is no chance event that many years later, following World War II, it was a Christian and a Jew, a woman and a man, an American and a Frenchman, Eleanor Roosevelt and René Cassin, who wrote the United Nations' Universal Declaration of Human Rights for the world.

What I would now like to focus on is how, in a most unique fashion, religious liberty was established in America by disestablishment. Secondly, I would like to trace, in the context of religious freedom, the enlargement of human dignity and rights in America, from the Declaration until today and to indicate finally what this means to all the world.

It all began with a special sense of Governor John Winthrop of the Massachusetts Bay Colony, a key person in the quest for religious

liberty, who saw his little band as a city "set upon a hill," not a light hidden under a bushel. The writers of our Declaration were conscious of the opinions of mankind regarding their actions. When later, the Constitution was written, in a brief 17 weeks, the founders took 8 weeks to consider all existing governments in Europe and finally rejected all of them as potential models for America, because in the words of Benjamin Franklin, "They all carried with them the seeds of their own dissolution." How right he was. By some great providence, those 55 men, whose average age was only 42, devised a new and unprecedented form of government which was best characterized later by Abraham Lincoln as being "of the people, for the people, by the people." The whole world watched as the American experiment grew and prospered under the new Constitution.

With all of the genius of that discovery, I am convinced that the new Constitution would not have survived 200 years until today, had not that great American, Thomas Jefferson, put his finger on its fatal flaw.

Jefferson was our Minister to France in 1787, and thus was absent from the Constitutional Convention in Philadelphia, the city where 13 years before he had drafted the Declaration of Independence. When he read the new Constitution, he admitted that it was a remarkable instrument of governance, especially in the checks and balances of powers, his fellow Virginian, James Madison, had devised, faithfully following the political theory of Montesquieu, to solve the dilemma

created by the extreme and opposing Constitutional views of Alexander Hamilton and George Mason. But Jefferson pointed to the missing element, the lack of a Bill of particulars regarding human rights, including the precise situation of religion and religious liberty in America. Jefferson specified twenty such human rights and declared that unless the Constitution were amended to include them, these rights for which the signers of the Declaration of Independence had pledged their lives, their liberty, and their sacred honor, he would see to it that the Constitution was defeated, at least in Virginia and probably New York, too.

Such was the enormous prestige and leadership of Jefferson that they gave him his Bill of Rights that included all of the rights he specified, and even more, included the power to further amend the Constitution to secure an even broader scope of rights, yet unmentioned. Thus, we were provided with the instrumentality to solve eventually the many ambiguities still unaccounted for in the Constitution, which largely looked to the rights of white Anglo-Saxon males. More of this later. For the moment, I would like to call your attention to the interesting fact that the very first of the Ten Amendments looked to religious freedom and solved that fundamental problem in a most unusual and ingenious way in its first two Articles.

For 1400 years, since the action of Emperor Constantine constituting Christianity as the official religion of the Roman Empire, religion had been established by civil law, thus enjoying special status and favor within the state. While most of the Colonists

were dissenters who came to enjoy a new religious freedom, soon enough they and their particular dissenting religion became a new establishment as Roger Williams found out when he dissented from the newly-established religion and had to move to Rhode Island, then called Rogues Island, to enjoy freedom for his particular beliefs.

Nine of the thirteen colonies soon had established religions, but soon enough they also had their quota of drop-outs and dissenters. How to achieve peace and freedom for all in the new nation, since no one church was strong enough to prevail, and multiple establishment of multiple faiths seemed unworkable. Again, James Madison came up with an unique solution: depart from the centuries-old, Augustinian theory of establishment, and cut off all churches from legal and fiscal support by civil authority. Madison called this "a line of separation between the rights of religion and civil authority." Practice of religion and fiscal support of religion would become voluntary under the disestablishment clause of the First Amendment. They would also grow as never before.

This surprising innovation was immediately accepted with a sense of relief in all but three of the Colonies. Eventually, it became so thoroughly accepted, despite its dramatic departure from the governmental practice of 14 centuries, that in 1888 Lord Bryce could write: "It is accepted as an axiom by all Americans that the civil power ought to be not only neutral and impartial as between different forms of faith, but ought to leave these matters entirely on one side. There seem to be no two opinions on this subject in the United States."

Madison's solution linked together the problem of religious and civil rights and illuminated the problems of the latter that we still face. In his words: "Security for civil rights must be the same as that for religious rights; it consists in the one case in a multiplicity of interests and in the other, in a multiplicity of sects." In either case, the nation needs peace and justice and freedom. If at that period in history you happened to be one of the 20,000 Catholics in America, or a Jew whose co-religionists were one-twentieth of one per cent of the population, the First Amendment came as a special blessing in a world of great religious conflict and dissention.

The interesting point is that with this new formulation and system of religious freedom, religion flourished and grew and became increasingly respected throughout the nation. While there was legal non-establishment of a particular religion, religion as such became in a very unique way established in the life of the nation by the ethos, customs, and practices of popular government, as well as by the pronouncements of its leaders who were never loath to call on God for help. Even so, starting with a largely Protestant religious background, it would be almost 200 years before America would have a Catholic President, and we still have to break new ground with a Jewish President.

The religious clauses of the First Amendment may well be seen as an ingenious invention of what Crevecoeur calls, "This American, this new man" to create a situation, a social environment

protected by law, in which men and women of different religious faiths could live together in peace and with tolerance, a great civic virtue for Americans. However, I believe that John C. Calhoun really described the event more modestly when he said: "This admirable federal Constitution of ours is superior to the wisdom of any or all of the men by whose agency it was made. The force of circumstances and not foresight or wisdom induced them to adopt many of its wisest provisions." I am inclined to add, though, that it was precisely the phenomenon of America, the attraction of a free religious situation for dissenters, that brought so many different religious and non-religious groups to America. Thus were the circumstances created that called for this very special solution contrary to all the political wisdom of almost a millennium and a half.

What should be of special interest to us today is that the world at large faces many of the tensions that faced a burgeoning America. New solutions, geared to peace, freedom, and justice are needed just as much for the world today as they were desperately needed by the new nation being born between 1776 and 1787. As they then faced the problem of creating one nation from thirteen widely diverse colonies, we now face the larger problem of creating one world from widely diverging nations and nationalities. Something valuable might be learned from the American experience in this same context.

John Courtney Murray has, in my judgment, best described the meaning of American peace and unity, despite the widely divergent faiths of its people: "The unity asserted in the American Devise, 'E pluribus unum' is a unity of a limited order. It does not go beyond the exigencies of civil conversation (such as we are having today) This civil unity, therefore, must not hinder the various religious communities in American society in the maintenance of their own distinct identities. Similarly, the public consensus, on which civil unity is ultimately based, must permit to the differing communities the full integrity of their own distinct convictions. The one civil society contains within its own unity the communities that are divided among themselves; but it does not seek to reduce to its own unity, the differences that divide them. In a word, the pluralism remains as real as the unity. Neither may undertake to destroy the other. Each subsists in its own order. And the two orders, the religious and the civil, remain distinct, however much they are, and need to be, related. All this, I take it, is integral to the meaning attached in America to the doctrine of religious freedom and to its instrumental companion doctrine called (not felicitously) separation of church and state. I use the word 'doctrine' as lawyers or political philosophers, not theologians, use it." (We Hold These Truths, p. 45)

And later, "From the standpoint both of history and of contemporary social reality, the only tenable position is that the first two articles of the First Amendment are not articles

of faith, but articles of peace. Like the rest of the Constitution, these provisions are the work of lawyers, not theologians or even of political theorists. They are not true dogma, but only good law. That is praise enough." (Ibid. p. 56)

And lastly, "In the science of law and the art of jurisprudence, the appeal to social peace is an appeal to a high moral value. Behind the will to social peace there stands a divine and Christian imperative." (Ibid. p. 60)

At this point, and on the note of religious imperative to social peace, both within the nation and across the world, I would now like to trace briefly the evolution of those other freedoms and rights that were left ambiguous in the noble words of our Declaration and Constitution.

I take it that one cannot understand or imagine religious freedom in a vacuum of human rights. While religious freedom does facilitate human development on the highest spiritual level, those who enjoy religious freedom must work for the totality of human freedom, dignity, and rights. This is precisely what endears to all humanity such diverse religious leaders as Gandhi, John XXIII, and Martin Luther King.

Now whatever good example America gave the world in the stirring words of the Founders, there was that fatal flaw of slavery -- the utter negation of human freedom and human rights. Both Northern shippers and Southern slave owners headed off a strong negation of slavery proposed for the Declaration and later for the Constitution. Unfortunately for America, it took a bloody Civil War, almost a

century later, to bring the matter to a head and give birth to a provisional solution to slavery. That enormous reluctance to face the full realization of the ideals we expressed about "inalienable rights" explains why Lincoln called us "an almost chosen people." His own Cabinet voted unanimously against his "Emancipation Proclamation," forcing him to cast the single ballot "aye" and to declare with a courage that obliterates his former moral ambiguities on the subject of slavery, "The 'ayes' have it."

Unfortunately, the nation also shared his moral ambiguity, and this was all too evident in the days following the freeing of slaves and the end of the Civil War. Despite the 13th, 14th, and 15th Amendments to the Constitution, despite the initial good efforts of the period of Reconstruction, it seemed almost inevitable that a man like Hayes would arrive on the scene to gain the support of the South and the Presidency against Tilden by selling out the blacks. His remarks in Atlanta, returning the problem of the former slaves to those who had created it, assured America of almost another century of apartheid. Plessy-Ferguson was the Supreme Courts' shame in legally enshrining as separate and equal that which other later and better Justices in Brown would declare, more than half a century later, to be inherently separate and unequal. In the area of civil rights, the peace and justice of E pluribus unum did not come as easily as it did in regard to religious liberty.

Even after Brown, little happened until the middle sixties to make the promise of the Declaration and the Bill of Rights a

reality for the now more than twenty million descendants of the former slaves. Perhaps it took that long to condition our people for a massive change of heart. Certainly, great religious leaders like Martin Luther King and his black and white comrades in the struggle were willing to face death daily to speak prophetically for racial justice. The death of a President also helped set the stage. To his credit, it was a Southerner, President Lyndon Johnson, who voiced the famous refrain, "We shall overcome," before a joint session of Congress and led them to overcome racism, legally at least, by passing the great civil rights laws of 1964, 1965, and 1968. The laws responded to a change of heart that was largely religious in its inspiration: that all men and women indeed are children of God and should be equal and should have equal access to those realities that are an important part of the pursuit of happiness: education, employment, housing, public accommodations of all sorts, political participation, voting and standing for election, and especially equal treatment in the administration of justice.

Long is the list of those who fought this crusade for equal justice under the law in America. No one will deny that in this battle for human rights, important factors in the ultimate victories were religious freedom to speak out, religious leaders to proclaim justice, religious conviction to sustain the effort and accept the new laws. Religious martyrs also played their part.

It was not lost on all the world during the sixties that American was engaged in a massive internal struggle to make its political ideals come true at long last. It is a shame that the ill-begotten Vietnam war and the seedy Watergate episode distracted the world from what I consider a much more important event: the legal abandonment of more than three centuries of apartheid. Not that the battle for human rights was completely won. It never is. But there was a victory unmatched in any modern or ancient nation -- the sad, shameful customs and mores of three centuries were abandoned overnight, and it happened in a nation more variegated than any other on earth, in fact, a kind of microcosm of all the world, with Americans of every color, religion, culture, race and nationality involved. Foreigners who are accustomed to Sweden being populated mainly by Swedes and Switzerland by Swiss forget that America has more blacks than there are Canadians in Canada, more Spanish-speaking than Australians in Australia, more American Indians than when Columbus arrived, two or three times more Jews than Israel, more students from every country on earth, by several times, than all of Europe. More than a quarter of the Irish nation came to America after the Potato Famine, and in the first two decades of this century, 14,000,000 immigrants arrived in New York from every country on earth.

If a nation this varied can come to a conviction about the importance of full human dignity and full human rights for the most

depressed and deprived part of its population, then one may begin to have hope for the future of human rights in all the world. This is, I take it, what Lincoln had in mind about America when he praised in his first inaugural: "The struggle for maintaining in the world that form and substance of government whose leading object is to elevate the condition of men; to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life."

It was this kind of promise that brought so many millions of oppressed, poor, and homeless people to America with hope. It was and is the fulfillment of their hopes that gives hope to the world. When the lights were going out all over Europe, the French philosopher, Jacques Maritain, wrote from America:

"There is indeed one thing that Europe knows and knows only too well; that is the tragic significance of life There is one thing that America knows well and that she teaches as a great and precious lesson to those who come in contact with her astounding adventure: it is the value and dignity of the common man, the value and dignity of the people America knows that the common man has a right to the 'pursuit of happiness'; the pursuit of the elementary conditions and possessions which are the prerequisites of a free life, and the denial of which, suffered by such multitudes, is a horrible wound in the flesh of humanity; the pursuit of the higher possessions of culture and the spirit Here heroism is required, not to overcome tragedy, but to bring to a successful

conclusion the formidable adventure begun in this country with the Pilgrim Fathers and the pioneers, and continued in the great days of the Declaration of Independence and the Revolutionary War."

(Reflections on America, p. 113)

I should like to take as my concluding theme those words of Maritain, "to bring to a successful conclusion the formidable adventure begun in this country." My point will be that the adventure must now be worldwide, that it may have begun in this country, but it will not be really successful unless human dignity and human rights are vindicated worldwide, for all humans have this God-given dignity and deserve these inalienable rights, be they religious or civil or, most fundamentally, just human.

What happened in 1776, what we are celebrating today, was a Declaration of Independence, something that gave voice to a yearning for freedom and rights in 13 small and weak and very different colonies. What they voiced and what we have been trying to achieve and enlarge upon more and more, ever since then, was and is important to every human being, everywhere in the world. If there is any worldwide meaning to the Bicentennial, it is this.

During this Bicentennial Year, there have been many pessimistic voices raised, saying that America is a burnt-out case, that those primordial dreams and this form of democracy are the wave of the past, now finished. According to these prophets of doom, the future is already foreclosed for freedom, human dignity, human rights in most of the world.

I simply do not subscribe to this pessimism, although neither do I believe that the future is automatically bright and promising. We do live in an age of violence, inhumanity, and widespread deprivation of human rights and human dignity, even in supposedly highly developed and civilized countries. There is a Gulag Archipeligo, torture in Brazil and Chile, massacre in Ruanda, genocide in Bangladesh. There is even a sophistication⁺ human torture, an escalation of terror, a nightmare of possible global destruction already in place, waiting for the finger to touch the button.

Still I agree with Maritain that from all those who cherish religious and other freedoms, we need a new heroism to bring the American experience to a successful conclusion, not only in America where the brave words were first uttered, but worldwide. To this end, both prophecy and martyrdom will be needed in the present and future, as in the past.

One would hope that America, the nation most varied in population, most endowed by the perennial promise of its founding documents, most affluent in resources, most powerful in arms, most committed to world peace and freedom, might find some new expression to inspire and lead the world at our present sad juncture, just as it did in 1776 when conditions for human freedom and dignity were appreciably worse, though less widely known and lamented.

I will make two suggestions for action, neither original, but both worthwhile and needed.

First, I believe that in this Bicentennial Year, our President should order and our Senate ratify the two covenants for human rights growing out of the Universal Declaration, the one for civil and political rights, the other for economic, cultural, and social rights. We should declare that we believe in this full panoply of human rights, not just for Americans, but for every man, woman, and child on earth. We should throw the full weight of all that we do internationally behind the complete achievement of these rights, especially today for those suffering persecution and deprivation anywhere in the world, whether in lands of friends or foes, allies or enemies, detente or no detente. This is where the great adventure, begun 200 years ago, this is where it succeeds or fails today. Moreover, our country should move for the appointment of a United Nations High Commissioner for Human Rights, a person of highest international prestige and acceptance, who would be, by general consent, empowered and enjoined to go everywhere in the world to investigate allegations of the denial of human rights, and to publish for everyone to see the facts as he finds them. This appointment would put the requisite teeth in the Universal Declaration which just about everyone accepted more than 25 years ago. It needs to come true as our Declaration did, and in a shorter time span one would hope.

My second suggestion is that we back, as a nation, a new national Declaration, this time not for Independence, but for Interdependence. The world has traveled many thousands of millions of miles since 1776. We have in our day glimpsed anew the unity of

our world and of mankind when for the first time men saw the earth from the moon and recognized what it really is, a spacecraft, limited in size and resources, unlimited in the vision of what men may make of this common globe if we make it reflect the unity of mankind and the many colored splendor of humanity.

No really important problems facing humanity today are any longer purely national; all human problems are global in their import, only globally understood aright, only global in their solution. There is no purely national solution for peace, freedom, human dignity or rights, environment, education, health, science, trade, development, law, communications, transportation, basic resources, energy, or crime. One might add that at the heart of all of these problems, so interdependent in their solutions, is the recognition of human freedom, dignity, and rights, equally upheld before God and man, with justice under the law. The Founding Fathers could not have known how interdependent the quest for life, liberty, and the pursuit of happiness would become among all humankind, but Jefferson had the foresight to write in his last letter, 50 years after his final draft, and 10 days before his death: "May it (the Declaration) be to the world, what I believe it will be (to some parts sooner, to others later, but finally to all) the signal of arousing men to burst (their) chains All eyes are opened, or opening to the rights of man For ourselves, let the annual return of this day (July 4th) forever refresh our recollections of these rights, and an undiminished devotion to them."

What I am suggesting as the highest form of devotion to these rights, freedom of religion and all the rest, is to declare them the human patrimony of every human on earth.

Henry Steele Commager, under the aegis of the World Affairs Council of Philadelphia, has formulated a Declaration of Interdependence such as I am suggesting. I conclude by reading its Preamble, not unlike the original Declaration, but this time professedly addressing itself to all the world. I subscribe fully to all it says and commend it to all Americans.

A DECLARATION OF INTERDEPENDENCE

(Preamble)

When in the course of human events the threat of extinction confronts mankind, it is necessary for the people of the United States to declare their interdependence with the peoples of all nations and to embrace those principles and build those institutions which will enable mankind to survive and civilization to flourish.

Two centuries ago our forefathers brought forth a new nation; now we must join with others to bring forth a new world order. On this historic occasion it is proper that the American people should reaffirm those principles on which the United States of America was founded, acknowledge the new crises which confront them, accept the new obligations which history imposes upon them, and set forth the causes which impel them to affirm before all peoples their commitment to a Declaration of Interdependence.

"We hold these truths to be self-evident: that all men are created equal; that the inequalities and injustices which afflict so much of the human race are the product of history and society, not of God or nature; that people everywhere are entitled to the blessings of life and liberty, peace and security and the realization of their full potential; that they have an inescapable moral obligation to preserve those rights for posterity; and that to achieve these ends all the peoples and nations of the globe should acknowledge their interdependence and join together to dedicate their minds and their hearts to the solution of those problems which threaten their survival.

"To establish a new world order of compassion, peace, justice and security, it is essential that mankind free itself from the limitations of national prejudice, and acknowledge that the forces that unite it are incomparably deeper than those that divide it -- that all people are part of one global community, dependent on one body of resources, bound together by the ties of a common humanity and associated in a common adventure on the planet Earth.

"Let us then join together to vindicate and realize this great truth that mankind is one, and as one will nobly save or irreparably lose the heritage of thousands of years of civilization. And let us set forth the principles which should animate and inspire us if our civilization is to survive."

I would hope that many distinguished Americans would sign this Declaration of Interdependence during this Bicentennial Year. I would further hope that Americans throughout the land, who believe in our country and what it means to the world, would also sign. Henry Steele Commager gives the best reason in the final paragraph of the Declaration:

"We can no longer afford to make little plans, allow ourselves to be the captives of events and forces over which we have no control, consult our fears rather than our hopes. We call upon the American people, on the threshold of the third century of their national existence, to display once again that boldness, enterprise, magnanimity and vision which enabled founders of our Republic to bring forth a new nation and inaugurate a new era in human history. The fate of humanity hangs in the balance. Throughout the globe, hearts and hopes wait upon us. We summon all Mankind to unite to meet the great challenge."