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Dossier

# Suárez, the Natural Law, and the Limits of Religious Freedom

Suárez, o direito natural e os limites da liberdade religiosa

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#### **ABSTRACT**

Francisco Suárez (1548–1617) lived in the period after the Council of Trent when there was much discussion over religious freedom for non-Christians as well for as non-Catholics living in Catholic territories. This essay examines Suárez's view of the different types of unbelievers and the possibility of their salvation. It explores Suárez's belief that Non-Christians can enjoy freedom of religion in Catholic territories as long as their practices do not violate the natural law. The essay also examines Suárez's attitude toward Non-Catholic Christians. Although these Christians enjoy freedom from coercion to join the Catholic Church, they can be subject to certain restrictions. Suárez lived during a time when there was much discussion over the natural rights of unbelievers. In the 1500s, the Dominicans, Bartolomé de las Casas (1474–1566) and Francisco de Vitoria (c.1483–1546) had already defended the natural rights of the American Indians who suffered abuse on the part of some of the Spanish conquistadors. Suárez likewise defended the natural rights of the Indians, and he strongly opposed any attempts to enslave them or force them to convert to the Catholic faith. Suárez, though, also considered the rights of non-Christians such as Jews and Muslims living under Christian rule. This article examines what Suárez says about human freedom and the universality of the natural law in De legibus, book III. Then it will consider how in De fide, tract. I, Suárez applies human freedom and the natural law to the rights of non-Christians living under Christian rule and the rights of Christians living under non-Christian rule. This essay attempts to understand what obligations to religion are demanded by the natural law and how violations of the natural law (e.g. blasphemies, persecutions) can result in limits to religious freedom. It will be argued that Suárez, in some respects, anticipates the teaching of Vatican II on religious freedom. The Council recognized both freedom from religious coercion in civil society as well as the demands of the moral law regarding the rights of others and the duties toward them (Dignitatis humanae, 7).

Key-words: Suárez, natural law, religious freedom, salvation.

#### **RESUMO**

Francisco Suárez (1548-1617) viveu no período posterior ao Concílio de Trento, quando havia muita discussão sobre a liberdade religiosa para não-cristãos e não-católicos que viviam em territórios católicos. Este ensaio examina a visão de Suárez sobre os diferentes tipos de incrédulos e a possibilidade de sua salvação. Explora a crença de Suárez de que os não-cristãos podem desfrutar de liberdade de religião em territórios católicos, desde que suas práticas não violem a lei natural. O ensaio também examina a atitude de Suárez em relação aos cristãos não católicos. Embora esses cristãos gozem de liberdade de coerção para ingressar na Igreja Católica, eles podem estar sujeitos a certas restrições. Suárez viveu numa época em que havia muita discussão sobre os direitos naturais dos incrédulos. Nos anos 1500, os dominicanos, Bartolomé de las Casas (1474-1566) e Francisco de Vitoria (c.1483-1546) já defendiam os direitos naturais dos índios americanos que sofreram abusos por parte de alguns dos conquistadores espanhóis. Suárez também defendeu os direitos naturais dos índios e se opôs fortemente a qualquer tentativa de escravizá-los ou forçá-los a se converter à fé católica. Suárez, no entanto, também considerou os direitos dos não-cristãos, como judeus e muçulmanos, que vivem sob o domínio cristão. Este artigo começará com o que Suárez diz sobre a liberdade humana e a universalidade da lei natural no livro III do De legibus. A seguir considerará como, no Tratado I do De fide, Suárez, aplica a liberdade humana e a lei natural aos direitos dos não-cristãos que vivem sob o domínio cristão e aos direitos dos cristãos que vivem sob o domínio não-cristão. O artigo tentará entender quais obrigações para com a religião são exigidas pela lei natural e como as violações da lei natural (por exemplo, blasfêmias, perseguições) podem resultar em limites à liberdade religiosa. Argumentar-se-á que Suárez, em alguns aspectos, antecipa o ensinamento do Vaticano II sobre a liberdade religiosa. O Concilio reconheceu tanto a liberdade diante da coerção religiosa na vida da sociedade civil, bem como as exigências da lei moral sobre os direitos dos outros e os deveres para com eles (Dignitatis humanae, 7).

Palavras chave: Suárez, direito natural, liberdade religiosa, salvação.

#### Introduction

The Jesuit philosopher and theologian Francisco Suárez (1548–1617) lived during a time when there was much discussion over the natural rights of unbelievers. In the 1500s the Dominicans, Bartolomé de las Casas (1474–1566) and Francisco de Vitoria (c.1483–1546), had already defended the natural rights of the American Indians who suffered abuse on the part of some of the Spanish conquistadors. Suárez likewise defended the natural rights of the Indians, and he strongly opposed any attempts to enslave them or force them to convert to the Catholic faith. Suárez, though, also considered the rights of non-Christians such as Jews and Muslims living under Christian rule.

Suárez believed that all human beings must obey the natural law, which is the law of God that can be known by natural reason and is written in the human heart (*De legibus*, book II, chap. 5, n. 12: *lex naturalis in homine est ... non est scripta in tabulis, sed in corde*). As a Catholic, though, he believed that the Church had the authority over the baptized because "the character of baptism is an indelible sign of subjugation to the Church—*character baptismi est indelebile signum subjectionis ad Ecclesiam"*—(*De fide*, tract. I, disp. XIX, sect. 5 n. 6).

<sup>&</sup>lt;sup>1</sup> All references to Suárez are taken from his *Opera omnia* (1856–1861).

Suárez, like Bellarmine, did not believe that the Roman Pontiff had direct temporal power over the whole world, but he did believe the Pope had supreme spiritual power over the whole world because Christ had bestowed upon Peter the keys to the kingdom of heaven, which signified "supreme spiritual power" (potestatem spiritualem supremam) and "spiritual jurisdiction in all things" —de jurisdictione spirituali ab omnibus—(De legibus, book III, chap. 6, n. 4).

Suárez, though, was aware that the universal spiritual jurisdiction of the Roman Pontiff did not apply in fact (*de facto*) to all since not all belong to the Church—*quia non omnes sunt de Ecclesia*—(*De legibus*, book III, chap. 1, n. 2). He believed, though, that the ideal arrangement was for the State to support the Catholic Church, which is the true religion. Suárez lived during a time different than our own. The historian, Brad S. Gregory, notes that the understanding of religious freedom we now have "contrasts sharply with the confessional regimes of early modern Europe, in which allied political and ecclesiastical authorities prescribed specific forms of Christian worship and prohibited others" (Gregory, 2012, p. 129). Given that Suárez wanted States to be Catholic, the question needs to be raised: what about non-Christians and non-Catholics living in a confessional Catholic State? Do they have any freedoms under the natural law?

# Suárez on Non-Christians living under Catholic Rule

Suárez's treatise, *De fide, spe et charitate*, was published in 1622, five years after his death (Pereira, 2007, p. 59). In this treatise, Suárez elaborates on the differences between apostasy, infidelity, and heresy. Apostasy involves the case of a person deserting the faith that has already been received (*De fide*, tract. I, disp. XVI, sect. V n. 3). Apostasy, therefore, would occur if someone were to abandon Christianity for Judaism or paganism. (*De fide*, tract. I disp. XVI, sect. V, n. 3). Apostasy, however, is not a species of infidelity or of heresy—*apostasiam non esse speciem infidelitatis, neque heresis*—(*De fide* tract. I disp. XVI, sect. V n. 8). Suárez admits, though, that apostasy is a *type* of infidelity, but in itself it is not a *species* of infidelity (*De fide* tract. I disp. XVI, sect. V n. 8–10). Apostasy also is not the same as heresy since, following the common opinion of the Fathers, a heretic retains the Christian confession but in a corrupted form. (*De fide*, tract. I disp. XVI, sect. V n. 8).

Infidelity refers to those who are not Christians and have never been Christian. Suárez does not, however, believe that all infidels are alike. He maintains that there are three orders of infidels— tres ordines infidelium—(De fide, tract. I disp. XVII, sect. I n. 6). The first order consists of those to whom the faith was sufficiently announced and proposed but who refused to believe— quibus fides sufficienter annuntiata et proposita est, et credere noluerunt—(De fide, tract. I disp. XVII, sect. I n. 6). According to Suárez, the culpability of these infidels is not in question for "they have no excuse" —nullam enim habent excusationem—(De fide, tract. I disp. XVII, sect. I n. 6). The second group of infidels is made up of those who have heard nothing of the faith "neither sufficiently, nor insufficiently, neither by preaching, nor by rumor or report"—nec sufficienter, nec insufficienter, nec per predicationem, neque per rumorem aut famam—(De fide, tract. I disp. XVII, sect. I n. 6). The third group of infidels consists of those who have heard something of the Christian faith—de christianae fide aliquid audierunt—either by report or rumor or by some preaching (aliqualem praedicationem)—but not in a sufficient manner—non tamen sufficientem—(De fide, tract. I disp. XVII, sect. I n. 6). Among those in this third group of infidels, Suárez includes the Turks, other Muslims, and those in the provinces of India (De fide, tract. I disp. XVII, sect. I n. 6).

Suárez believed that some infidels might be without guilt because the Gospel has never been preached to them in a manner sufficient to oblige them to accept it. He finds support for this conclusion from John 15: 22 where Jesus says: "If I had not come and spoken to them, they would have no sin"

<sup>&</sup>lt;sup>2</sup> Here he refers to St. Thomas Aguinas, Summa theologiae II-II. q. 12, a. 1.

(De fide, tract. I disp. XVII, sect. I n. 7). He also appeals to Rom 10:14: "How can they believe without someone preaching (quomodo credent sine praedicante)? For those who have never heard of the faith, Suárez invokes "the common principle of inculpable ignorance"—communia principia de ignorantia inculpabili— De fide, tract. I disp. XVII, sect. I n. 8). For those who have heard something of the true faith but remain in their infidelity, much will depend on whether they heard the faith in a sufficient manner. If they heard the faith in an insufficient manner, they very often can be excused from guilt. On this point, Suárez finds support in the writings of the Dominicans, Francisco de Vitoria (c. 1486–1546) and Cajetan/Tommaso de Vio (1469–1534) (De fide, tract. I disp. XVII, sect. I n. 9).

What, though, would be required of these non-believers if they are not culpable for rejecting the faith? According to Suárez, those who have heard nothing of the faith, must follow the natural law and avoid any sins that place an obstacle to divine illumination (*De fide*, tract. I disp. XVII, sect. I n. 11). Even though they incur no sin for acting against the faith because of "invincible ignorance" (*ignorantiam invincibilem*), they still can incur guilt if they act against the natural law (*De fide*, tract. I disp. XVII, sect. I n. 11). They also should pray in their own way to God. Even if true prayer requires faith, these non-believers can be prompted by some type of divine motion to call upon God. (*De fide*, tract. I disp. XVII, sect. I n. 10).

Non-Christians who have heard something of the true faith should pray to God for divine illumination and abstain from sin (*De fide*, tract. I disp. XVII, sect. I n. 10). They also should make a diligent search for the truth and consider whether the truth they heard (albeit in an insufficient manner) might be necessary for salvation (*De fide*, tract. I disp. XVII, sect. I n. 9). This search might lead them to question some of their current beliefs and hope for a teacher to come who could explain the truth to them more clearly (*De fide*, tract. I disp. XVII, sect. I n. 10). For Suárez, it's always important to keep in mind the principle that God does not deny grace to one who does what is within his power—*Facienti quod in se est Deus non denegat gratiam*—(*De fide*, tract. I disp. XVII, sect. I n. 11).

Should Non-Christians or infidels be granted religious freedom in Catholic States? Suárez did not believe that a Catholic state could force infidels to convert because the temporal power of the state is ordered to a natural end. Therefore, the state lacks the authority to punish subjects who do not accept the Catholic faith. Suárez was so committed to this principle of religious freedom that he believed non-Christians would be justified in waging a just war against Catholic invaders who sought to convert them by force (*De fide*, tract. I, disp. XVIII, sect. I n. 9). Suárez, however, maintained it was not intrinsically evil to use *indirect* means of inducing infidels to the Catholic faith as long as their freedom from coercion was protected (*De fide*, tract. I disp. XVIII, sect. 3 n. 8). He, therefore, believed it would be licit to compel non-Christians to listen to preaching about the Christian faith (*De fide*, tract. I, disp. XVIII, sect. 2 n. 3).

Suárez thought that Catholic rulers could allow the infidels freedom of worship within their realms as long as these forms of worship were not opposed to the natural law. Thus, he thought that the religious rites of the Jews and the Muslims could be tolerated inasmuch as they adore the one true God—unum tantum verum Deum adorant— (De fide, tract I, disp. XVIII, sect. 4 n. 9). Christian rulers could, however, deprive infidels of their right to worship if their rites are opposed to the natural law. This is because secular rulers have the right to establish laws pertaining to the natural law (De fide, tract I, disp. XVIII, sect. 4 n. 7).

St. Thomas Aquinas also believed that toleration could be granted to unbelievers, especially the Jews since their rites foreshadow the Christian faith (*Summa theologiae* II-II q. 10 a. 11). Suárez, though, goes beyond Aquinas because he not only believes the rites of Jews should be tolerated but also the rites of the Muslims because "they adore the one true God" (*De fide* tract. 1 disp. XVIII, sect. 4 n. 9).

# Suárez on Non-Catholic Christians living under Catholic Rule

With regard to religious freedom—or at least toleration—Suárez was more willing to grant it to the infidels or non-Christians than he was to the apostates or the heretics. This is because the apostates

and the heretics were baptized, and, as we have seen, he believed that "the character of baptism is an indelible sign of subjugation to the Church—character baptismi est indelebile signum subjectionis ad Ecclesiam—(De fide, tract. I disp. XIX, sect. 5 n. 6). Because apostates and heretics have been baptized, the Catholic Church has jurisdiction over them even if the political situation makes this authority difficult to enforce. In fact, Suárez believed that it was "licit and holy" to punish heretics and apostates and to compel them to come back to the Church (De fide, tract. I disp. XX, sect. 3 n. 6). He believed the children of apostates and heretics could be exempt from such punishments, but they still could be deprived of certain privileges, such as holding public office (De fide, tract. I disp. XXIV, sect. 3 n. 6–7). With regard to children who were baptized by heretics, Suárez believed the Catholic Church still had jurisdiction over them as long as their baptism is valid (Defensio Fidei Catholicae, Lib. I, chapter 24). If their baptism is valid, they receive the character of the sacrament and become members of the Catholic Church—even though their parents will raise them in separation from the Catholic faith (Defensio Fidei Catholicae, Lib. I, chapter 24). It is only after these children later accept the heresies in which they were raised that they could be considered outside of full Catholic unity. Because of their baptism, however, they are—at least theoretically—still subject to the Catholic Church's authority.

Even though the children of heretics are still subject to the Catholic Church's authority, Suárez did not believe children should be punished for the sins of their parents. Citing St. Thomas Aquinas (Summa theologiae II-II, q. 108, a. 4, ad 1), he points out that a person should not be punished for another person's sin. He also cites Deuteronomy 24:16: "Do not kill the son on behalf of the father"—Non occidere filius pro patre—(De fide tract. 1 disp. XXIV, sect. 3 n. 2). Although Suárez argues that the children of heretics are not necessarily culpable for the heresy of their parents, he nevertheless believes they are in a state of irregularity. Therefore, they can be subject to various restrictions for the sake of the common good of the Catholic regime. He maintains that they can be prohibited from assuming public office (ad officia publica) as well as assuming religious clerical offices—clericorum officia—(De fide tract. 1 disp. XXIV, sect. 3 n. 2). They can also be deprived of certain benefices—though they can be allowed to retain those they already have (De fide tract. 1 disp. XXIV, sect. 3 n. 2). Suárez maintains that no other penalties should be inflicted on the children of heretics beyond the privations of public and ecclesiastical offices (De fide tract. 1 disp. XXIV, sect. 3 n. 2).

Suárez's attitude toward heretical Christians shows the influence of St. Thomas Aquinas, but he is not as severe as the Angelic Doctor. As is well-known, Aquinas believed it was licit not only to excommunicate heretics but also to execute them after a warning (Summa theologiae II-II q. 11, a. 3–4.). From what we have seen, Suárez believed that heretical Christians could be subject to various restrictions and punishments, but he did not actively advocate executing them—even though he admitted this could be theoretically justified (De fide tract. I, disp. XXIII, sect. 1 n. 1). He preferred sparing the lives of heretics because punishment should be medicinal rather than vindictive—ut poena non tantum sit vindicativa, sed etiam medicinalis—(De fide tract. I, disp. XXIII, sect. 1 n. 1). Suárez was aware that some considered execution medicinal because it could motivate repudiation of sins prior to death. Ultimately, though, he seems to favor perpetual imprisonment over execution. (De fide tract. I, disp. XXIII, sect. 2 n. 17).

Suárez's Jesuit contemporary, Robert Bellarmine (1542–1621), however, upheld Aquinas' belief that unrepentant heretics should be executed for the sake of the common good. He also believed that executing heretics served their own benefit because they would be "prompted by the punishment to

<sup>&</sup>lt;sup>3</sup> In his Feb. 9, 1749 Brief, *Singulari nobis*, to Cardinal Henry, Duke of York Pope Benedict XIV cites Suárez and Emmanuel González Téllez in support of his view that persons baptized by heretics "are rejected from the unity of the Church, and are deprived of all those benefits that those remaining in the Church enjoy, but they are not freed from her authority and laws." See Denzinger and Hünermann, (2012, n. 2568).

<sup>&</sup>lt;sup>4</sup> It should also be noted that in *Summa theologiae* II-II, q. 66, art. 6 ad 1, Aquinas states that "the punishments in this life are medicinal rather than retributive. For retribution is reserved to the Divine judgment..." Aquinas, though, was not consistent with this principle with regard to the execution of heretics.

realize the gravity of the heresy that they are following and to consider that perhaps they might end their present life in misery and not reach the future beatitude" (Bellarmine, 2012, p. 109). For Bellarmine, "it is beneficial for obstinate heretics to be removed from this life, for the longer they live, the more errors they come up with, the more people they corrupt, and the more damnation they acquire for themselves" (Bellarmine, 2012, p. 109).

### Suárez on forced religious conversions and international law

Suárez, as we have seen, did not believe non-Christians could be forced to accept the Catholic faith. He thought that forcing someone to believe would be offensive to human freedom and to God because true conversion is due to the efficacy of the divine word and the grace of God (efficacia verbi Divini et gratiae Dei) and not to human coercion (De fide tract. 1 disp. XVIII, sect. 3 n. 6). Forced conversions also are likely to lead to "simulated conversions and innumerable sacrileges"—simulatae conversions et innumera sacrilegia—(De fide tract. 1 disp. XVIII, sect. 3 n. 6). Furthermore, non-Christians would be scandalized by such forced conversions and blaspheme the Christian religion (De fide tract. 1 disp. XVIII, sect. 3 n. 6).

During the time of Suárez, there was much discussion over the possibility of salvation for the non-believers. Some of this discussion was brought about by the discovery of the Americas by Europeans. The native people of the Americas or their ancestors could not be held accountable for rejecting Christ and the Church, but could they be saved? Suárez affirms the principle of God's universal salvific will, and he writes: "God wishes all people to be saved"—Deus vult omnes homines salvos fieri—(De gratia, lib. IV. cap. XVI, n. 18). Because God wishes all people to be saved, he also gives every human being "sufficient proximate supernatural assistance"—Deus dat unicuique hominum auxilium supernaturale proxime sufficiens—(De gratia, lib. IV. cap. XVI, n. 19). Suárez maintains that salvation is not possible without supernatural grace, and he cites Ephesus 2:8: "For by grace you have been saved through faith, and this is not from you; it is the gift of God" (De gratia, lib. IV. cap. XV, n. 28).

The non-believers, therefore, must be saved by supernatural grace, but how is this possible? Suárez cites Heb 11: 6: "Without faith it is impossible to please God"—Sine fide impossibile est placere Deo— (De fide, tract. I disp. XII, sect. II n. 6). Suárez, however, believes faith can be either "in reality or in wish"—aut in re, aut in voto—(De fide, tract. I disp. XII, sect. II n. 10). The non-believer, therefore, who does what lies within his power and is inculpably ignorant of the true faith can still be illumined by "pure grace"—ex pura gratia—(De fide, tract. I disp. XII, sect. II n. 14). For Suárez, this illumination could be an expression of the desire for faith, i.e., faith "in voto" (De fide, tract. I disp. XII, sect. II n. 10).

In addition to the need for supernatural grace and faith, salvation also requires membership in the Church. In this regard, Suárez cites the well-known axiom associated with St. Cyprian (d. 258): "Outside the Church there is no salvation"—extra Ecclesiam non est salus—(De fide, tract. I disp. XII, sect. IV n. 22). Suárez accepts this principle, but he appeals to the distinction between belonging to the Church "in reality or in wish" (in re vel in voto). Thus, he states that "no one can be saved who does not enter this Church of Christ either in reality, or at least in desire and wish"—nemo salvari potest, nisi hanc Christi Ecclesiam in re, vel in voto saltem et desiderio ingrediatur—(De fide, tract. I disp. XII, sect. IV n. 22). He finds support for this position in Bellarmine, and he also makes it clear that the desire to enter the Church "in voto" is also a desire to be baptized "in voto" since no one can enter the Church without baptism (De fide, tract. I disp. XII, sect. IV n. 22). Non-Christians, therefore, should not be forced to ac-

<sup>&</sup>lt;sup>5</sup> The universal salvific will of God is grounded in 1 Tim 2:4: "God desires all people to be saved and come to the knowledge of the truth."

cept the faith for the sake of their salvation. If they do not accept the faith, their ultimate destiny should be left to the judgment of God.

Suárez's affirmation of religious freedom for non-Christians is also based on his understanding of human rights reflecting a type of international law. In this regard he clearly shows the influence of Francisco de Vitoria (c.1483/1492–1546).

The foundation of natural law is the common rational nature shared by all human beings, which establishes a true bond of kinship. As Suárez writes:

Although divided into various peoples and kingdoms, the human race always has a certain unity, which is not only that of a species, but also one that is political and moral, which the precept of mutual love and mercy proclaims, a precept that extends to all, even to strangers, and of any condition whatsoever. Hence, though each autonomous city, state or kingdom is in itself a complete community, and made up of its members, nonetheless any one of them is also a member in some way of the world, insofar as it belongs to the human race. For these communities will never singly be so self-sufficient that they will not need mutual help and fellowship, as well as communication, sometimes for a better mode of life and greater utility, sometimes indeed out of moral necessity and need, as the actual state of affairs makes clear. For this reason they will need some law, by which they can be directed and rightly ordered in this kind of communication and fellowship (De legibus, lib. 2, cap. 19, n. 9).6

Suárez's affirmation of religious freedom for non-believers—understood as freedom from coercion—is also quite modern. In fact, Vatican II's 1965 *Declaration on Religious Freedom, Dignitatis humanae*, echoes the thought of Suárez when it 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 his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits (no. 2).<sup>7</sup>

#### Conclusion

Non-Christians are still obliged to seek the true religion, but they cannot be forced to do so. They can be granted freedom of worship in Catholic regimes as long as their worship is not offensive to the natural law. Non-Christians as well as non-Catholic Christians can be subject to various restrictions within Catholic countries, but they should never be forced to enter into the Catholic Church against their will. With respect to toleration for non-Christians, the position of Suárez is very much like that of Vatican II and the Catholic Church today. His attitude toward Protestants is more severe, but this is because he believed the State should support the true religion. This explains his strong reaction to England's departure from the Catholic faith in *Defensio fidei* and his passionate protest against the persecution of Catholics under the English monarchs since the time of Henry VIII. Suárez's defense of religious freedom is grounded in both the natural law and his theological recognition of God's grace as the true agent of conversion to the Catholic faith. Suárez was a man of his times, but he also exemplifies a respect for human rights, human freedom, and the natural law that was part of the Iberian heritage of the 16<sup>th</sup> and 17<sup>th</sup> centuries.

<sup>&</sup>lt;sup>6</sup> Translation adopted with slight modification from José Pereira (1999, p. 156).

<sup>&</sup>lt;sup>7</sup> Vatican II, Declaration on Religious Freedom, Dignitatis humanae, Dec. 7, 1965, n. 2 (2013, p. 392).

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