HOMILY FOR THE PATRONAL FEAST DAY MASS 2001

Delivered by His Eminence Edward Cardinal Clancy AC, KGCHS
Archbishop Emeritus of Sydney
*on 5 July, 2001 at St Mary's Cathedral, Sydney.*

Readings: Wisdom 3:1-9; Peter 3:14-17; Matthew 10:28-33.

This evening we in fact celebrate the vigil of the anniversary of St. Thomas More's death. He was brutally executed at Tower Hill on 6th July, 1535.

It is true to say, I think, that one's attitude to the reality and inevitability of death is one of the strongest influences on how one lives ones life. That was certainly so for the great saints and martyrs. Indeed, St. Alphonsus Ligouri kept a human skull on his desk so that he might be permanently reminded of his own death, whenever that might be.

For the saints and martyrs their approach to death was in turn based on a firm conviction in faith that life on earth is indeed but a fleeting preparation for an eternal life of happiness with God hereafter. The realities of God and eternal life dominated their lives. For this reason, they were not frightened by death as such, and saw it as an escape and release from the miseries of this life.

This has not been restricted to the great saints and martyrs. I am sure that we all know of people, perhaps among our own relatives
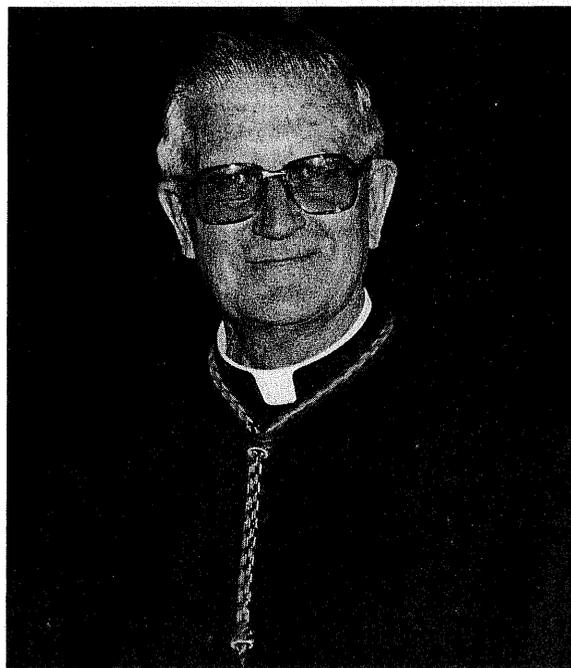
Cardinal Clancy AC, KGCHS

or friends, who have died saintly and peaceful deaths in that same spirit of resignation and anticipation. However, if it can be said that such an outlook was particularly characteristic of ages past, it cannot be said of our own secularist age with its cynical attitude to the existence of God and to life beyond the grave. For so many people of our own time, if heaven is to be found anywhere, it

is to be found here on earth. Death becomes an object of fear, foreboding, and dismay. Absent is the light of faith to transform the merely human and somber features of death, and enable us to see death in terms of beginning rather than end.

I suppose that, being children of our own times, the secularist outlook tends to poison our own, and to take the edge, as it were, off the faith of us all. Be that as it may, it is with the greatest wonder and admiration that we contemplate and envy the faith and courage of the saints, and especially of the martyrs for whom death meant, in most cases, horrendous suffering. It is a cause for regret that the reading of the lives of the saints is no longer the common practice among Catholics that once it was. The example of the saints teaches and encourages us so much more effectively than do learned volumes on spirituality or the stirring expositions by the most eloquent preachers.

Especially does the example of

the martyrs teach us about dying, about dying with faith. I have always had a certain fascination with the English martyrs in general, and with the death of St. Thomas More in particular. That is partly because they were people of our own culture, albeit in an earlier stage of its development. We can well understand the tensions that More experienced between the law and his conscience, and admire the immense faith and courage that he displayed in remaining true to his conscience at the cost of his life. He lived in crude, cruel, and corrupt times, and certainly would not have understood our "sqeamishness" about capital punishment. However, he retained a rock-solid faith in God and His promises, and a finely tuned conscience that tolerated neither rationalisation nor compromise.

He was forfeiting everything that he enjoyed in this life - and he enjoyed much: prosperity, success, high station, fame, a family that was very dear to him, and, not least, life itself. But before God right was right and wrong was wrong, and, after all, he was not so much losing as exchanging the passing joys (and miseries) of this life for the incomparable and eternal joys of the next. To Sir Thomas Pope he declared: "I am bound to his highness that it pleases him so shortly to rid me out of the miseries of this wretched world"; and to his executioner: "Thou wilt give me this day a greater benefit that ever any mortal man can be able to give me".

"What does it profit a man to gain the whole world and suffer the loss of his own soul?" More must have reflected endlessly on those words during the term of his incarceration."

He conducted himself with the greatest dignity in the months leading up to his trial and death, was most respectful and conscientiously obedient to the king in all matters, even the most trivial, when it did not conflict with his conscience, and he prayed for the king and those who had conspired to bring about his death. He summed it all up very well in declaring that he was a loyal servant of the king, but of God first of all. And of course, woven into all his words and actions to the very end was his wry sense of humour, that did not succeed however in hiding the deep emotions that stirred his soul.

But whichever of the many aspects of the Thomas More story one ponders, one is always at last brought face to face with the man's profound and indomitable faith, a faith that assured him that his would be the victory at last.

We can readily recognise St. Thomas More in all three readings of this evening's liturgy:

"Do not be afraid ... Do not be afraid of those who kill the body but cannot kill the soul".

"Have your answer ready, but give it with courtesy and respect, and with a clear conscience, so that those who slander you when you are living a good life in Christ may be proved wrong in the accusations that they bring." "In the eyes of the unwise, they did appear to die, their going looked like a disaster, their leaving us, like annihilation; But they are at peace."

The faith of Thomas More is not to be dismissed as the dated faith of a less sophisticated age. It is the authentic faith of the Gospel, the faith to which we are all called and to which we should aspire. It is not likely that any of us will face the kind of excruciating dilemma that More had to face. Our trials and challenges will be much more subtle, much less dramatic, and on a daily basis. They, however, call for a faith no less unyielding than that of our saint. We can be sure that St. Thomas, too, had to fight the same daily battles, and it was because of the triumph of his faith in these that he was equal to the big and final test when it came. St. Thomas More has left us an example, not just to admire, but to follow. Let us ask the intercession of the saint that we might grow in faith, and in the courage of that faith die our little daily deaths as they come, and, at last, that final death that will admit us to the joys of eternal life.

"THOMAS MORE AND THE ORIGINS OF MODERN TRADITIONALISM"

Address given to the St Thomas More Society, Sydney

Patronal Feast Day Meeting

5 July 2001

by Professor James Hitchcock from the University of St Louis, USA.

Thomas More, for all his fame, has remained a somewhat ambiguous figure. Primarily known to the larger public because of his integrity and courage dramatized in Robert Bolt's play and film A Man for All Seasons, he has also been criticized as a hypocrite who claimed for himself a freedom of belief he did not concede to others. (Specifically, as Lord Chancellor of England in 1529-32, he was involved in the prosecution of heretics.)[1]

Along with the dramatic story of his death, probably the most important reason for More's enduring fame is his authorship of Utopia,[2] which coined a term which eventually came into common use and which stands at the head of a long tradition of blueprints for the ideal society. Inevitably Utopia has sometimes been read naively and literally, as More's own conception of the perfect society.

Taken together, Robert Bolt's More - the champion of personal freedom in the face of tyranny - and the More of the literal reading of Utopia - a critic of society who believed it is necessary to think radically in order to change it - in effect make the Tudor statesman into a kind of early-day "liberal," worthy of an honored memory because he protested against injustices at a time when few other people did, and because he made his own life and death into a model

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of morally concerned citizenship. Today little of More's substantial body of writings are read by anyone except specialists; few of the people who admire More have even heard of any of his works beyond Utopia. But books more representative of his mind than Utopia suggest that he was, by temperament and conviction, a kind of conservative in the modern sense of the word, and might be seen as a forerunner of the conservative intellectual tradition, specifically of the strain which might be called populist traditionalist communitarianism.

The image of More as a "liberal" is reinforced by his friendship with Desiderius Erasmus, who would

surely have merited the designation "liberal Catholic" if such terminology had been in use in the sixteenth century. Erasmus was a trenchant and wide-ranging critic of Catholic beliefs and practices, to the point where he himself was suspected of Lutheran tendencies.[3]

Both Erasmus and More were leading figures in the movement called Christian Humanism, which arose as much as anything from a scholarly dissatisfaction with the regnant Scholastic theology and philosophy of the Middle Ages. At least until about 1520, More seemed at one with Erasmus in these matters, and sometimes expressed himself quite vigorously and scornfully about things in the Church which he considered in need of reform.[4]

More's attraction to Humanism has been explained in part by two opposing forces in both his personality and his philosophy - on the one hand renunciation of the world for the life of the monk and the frank appreciation of the world and on the other the world's promise of happiness. At the root of both his intellectual and personal dilemmas was his strong sense of the imperfection of things, which in turn cast into doubt the reality of divine providence itself. Politically More was a kind of Augustinian,

who believed that, although the world would remain imperfect because of sin, free human effort could nonetheless improve it.[5]

Thus his entry into politics, and especially his service on the King's Council beginning in 1517, characteristically stemmed from a double motive - ambition, which classical humanistic authorities extolled in moderation, and the idealistic belief that in public life there were opportunities to enact justice and to improve the human condition. More shared the doubt of most humanists that abstract philosophy could be relevant to human affairs, but he got from his humanist sources a sense of practical philosophy, which could bring perennial wisdom to bear in effective ways.[6]

His only direct writing about the political affairs of his own time was The History of King Richard III,[7] which became part of the foundation for the myth which justified the Tudor claim to the throne. The subject embodied More's dilemma, in that it seemed to show that the affairs of men often went badly and that kings could not be trusted to fulfill God's divine purpose. More's solution was in part an affirmation of tradition - the good customs of the English nation triumphed over royal usurpation and tyranny.[8]

After 1521, More and Erasmus never saw one another again, although they continued to correspond, and their intellectual paths diverged. Thus although Erasmus was at first rather sympathetic to Martin Luther, More from the beginning regarded religious developments in Germany with alarm. In 1523 he published the tract Responsio ad Lutherum[9], a systematic defense of Catholic teaching, under a pseudonym.

One of the "progressive" results of Christian Humanism was the emergence of an educated laity, including people knowledgeable about religion, and in 1527 it was More, a lawyer and a politician, who was asked by Bishop Cuthbert Tunstall of London to read and refute books considered to be heretical.[10] Presumably More was chosen because he was considered extraordinarily learned, because of his prestige, and because of his trenchant prose. From then until his retreat from public life in 1532 much of his time was occupied in refuting religious ideas.

His principal antagonist was William Tyndale, an English priest who had been influenced early by Protestant ideas and had fled to the Continent to escape arrest, but who managed to get his books smuggled to an appreciative underground audience in England. It was in his exchanges with Tyndale that More offered the most complete exposition of his philosophy of society.

Tyndale's most important work was his translation of the Bible into English, at a time when possessing such a translation was considered evidence of heresy. More and Tyndale, the one in England, the other in the Netherlands, embarked on a war of printed words which went on for several years.[11]

A striking fact about More's polemics was how seldom the Catholic champion invoked ecclesiastical authority to prove his case. With regard to the papal office, he said later that he had thought it a human invention until persuaded by the arguments in the Assertio Septem Sacramentorum (1525),[12] ostensibly written by Henry VIII of England, often rumored to have been written by More himself. (While More was probably not its author, he no doubt contributed substantial advice to the king on theological questions.) Even after the appearance of the Assertio, More defended papal authority not on theological principles but merely by the argument that everyone who ever attacked the papal office eventually became a heretic. He may not have been sure in his own mind about the exact nature of ecclesiastical authority, whether vested in pope or ecumenical council.[13]

Obviously more relevant to his purposes was his bold scepticism about the infallibility of Scripture, to the point where he argued that the text as known in his own time might have been corrupted in various ways, and even that the Scriptures might not survive to the end of the world. He quickly grabbed hold of the standard Catholic argument, logical in its way but nonetheless perilous, that the text of the Bible did not plainly support established Christian doctrines such as the Trinity and was thus in need of authoritative interpretation.[14]

Although his primary concerns were deeply religious, his attacks on Tyndale went beyond the question of religious authority, whether of Church or Scripture, to develop an argument which could be evaluated on rational grounds and which was potentially available for use in secular controversies as well. In effect he accused Tyndale, and hence all Protestants, of an unbridled individualism which would destroy meaningful community. The Bible was the key, in that possession of such a book, especially when it was translated into the vernacular, potentially made each person an authority unto himself, allowing him to disregard or even reject the accumulated wisdom of all of Christendom.[15]

More was among the first to invoke the concept of a "living tradition," soon to be a staple of Catholic arguments against the Protestants. He sometimes spoke of it in rather individualistic ways, as, for example, made up of things which "Our Lord said he would

write in men's hearts," an implicit affirmation of a concept of natural law open to discovery by the individual conscience.[16] On the whole, however, he saw tradition as communal, embracing the mass of the Church of his own day as well as the mass of believers of all past ages. Faced with this almost unanimous testimony, the dissenting theology of men like Luther and Tyndale seemed puny, eccentric, and arrogant.[17]

More's respect for communal wisdom was so strong that he argued that formal condemnations of heresy were unnecessary, because no heretical doctrine had ever gained acceptance by the whole body of the Church. Avoiding the question of the exact locus of ecclesiastical authority, he asserted that the Church as a whole could not err. Thus to cut oneself off from the community was an immense evil which deprived the individual of the sources of life and truth.[18] (To the degree that Utopia represented More's own beliefs, it is significant that his Christian narrator, Raphael Hythloday, approved of the Utopians banishing a Christian convert who had attacked the official state religion. Such divisiveness could not be tolerated in a healthy commonwealth. There is also no indication that Hythloday ever gave the Utopians a Bible.)[19]

Faced with the Protestant assertion of sola scriptura, Catholic apologetics of the sixteenth century increasingly extolled "Tradition" as an equally valid source of religious truth. Whereas earlier theologians had seen Scripture and tradition as two intimately related sides of the same truth, Counter-Reformation polemics tended to treat them as though they were separate deposits of divine revelation.[20] More's own invocation of tradition can be seen as overtly a theological argument, according to which tradition is true

because divine in origin, and at the same time as potentially a secular one, in which it is folly to go against the wisdom of the ages.

This veneration of communal wisdom dictated that, not only was the absence of learning not a barrier to the knowledge of truth, simple people, because of their fidelity to communal beliefs, might even be wiser than the learned. Thus More advanced, against the claims of sola scriptura, the query of a fictitious innkeeper's wife, who asked how she could be saved, since she could not understand the Bible. Repeatedly More expressed warm respect for ordinary people of simple faith.[21]

Although he was undoubtedly aware of it, More did not make the conventional theological distinction between essential truths of faith and lesser beliefs and practices which might be subject to human error. Truth for More was embodied in the historical community. Thus, contrary to his position during his humanist period before 1520, he now felt called upon to defend every aspect of Catholic life, including things about which even an orthodox believer might be sceptical, such as legends of the saints, miraculous healings, and the authenticity of relics. When Tyndale asked why women could not be ordained priests, More replied that the tradition of the Church was sufficient to forbid it and no further argument need be offered.[22]

More's polemic was given urgency by his acute sense that the accumulated wisdom of Christendom was now under bold and successful attack and that orthodoxy had to be defended. But his attacks on the idea of sola scriptura went beyond alleged misuses of the Bible and were directed at the affects of the printed book itself, a relatively new invention which More saw as the potential solvent of all viable

community. In his exchanges with Tyndale he never tired of contrasting the "living" truth which God inscribed in "the hearts of men" with the beliefs inscribed on "the dead skins of beasts." Thus religious images were not mere "books for the ignorant" but could profit the learned as well, and he ventured briefly into the complexities of semiotics in asserting that words were mere conventional signs, not necessarily superior to other kinds of signs.[23] As Lord Chancellor he was involved in the censorship of books, a practice introduced into England under Henry VIII, since books were dangerous instruments by which, once again, common wisdom could be subverted by an arrogant individualism, the book making each person in effect into his own pope.[24] For Tyndale, by contrast, the word "unwritten" became a term of scorn because only written sources could be relied upon, oral tradition being notoriously difficult to preserve accurately or to verify. Thus Tyndale had no difficulty in thinking that the mass of the Church had lain in error for 1200 years.[25]

For More this was unthinkable, and he asserted the truths of the Catholic Church as having been established by such multitude of miracles, by so much blood of holy martyrs, by the virtuous living of so many confessors, by the purity and cleanness of so many chaste widows and undefiled virgins, by the wholesome doctrines of so many doctors, and finally by the whole consent and agreement of all Christian people this fifteen hundred years confirmed.[26]

(Once again it is interesting that More did not include popes, bishops, or general councils in his list of witnesses, not because he doubted their authority but because he treated them as though their task was merely to articulate in a formal

way the implicit faith of the whole community.)

More's extolling of oral tradition at the expense of printed books may also have had something to do with his profession as a common lawyer, with the common lawyer's respect for the accumulated wisdom of the courts, not all of which was to be found in books or was capable of being reduced to purely logical principles.

As Lord Chancellor he had responsibility for the Court of Chancery, the chief court of equity in the kingdom. The relationship of the courts of equity to the common-law courts in Tudor times was complex and often obscure, and More's position, to a great extent merely inherited from Cardinal Thomas Wolsey, his predecessor as chancellor, was revealing of his fundamental political theology - the good customs of the English nation were to be followed, but judges were also to be guided by the transcendent, objective authority of moral conscience,[27] a recognition both of the authority of tradition and of its limitations.

To More it was no accident that the Reformation had begun with an attack on the doctrine and practice of indulgences and had quickly led to a denial of the existence of Purgatory, since in praying for the dead Christians on earth are united in a timeless community with those who have gone before them. One of his last works, written in prison, was a lament by the souls in Purgatory that heretics had deprived them of prayers, sundering the bond of unity between those who had died and those still on earth.[28]

Thus by the early 1530's More had articulated the basic principles of what might be called populist communal traditionalism, elements of which would later appear in classic conservative thinkers beginning with Edmund Burke.

Those principles were expounded by More in the service of Catholic orthodoxy but were expressed in such a way as to be capable of application in secular contexts as well.

However, once More and Tyndale's polemics had served their usefulness, they were largely forgotten, so that the later founders of the continuous tradition of modern conservative thought were probably unaware that these forgotten pages contained a theory which would have been highly relevant to their purposes. There is no evidence that Burke or other of these founders ever read More, or that later conservative thinkers ever recognized his achievement.

More's populism was manifest both in his enthusiastic endorsement of the basic wisdom and goodness of ordinary believers and in his curious reticence about hierarchy. Bishop Tunstall, the very man who had commissioned More to refute the Protestants, himself conformed to Henry VIII's religious changes,[29] as did all but one of his episcopal colleagues, and it is unlikely that More, from his long familiarity with court politics, had many illusions about the English bishops. The Pope, meanwhile, was a remote figure whose own position towards English issues remained uncertain until 1533. Thus in order to defend Catholicism, More had to find a basis other than hierarchy, and he found it in the faith shared by everyone. To say that he had a democratic spirit would be anachronistic, but More might be seen as the first "conservative" who saw that the common people are at least as likely to be bulwarks of traditional beliefs as to be revolutionaries. While later conservatives, beginning with Burke, would defend aristocracy as necessary to a stable society, such elites had at best a limited role in More's scheme of things and were

largely ignored.

Although he died, as he said, "The king's good servant but God's first,"[30] and certainly harbored no doubts about the lawfulness of monarchy, More's martyrdom was also a statement against absolute monarchy - not even a king could alter the perennial wisdom of Christendom. His life of Richard III already showed his disapproval of royal tyranny, and in the course of his service to Henry VIII he possibly developed an even more personal aversion to it, precisely because of its implication that the king could do whatever he willed, and because it did not grant sufficient respect to the moral authority of community.

Although More used lawyerly evasion to avoid having to oppose Henry's divorce, his overt opposition to royal policy, which led to his fall from office in 1532, was especially fueled by the king's increasingly extravagant claims concerning his own power and his concomitant denial of the autonomy of the Church, both of which were to More extreme subversions of authentic and wise tradition.[31]

More might be thought of as a defender of medieval communalism, in which various institutions - the Church, the feudal aristocracy, the towns and the guilds, representative assemblies - all had their place and all served in some way as a limit on royal power. But More also represents the modern conservative mind in that he became highly conscious of these realities only as they came under attack, whereupon he set out to make explicit the ideas and beliefs which most people held only unreflectingly. His was the kind of traditionalism in which generally held beliefs are best left unexamined and unexplained until hostile forces make it necessary to search for persuasive arguments.

With the king's approval he had

undertaken to refute William Tyndale, whose books were banned from the author's native land. But even as More was being led to the headsman's block, the king was initiating inquiries to find Tyndale in the Netherlands and bring him back to England, where his polemical abilities might prove useful to a king who had now repudiated the pope. (Tyndale, however, was burnt by the Inquisition at Antwerp before Henry's agents could find him.)[32] Had More known of this final irony it would probably not have surprised him, and it would have confirmed for him once again the wisdom of the maxim not to place one's trust in princes.

If decrying change and lamenting a lost golden age is a perennial human attitude, More can nonetheless also be viewed as a modern conservative in that he was not simply nostalgic in a general way but identified specific social forces which he saw as a threat to the good society, and as he sought to rally principled resistance against them. Medieval Christendom was recognized as a golden age only when it began to come under attack. Before Martin Luther even More had joined in the common Humanist criticisms of the Church.

In a sense More died for the idea of freedom, in that he affirmed the duty of individuals to remain faithful to the truth in the face of coercion. The seeming contradiction between his assertion of his own conscience and his willingness to persecute others was resolved in his communalism - he died to affirm this collective wisdom, while those whom he helped send to prison or the stake were precisely those trying to undermine it. His own spiritual health derived from his membership in a larger community, so that he as a free individual took a lonely stand only in order to affirm the authority of that community, when few others were willing to do so.

More's modern critics also point out the seeming inconsistency whereby he died to affirm the reality of a community which was already disintegrating. If the truths he defended took their warrant from the consensus of the faithful, did they lose that warrant as that consensus disappeared? More probably died thinking that the Protestants still represented only a deviant minority. But even if all of Christendom had fallen to the heretics, he could still have taken his stand with the countless generations which had gone before.

But if More is the first modern thinker to invoke the traditions of the community as the surest guide to truth, he also revealed the inadequacies of such a concept, which are that on the one hand it allows little room for distinctions - the communal consensus must effectively be accepted uncritically, as a whole - while on the other hand it leaves the individual seemingly helpless when community disintegrates.[33] More might have made at least one telling response to this criticism, which was that the principle of consensus itself provides no warrant for change and, when consensus is undermined, it can only occur by appealing to some opposed principle.

Thus the last phase of his career - the works he penned while imprisoned in the Tower of London - themselves transcended the public philosophy which had guided and comforted him throughout most of his life. Faced with the imminent collapse of the traditional communities which he had cherished, he did not plunge into despair, as in a sense the logic of his traditionalism required, but was moved to find the ground of existence in a transcendent personal faith in God.[34]

The early humanist More enthusiastically supported proposals for change - in religion, in education, in politics - in ways the later More did not, and he was possibly the first modern example of the facetious definition of a neo-conservative as a "liberal who was mugged by reality." Prior to Luther, More was an exuberant, even playful exponent of stimulating new ideas, especially as propounded by Erasmus. But the Lutheran movement shocked him and forced him to see that ideas had consequences which he considered pernicious. Intellectual combat ceased to be exhilarating and began in deadly earnest, the stakes nothing less than the survival of Christendom.

More's polemical exchanges with Tyndale brought into sharp relief the tensions between tradition and innovation, community and individual, respect for authority and critical intelligence, tensions which have been replayed countless times in the modern world. If More fell short of resolving those tensions, he nonetheless deserves recognition as one of the first modern men to realize what was occurring.

NOTES
1   For a discussion of More's role in the prosecution of heresy see J.A. Guy, The Public Career of Sir Thomas More (New Haven, Ct.: Yale University Press, 1980), 141-74.
2   Originally published 1516.
3   James D. Tracy, Erasmus of the Low Countries (Berkeley, Ca.: University of California Press, 1996), 123-6.
4   For example see his 1515 letter to Martin Dorp, a Louvain scholar (Letter to Dorp, ed. Daniel Kinney [New Haven, Ct.: Yale University Press, 1986, 1-128) (Complete Works, XV).
5   Guy, Public Career, 3-4; Alistair Fox, Thomas More: History and Providence (New Haven, Ct.: Yale University Press,

1983), 9-10.

6 Guy, Public Career, 6-10.

7 The History of King Richard III, ed. Richard Sylvester (New Haven, Ct.: Yale University Press, 1964), two volumes (Complete Works, II). The original date of the work is uncertain - sometime between 1513-20.

8 Fox, More, 76, 88.

9 Responsio ad Lutherum, ed. John M. Headley (New Haven, Ct.: Yale University Press, 1969), two volume. (Complete works, V).

10 Guy, Public Career, 107.

11 For Tyndale see David Daniell, William Tyndale, a Biography (New Haven, Ct.: Yale University Press, 1994).

12 English translation New York, 1908.

13 Responsio, 140-1; The Confutation of Tyndale's Answer, ed. Louis A. Schuster, et al. (New Haven, Ct.: Yale University Press, 1973), two volumes (Complete Works, VIII), 576-7, 872.

14 Responsio, 98-100; Confutation, 81, 340; Dialogue Concerning Heresies, ed. Thomas M.C. Lawlor, et al. (New Haven, Ct.: Yale University Press, 1981) (Complete Works, VI), 115, 136-8, 180-4, 206-7, 378-41, 506, 639.

15 Confutation, 150-1, 155, 266, 332, 340; Dialogue, 28-9, 133-4, 329-32, 508-10, 690-2. More's ideas about the relationship between "oral" and "print" cultures bear remarkable resemblance to those of the modern communications theorist Marshall McLuhan, who was also a Catholic (Hitchcock, "More and Tyndale's Controversy over Revelation: a Test of the McLuhan Hypothesis," Journal of the American Academy of Religion, XXXIX, 4 [December, 1971], 448-66).

16 Responsio, 44-5, 469, 633; Confutation, 37, 155-6; Dialogue, 20-1, 95-6, 232, 243, 247, 252 149.

17 Dialogue, 166, 175, 180-1, 185, 188, 248-9, 253-4, 392, 434, 494-5, 510-1; Confutation, 120, 167, 182, 223, 265, 614, 863.

18 Dialogue, Part 1, 59, 125, 149, 166, 171, 180, 253-4, 290, 304-5; Part 2, 462-3, 510-1, 612,

640; Confutation, 395; The Apology of Sir Thomas More, Knyght, ed. J.B. Trapp (New Haven, Ct.: Yale University Press, 1979) (Complete Works, IX), 169.

19 Utopia, ed. Edward Surtz, S.J., and J.H. Hexter (New Haven, Ct.: Yale University Press, 1965) (Complete Works, IV), 219.

20 For a discussion of the issue see George Tavard, Holy Writ or Holy Church: the Crisis of the Protestant Reformation (New York: Herder and Herder, 1959) and J.P. Mackey, The Modern Theology of Tradition (New York: Herder and Herder, 1963).

21 Apology, 165; Confutation, 464; Dialogue, 304-5, 352-3.

22 Dialogue, 289 ; Confutation, 262, 896-7.

23 Responsio, 40, 236-7, 242-5; Dialogue, 56, 90, 145-6, 148-9, 152, 155, 175, 425, 433, 448; Part 2, 520, 558, 616. 95-6; Confutation, 400, 408-9, 411, 497, 465, 501

24 Guy, Public Career, 171-4.

25 Tyndale, The Obedience of a Christian Man, ed. David Daniell (London: Penguin, 2000), 144, 146, 148, 184, 219, 224, 226, 241 (originally 1528) (facsimile edition Menston, England: Scolar Press, 1970); An Answere unto Sir Thomas More's Dialogue, ed. Anne M. O'Donnell and Jared Wicks, S.J. (Washington: Catholic University of America Press, 2000), 51.

26 Dialogue, 346. (The translation is here modernized.)

27 Guy, Public Career, 32, 41-79.

28 Supplication of Souls, ed. Frank Manley, et al. (New Haven, Ct.: Yale University Press, 1990) (Complete Works, VII).

29 Philip Hughes, The Reformation in England (New York: MacMillan, 1950), I, 274.

30 R.W. Chambers, Thomas More (Ann Arbor, Mich.: University of Michigan Press, 1958), 349.

31 Guy, Public Career, 121, 133, 162-3.

32 Daniell, Tyndale, p. 531.

33 Hitchcock, "Thomas More and the Sensus Fidelium," Theological Studies, XXXVI, 1 (Mar., 1975), 145-54.

34 A Treatise on the Passion, ed. Garry E.

Haupt (New Haven, Ct.: Yale University Press, 1976) (Complete Works, XIII); The Dialogue of Comfort against Tribulation, ed. Paul L. Martz and Frank Manley (New Haven, Ct.: Yale University Press, 1976) (Complete Works, XII); De Tristitia Christi, ed. Clarence H. Miller (New Haven, Ct.: Yale University Press, 1976), two volumes (Complete Works, XIV)

"LEGAL AND SOCIAL IMPLICATIONS OF RECENT DEVELOPMENTS IN IVF"

Address given to the St Thomas More Society, Sydney
the Jewish Jurists Association of NSW, the Guild of St Luke
and the Jewish Doctors Association
23 October 2001
by (V. Rev. Prof.) Anthony Fisher OP

1.Introduction

I am honoured to be asked to address this august group and do so conscious of the enormous debt I owe to friends and mentors, some of whom are here tonight and some of whom you, in a sense, represent. I recall when, in the 1980s, I was writing my book on IVF how influenced I was by two great thinkers. The first was John Paul II, then young in his papacy, who was to write so much on reverence for human life, the body, and sexuality, and to promote such reverence with initiatives such as the Institute which bears his name and personal patronage, the tenth campus of which I am proud to be associated with in Melbourne. The other thinker was Immanuel Jakobowitz, then 'Chief Rabbi of the British Commonwealth', a most sensitive and illuminating ethicist, who was writing at a time when many were at sea about IVF and all that it involves. His great emphasis was on the sanctity of human life, on children as a gift rather than a project, and on the great anti-pragmatic theme of Jewish (and Christian) ethics: that not all ways of getting good results are good ways.

One of the many things which united Wojtyla and Jakobowitz was their attitude to science and technology, which might be described as one of critical
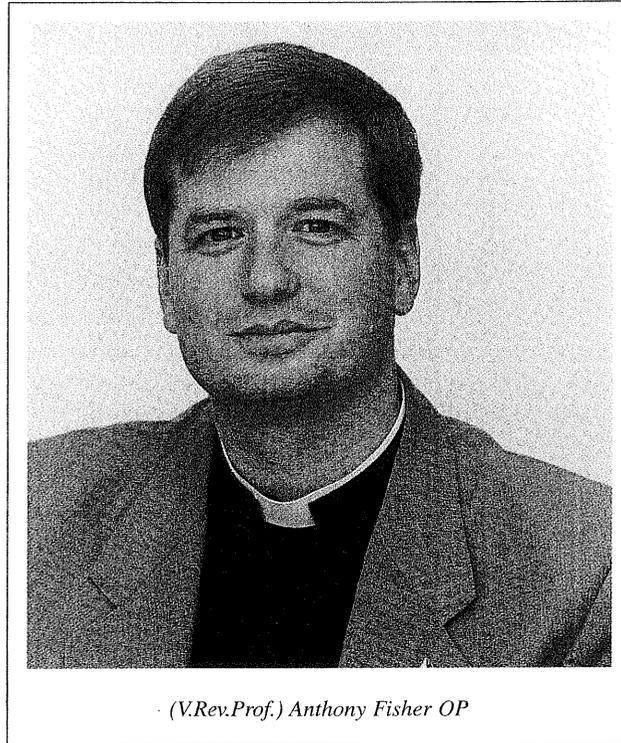
(V.Rev.Prof.) Anthony Fisher OP

optimism, but optimism all the same. In the Judeo-Christian tradition(s) faith and ethics are not counterweights to science and medicine, but the very life and soul of all human technique, helping to inspire, form, and direct it toward good. Thus, when God gave creation into Adam and Eve's stewardship, He gave them the intelligence, sensitivity, creativity and conscience needed to be fitting stewards. With those divine gifts came the responsibility to use science in an ethical, socially responsible way, and to inform ethics and social policy with the best of science. Of course, the story of our First Parents and of so much of salvation history ever since has been the story of humanity over-

stepping God-given Torah or wise limits, of 'playing God' rather than receiving from God His good gifts with awe and then reverently making the most of those gifts within the confines of His law. That is why church and synagogue must sometimes weigh-in to the public debate on these questions; but they always do so at the risk of being misunderstood or marginalized.

I remember being interviewed on a television programme soon after my book on IVF was published. The interview turned out to be an ambush. I found myself on camera seated beside a couple with their IVF baby in arms; the compere's opening question was: "Why do you hate this baby?" Of course I didn't hate this baby, any baby, I love babies; nor was I lacking in sympathy and compassion for desperate infertile couples; but as Rabbi Jakobowitz would have insisted, not every way of getting a baby is a good way.

2.New ways of making babies

At the time Edwards and Steptoe were achieving IVF and Wojtyla and Jakobovitz first reflected on ethical implications, IVF was basically about circumventing infertility in couples, especialy tubal blockages in women. Since then it has gone from being an exotic treatment of

last resort, to being an increasingly common procedure, said to have produced over one million live-born children.

Recent developments in IVF and related technologies mean that we are rapidly acquiring the power to modify and control not just if, but precisely when and how, people come to be and even what they come to be. IVF now has two main uses:

(1) making babies, not just for couples unable to do so in the ordinary way, but for those who do not want to do so, a group we might call 'the socially infertile' and making those babies more and more according to specifications; and

(2) unmaking babies, as it were, where embryos are exploited destructively for experimental purposes or else tested and disposed of because they carry some undesired characteristic or are unwanted for some other reason.

With respect to the first use, not only does IVF allow infertile couples to bypass their infertility and have children genetically their own, it also allows people to commission others to provide those requisites of child-bearing which they cannot or do not want to provide themselves: eggs, sperm, embryos, womb, know-how. All these may come from people other than those who actually want the child. Those involved may or may not be related to the child or to each other; they may be married, unmarried, homosexual or solo; donors may be paid or unpaid, alive or dead, comatose or even aborted and never born. Cryopreservation allows twins to be born at different times and to different parents. Cloning and genetic engineering allow children to be created with only one or indeed many genetic parents, and, in the future, these children may increasingly be designed so as to

have certain preferred human or non-human or superhuman characteristics. As well as new ways of making babies, there are new ways of carrying them: surrogate mothers and even post-menopausal women now carry children, and in due course men, animals and machines may be used to carry human children. Sheep have already been tried in Victoria!

In the Judeo-Christian tradition(s), stretching back to the opening chapters of Genesis through the Law and prophets, the teachings of Jesus, and the long midrash by both Jews and Christians, there has been a strong insistence on the divinely ordained and naturally instilled link between marriage and fertility, between life and love. Yet in recent articles in the Medical Journal of Australia, IVF providers Robert Jansen and Carl Wood propose a different wisdom. They predict that IVF and associated technologies will soon enable us so completely to disintegrate sex from love and marital commitment, conception from sex, impregnation from conception, carrying children from bringing them up, that the nexus will be broken for ever. They not only predict this, but celebrate it. Jansen and Wood point out that, already to some extent and increasingly in the future, artificial reproductive technologies enable such "unorthodox but advantageous practices" as single and lesbian parenting, eugenics and designer babies. Meanwhile a whole panoply of sexual options including "virtual sex" with computer-generated 3-D images will replace the old way; natural sex and especially natural conception may come to be seen as altogether too unpredictable and unhygienic.

A recent example of just how far things have gone in that disintegration process comes from the Australian media's favourite

philosopher, Professor Peter Singer. Long a promoter (and a very influential promoter at that) of human embryo experimentation, the whole range of artificial reproductive technologies, including cloning and surrogacy, as well as abortion, infanticide and euthanasia on demand, he has recently proposed demolition of another taboo, that against bestiality. There is, after all, nothing special about humans, or human sexual acts, which make it a problem and it is no worse for the animals than battery farming, he says. Indeed, in a follow-up article in the Weekend Australian, Singer said that he thought there was much to recommend 'mutually satisfying' sexual relationships with household pets![1]

Animal-human hybrids may well be the next ART for which Singer et al will go into bat, and if so, it cannot be presumed that it will be long resisted by public opinion or government. There is much that could be said about the range of proposals now on table: some will have our sympathy; others cause immediate revulsion, though it is remarkable how short-lived repugnance is in Western societies today. The fact is: entrepreneurs are always on the lookout for ways to extend the ART market and thus to break down any lingering taboos and regulation in this area. Any caution is dismissed by them and their philosophical sympathizers, as 'ill-informed', 'benighted' or, worse, 'religious', and so not taken seriously in a scientific, secular community.

The marital bed and the marriage-based natural family, until recently was recognized in law and social ethics, as in our Judeo-Christian tradition(s), as the appropriate place for conceiving, bearing and rearing children. This is increasingly seen as obsolete or at most an optional extra. But what about the children? In an age in

which the rights of adults to have whatever they want-houses, cars, videos, whatever-on demand, in whatever colour and model they desire, to use at will and discard when unwanted, do we risk children becoming the ultimate commodity, the last consumer good for the adult who has everything? Will they increasingly be manufactured to satisfy preferences of the me-generation, and disposed of when they fail to do so by a throw-away society? Will the law be complicit in this, enabling a consumer approach to children by treating IVF as an ordinary service and children as objects or entitlements to which people have a right rather than themselves being subjects of entitlements and rights?

3.New ways of unmaking babies

If artificial reproductive technologies have given us new ways of making babies, they have also provided new ways of unmaking them: IVF may have produced a million live-born children, but only at the cost of many, many millions more embryonic human beings lost or deliberately destroyed in the process. That will only increase in the future. The NHMRC is currently holding an inquiry into its guidelines in this area, guidelines which till now have put few, if any, brakes on destructive human embryo experimentation in this country.

Australia is also currently considering the issue of 'cloning'. As the recent Federal Government cloning report and COAG inquiry bear witness, behind all the hype, the issue is not whether some Dr Frankenstein will make dozens of genetic copies of Hitler or Bin Laden or even Howard. The real question· is whether scientists should be allowed to destroy existing human embryos and create and then destroy additional

designer embryos, so that the first can be used for experimentation and the second can be cannibalised for tissues for other people.

In the newspeak of biotechnology, creating or farming embryos so as to exploit and destroy them is called 'therapeutic' or 'nice' cloning, while cloning to bring children to birth is called 'reproductive' or 'nasty' cloning. Since only a few are currently interested in doing reproductive cloning, the deal proposed is that it be banned for now as a trade-off for permitting therapeutic cloning, in my view the more ethically repugnant version. Ironically, then, a legislative ban may simply be a tactic to enable cloning. In the meantime laws regulating cloning and destroying embryos for parts such as stem cells are weak in some jurisdictions and altogether absent in others.

Again, consider the new genetics, so pregnant with therapeutic potential as we understand better and better how the human genome ticks. The problem is, for the foreseeable future, the principal use of this technology will not be therapeutic at all. It will be used for testing IVF embryos by PGD (pre-implantation genetic diagnosis) or unborn children in the womb by other methods. Where a child is diagnosed as carrying some disease or other unwanted characteristic, abortion is the likely outcome. While I was working in Oxford, I was consulted regarding a dwarf couple who presented requesting genetic screening of their unborn child. There was a high risk that the child would also be a dwarf so the doctors were delighted to be able to report that they had a perfectly normal child. The couple, however, declared they wanted an abortion: they only wanted a dwarf child. The clinical staff were aghast. Despite their long experience of abortion on demand,

they had never faced a case where a child was to be aborted specifically because it was normal! The case raised for them all sorts of questions like who decides which genetic qualities warrant death, before or after birth? on what basis? and in whose interests?

A recent Life magazine article confidently included the following qualities among those entirely or largely genetically determined: eye, hair and skin colour; sex; body shape and athletic prowess; intelligence of various kinds; insomnia, blood pressure, migraines, depression and psychosis; shyness and aggressiveness, risk aversion and thrill-seeking, optimism, extroversion and alienation, leadership and career choice; esthetic sensibility, sexual, tastes and addictions; and, I was interested to learn, religiosity. Such claims are not the preserve of pop magazines: David Roshland, when editing the prestigious journal Science, even attributed homelessness and unemployment to genetic defects!

If genetic factors are indeed identified as contributing to many of these qualities, IVF and PGD will probably be a means by which children who do not measure up to parental and social expectations will be targeted for destruction. One recent study found that three-quarters of young Americans polled would choose abortion if told their fútus had a 50% chance of growing up obese. Fat baby tests will soon be on the market. The target group for genetic screening and destruction is growing all the time.

There are lots of things that can and should be said about the reproductive and genetic revolution which is upon us, and much of it is good. But my main point here is that for all its much vaunted therapeutic potential, artificial reproductive technologies

are and will long continue to be very expensive in terms of early human life and raise all sorts of questions about appropriate respect for early human life, about appropriate uses of our fertility and sexuality, about masculinity and femininity, life and death, just allocation of healthcare resources and so on. These are, I believe, more than private decisions between couples or singles who are would-be parents and IVF providers: they are major social issues which require careful public scrutiny and appropriate regulation.

4. Bioethics and bioregulation

What place is there for Judeo-Christian ethics in the regulation of these very complex issues? In Novo Millennio Inuente John Paul II invites humanity to take a plunge into the Third Millenium of the Common Era "remembering the past with gratitude, living the present with enthusiasm and looking forward to the future with confidence". All of which, he suggests, we must do with eyes open to the challenges of ideologies, injustice, cruelty and indifference. He suggests that our faith traditions can play a prophetic rôle in drawing attention to "the duty to be committed to respect for the life of every human being, from conception until natural death" and to the dangers of biotechnologies which "discriminate against some human lives" and "ignore the dignity which belongs to every human being". The challenge is for all our religious, scientific, educational, health, cultural and professional bodies, law included, to help direct our technologies according to "fundamental ethical requirements".

As people of the Law and the Word, not just by legal profession but by that prior profession of our faiths, Jews and Christians should have a certain confidence in the ability of human beings to regulate activities by worded promises, commands and sanctions, rather than resorting to brute force or acquiescing in the moral anarchy of a free market. Like Professor Louis Waller, I am convinced that the Victorian regulatory framework, the oldest such experiment in the world, though far from perfect, has been very successful and has much to offer jurisdictions such as New South Wales which are yet to do anything effective in regulating this area. But there is no cause for smugness even South of the border. For one thing, technology moves on, new possibilities reveal lacunae in existing laws and technologists complain that the law is lagging behind and is always a blunt and cautious instrument. This highlights the need for a certain versatility on the part of legislators, regulators and courts in the face of scientific change. Yet at each and every point where legislation or regulation actually restricts what some scientists would like to do, the law is also being challenged by those proposing amendments, taking cases to court, or pressing regulators to make exceptions or permissive interpretations or guidelines. A well-tamed or well-stacked regulatory body may well prove much more compliant than a parliament or public opinion. Indeed, properly managed, regulators can become deregulators.

Then there's the so-called 'salami technique'. A researcher knows the public and lawmakers will not swallow all of what he wants to do. So he does not declare his hand publicly or even oppose regulation; rather, he promises a world of cures, with little detail as to methods, and also promises he would 'never' do that which he will in fact be doing five years hence. He may even support prohibitions (for now) of those nasty things which no-one wants to do for now, as a trade-off for being left alone to do whatever he actually wants to do right now. Then, after beavering away at some morally and socially troubling technique, a heart-wrenching case is picked and a media splash arranged, perhaps about a desperate woman, preferably a devout Catholic, who has tried everything, lost her spouse and children etc; and both the law and public opinion are swayed, slice by slice, step by step, in the direction of laissez faire; slice by slice, every regulation and taboo is carved away.

But, even if regulation is to have bite, on what basis, on what principles? Shouldn't churches and religions keep their noses out of such matters? Much of what Jews and Christians think on bioethical matters is, of course, common ground with people of other faiths and none, part of that 'common morality' which is the necessary underpinning of the flourishing of individuals and communities. These fundamental norms or 'natural' laws are foundational for democracies and for that pluralism and tolerance for which democracies are so admired. They include respect for the inherent dignity of every human being, respect for fundamental institutions such as marriage and family, and for the dignity of procreation within marriage. So when religious groups speak on the basis of such common principles, they speak for a very broad constituency and some very fundamental concerns. Of course, faith brings a particular perspective to these issues which means Catholics or Jews may differ from other is some ways. But when a major social question such as cloning or IVF for singles arises, it would be very strange if those faith communities were mute; likewise when a faith is shared by millions of Australians, it would be strange if it is not taken seriously as our society discerns its

response.

More than this, I think religions have a particularly important rôle in drawing attention to people and values at stake in such debates. Modern societies are so easily carried away with technological possibilities and personal preferences that they can fail to see the bigger picture. A special rôle of religions in a civil society is to be a voice for the vulnerable and to draw attention to values which might be forgotten amidst the hype of science, media, politics and commerce. A recent intervention of the Catholic Church in the issue of access of single women to state-regulated and funded ARTs is a case in point. Some expressed annoyance that the Church took a position, rather than sticking to arcane rituals and private catechesis. But in the present case, a morally sound law had been passed only few years ago with the unanimous support of all parties and factions of the Victorian Parliament, restricting ARTs to married and de facto married couples, presumably for the sake of the children who will be created with the aid of these technologies. Similar laws or customs are in place in several Australian jurisdictions and some overseas.

Suddenly someone says this is discriminatory. Well, how do you test such a question? Presumably by both sides having their say, putting their best arguments, before an adjudicator(s) who has eye to justice both broadly and narrowly understood. What actually happened? The IVF technicians made the case for a newly-invented 'right to fatherless pregnancy', with the best of lawyers, strangely paid for out of the Australian Medical Association's defence fund. But the other side-the State of Victoria-sat mute and refused to defend or explain its own law! If no-one was there to speak up for the law, how could its strengths and weaknesses be tested?

So the Federal Court struck down or read down many provisions of the Act in a case which raised all sorts of questions about the constitutional foundations and limits to anti-discrimination laws; about their interrelationship with other laws such as those to protect children, marriage and family; about sovereignty and jurisdiction of states in a federal system and of nations in international law; about whether the interests of children are still paramount in Australian family law; and much else besides. And if there was no-one there to stand up for the law, there was also no-one to speak up for children who might be adversely affected in world in which the preferences of adults have such conclusive trumping power and where, so often, rights get all the attention and responsibilities are forgotten. So the Catholic Church spoke up in court, performing the rôle, as one high court justice put it, of 'the Attorney-General of Last Resort'.

I think it unlikely that High Courts will ever be regular places for our religions to make their appeals to our common humanity. Most of our bioethics will continue as before to happen in academies, hospitals, churches, synagogues, and homes. Yet the rule of religions as sources of ethical wisdom in a civil society may well be increasingly that of the sole counter-voice to the smug consensus of liberal modernity or the blind indifference of the free market, and that of advocate of more creative pathways to solving social problems, within rather than beyond, the bounds of common decency.

1   PETER SINGER, "Heavy Petting," http://www.nerve.com/Opinions/Singer/he avyPetting/; cf. KATHRYN LOPEZ, "Peter Singer Strikes Again: This could be your kid's teacher," National Review 5 March 2001; GOLDBERG, "Taking Singer Seriously: Don't do it," National Review 14 March 2001; "The beast and the bees," Weekend Australian, 21 April 2001, R1.

HOMILY FOR THE RED MASS 2002

Delivered by His Grace Most Rev. Dr. George Pell DD
Archibishop of Sydney and Patron of the St Thomas More Society
*on 29 January, 2002 at St Mary's Cathedral, Sydney.*

Wisdom 13:1-9 Eph 3:8-12, 14-19 Mt 6:24-34

One of the joys for a bishop coming into a new diocese is being able to insert himself into well-established religious traditions.

The origins of the Red Mass go back to the Middle Ages, to 12th century pre-Reformation England when fourteen guilds or Inns were formed in London for the training of young men in civil law. The four best known, (Lincoln's, the Inner and Middle Temple and Gray's) constituted the Inns of Court, the master was a priest and the collegiate discipline included attendance at Mass. These Inns flourished particularly after 1207 when the clergy were prohibited from practicising in the civil courts. The practice in all the Inns was for the judges and sergeants to hear Mass in their Inn chapels before proceeding to Westminster for the opening of Term, to pray as we do now for God's blessing and wisdom on the work of the courts.

Fasting before communion was then a serious business (I think from the previous midnight) so the Lord Chancellor's breakfast was doubly welcomed. At the Reformation of course the Masses were discontinued but the solemn processions to open the law term continued.

In Sydney a group of distinguished Catholic lawyers
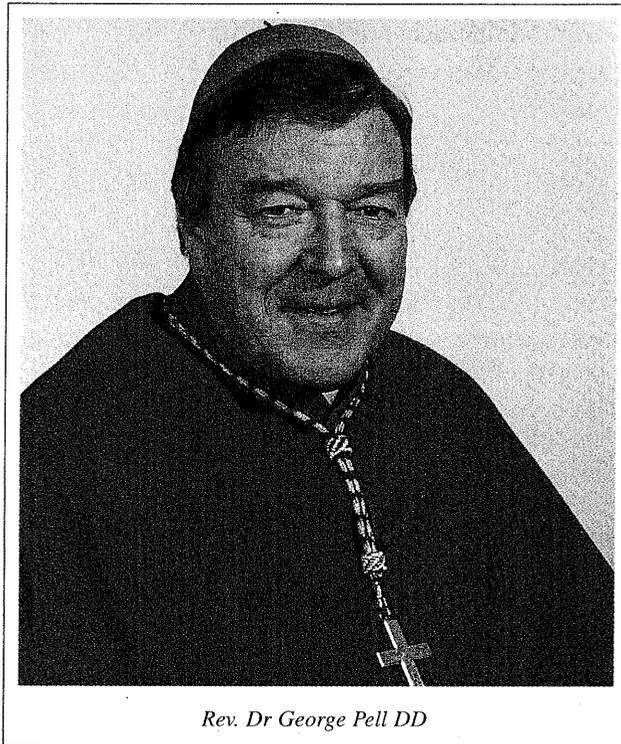
Rev. Dr George Pell DD

began to meet regularly in 1929 and in December 1930 they approached my predecessor Archbishop Michael Kelly asking for a special Mass for the legal profession. Like most archbishops he was a bit slow to move, dubious about the merits of such a special Mass just for lawyers. However, he eventually did as he was bidden and on the reverse of W. J. Dingnam's letter he himself wrote, beginning with the episcopal cross "Michael approves of this proposal".

The first Red Mass here was celebrated on February 16th 1931, so this is the 72nd celebration. Similar to today there was a large attendance of judges, counsel and solicitors in court robes, gowns and

wigs, or academic dress. The then Attorney-General, A. A. Lysaght, who disapproved of the wearing of robes, was conspicuous in his civilian clothes. Archbishop Kelly was away. Three years later in 1934 the Anglican Church instituted its Opening of Term Service.

The original committee as they prepared their proposal examined reports of the Red Mass from London (where it had be reintroduced in the 1880's by Lister Drummond), Dublin, Rome and New York.

I certainly intend to support and encourage this venerable tradition; and for a number of reasons.

The secretary of the Thomas More Society, which now organizes this Mass, has produced three excellent, if provocative readings for today. The first is from the book of Wisdom, traditionally ascribed in a literary device to King Solomon, but probably written in Alexandria late in the Old Testament times. The author does not have too much sympathy with atheists or agnostics, accusing them of stupidity, claiming they cannot be excused even if only a small amount of blame is to be attached to them because they love the beauty of God's works too much.

We live in a different world where a goodly and increasing

minority is lapsing into irreligion, where many clever men and women are uncertain about God's existence or his relevance, with some still retaining enough nineteenth century bravado to claim an explicit atheism.

These Christian and Jewish services of worship at the start of the legal year are a public reminder that our legal tradition was founded and is still rooted in a different system of values and truth. We belong to a monotheist tradition, compassionate and rational, which claims that the scales of justice will balance in eternity. We claim that humans stand under a moral code, an objective order of right and wrong, which our parliaments and courts try to identify and defend. And we believe that after death each one of us, woman or man, rich and poor, learned and less learned, will answer to the good God for our lives, with those who have shown mercy receiving mercy.

In our society where simple notions of good and evil are sometimes contested in higher education circles and sophisticated articles are written objecting to "the privileging of truth", the regular exercise of our courts is a much needed (if indirect) teaching about the true nature of life and a strong vindication of that thirst for justice found in most human hearts, which points beyond us to our God of truth, love and justice.

Like the excerpt from the Book of Wisdom, Matthew's gospel passage quoting Our Lord is also blunt and explicit; but more defensibly so "You cannot be the slave both of God and of money".

I believe it is true that ultimately one cannot be a slave of two masters, although most of us go through life wagering for a win and a place, placing each way bets. We might deny that we are a slave to any creation, as we serve a variety of masters. Few of us would go as far as Voltaire is alleged to have gone on his deathbed when asked to renounce the devil. "This is no time", he explained, "for making new enemies".

Leaving to one side for another time those difficult teachings about not worrying about tomorrow, I believe that Christ's teaching about the fundamental option each of us has to make between good and evil (is Christ's disjunction between God and money exactly this, or somewhat different?) is reflected in the oath or affirmation required of all those undertaking judicial office, where they swear to act, to implement the law without fear or favour. Only one master can be served here.

One could put this in different terms and claim that justice is more likely to be attained, the legal system best exercised, by those whose hearts are just, who see their work as a service and are not overbearing, impatient and intolerant. Such an approach contributes to public harmony, to social well-being.

Let us all pray today for such wisdom to be regularly found and followed in the courts of our nation.

In the name of the Father, and of the Son, and of the Holy Spirit. Amen.

George Pell
ARCHBISHOP OF SYDNEY

THOMAS MORE AND THE THREAT FROM THE EAST*

Address given to the St Thomas More Society, Sydney
Patronal Feast Day Meeting
4 July, 2002
by Dr Michael A Casey

In the wake of September 11, with the problem of militant Islam either at the forefront of our attention or at least at the back of our minds, it is perhaps some consolation to know that this is an old problem and one which we are not the first to confront. Thomas More lived his life against the background of a virulently militant Islam. By the time he was born in 1477 or 1478 the rising and apparently irresistible power of the Ottoman Turks was beyond dispute. A quarter of a century earlier, in 1453, Constantinople had fallen to Mehmed II (1444-46 & 1451-81), who promptly began rebuilding the city as the capital of a world-wide empire. Mehmed saw himself as the heir to the Roman emperors and assumed the title *Kayser-i Rum* ("Roman Caesar"). His conquests in the Balkans and

Anatolia during the 1460s and 1470s secured what would be the Ottoman heartland for the next four centuries, and his expeditions extended into the Crimea in the east, into Hungary and Moldavia in the north, and to the Italian mainland in the west. His capture of Otranto in Italy in 1480 was intended as the prelude to a full-scale invasion. The pope Sixtus IV (1471-84) - who in the course of his pontificate inaugurated a feast day for the Immaculate Conception, established the Spanish Inquisition, and confirmed the Dominican friar Tom·s de Torquemada as Grand Inquisitor - prepared to flee Rome ahead of the Muslim onslaught, but with Mehmed's death in 1481 the invasion failed to materialise and Otranto was easily retaken the following year. More would have been about 5 or 6 at this time.

As More grew to adulthood and began his career in the King's service, the Muslim threat receded into the east as Mehmed's successors directed their attention to establishing Ottoman hegemony over their rivals in the House of Islam. Mehmed's son Bayezid II (1481-1512), known as "The Just" or "The Pious", consolidated the gains his father had made in Europe and the eastern Mediterranean, but his attempts to consolidate the gains in Anatolia brought him into conflict with the Mameluke sultanate in Syria and Egypt (which two hundred years before had finally vanquished the crusaders and over-run the last European toe-holds in the Holy Land). He also had to contend with the powerful appeal which Sh'ite Islam, actively promoted by the Safavid shahdom in Persia, exercised over the Turkmen tribes (or *Kizilbash*, as the Sh'ite

Turkmen were called) in eastern Anatolia. In 1511, the year More lost his first wife Jane, and married his second wife Alice, the Anatolian Turkmen rose up against the Ottomans and although this uprising was successfully put down it destabilised Bayezid's regime and he was forced to abdicated in

Dr Michael A Casey

1512 in favour of his son Selim.

It fell to Selim I (1512-20), known as the "The Grim" or "The Terrible", to finish what his father had begun. In 1514 he defeated the Persians (in no small part because the shah, Ismail I, refused to use gunpowder weapons) in a great rout at Chaldiran, north east of Lake Van in modern-day Turkey. In the subsequent process of incorporating the Kurdish and Turkmen principalities of Anatolia, Selim antagonised the Mamelukes by subjugating one of their client states (the Dulkadir principality of Elbistan). In the war that followed Selim captured Aleppo and Jerusalem in 1516 and occupied the whole of Syria. The following year he conquered Hejaz, the western

region of Arabia where the holy cities of Mecca and Medina are found, and occupied Egypt. In a solemn ceremony in Cairo in 1517, Selim was presented with the keys to the city of Mecca, symbolically acknowledging him as the leader of the Muslim world.

The Ottoman preoccupation with eastern affairs in the last decades of the fifteenth century and the first decades of the sixteenth century gave Europe a reprieve which was squandered in the struggle for ascendancy between dynasties and between the great nation states whose emergence had fatally fractured the unity of what More liked to call the *respublica Christiana*. The Ottoman triumphs over the Mamelukes and Persians had not gone unnoticed, and their significance had not gone unappreciated in Europe, but the full force of their reverberations were only felt with the accession of Selim's son Süleyman I in 1520. Süleyman (1520-66), known to us as "The Magnificent" but to his own people as "The Lawgiver", was the beneficiary of his father's and grandfather's achievement in securing Ottoman supremacy in the east, and he immediately turned his attention and strength to Europe. In 1521, the year More was knighted (and the year Henry VIII received the title *Fidei defensor* from Pope Leo X), Süleyman captured the fortress city of Belgrade, giving him control of the Danube and opening the way to Hungary, Northern Italy and Vienna. In 1522 he captured Rhodes from the Knights of St John, and in 1526 he broke the power of Hungary, which had long been a bulwark against the Ottoman advance.

With the fall of Hungary all Europe lay open to conquest by the Great Turk, and it gives some

indication of the hopeless division between the European powers that even in the face of this overwhelming danger, a peace of some sort between themselves was not attained until 1529, on the eve of Süleyman laying siege to Vienna. That year, the year More succeeded Wolsey as Lord Chancellor, Süleyman invaded Hungary a second time to establish King John as his vassal (ahead of the Habsburg claimant to the Hungarian crown), but the siege of Vienna failed, not only because of the fierce resistance of its defenders, but perhaps more importantly because of the onset of winter and Süleyman's overstretched supply lines. A second attempt to take Vienna was made in 1532, the year More resigned the chancellorship, but it met with a brilliant defence and did not penetrate beyond Austria's border provinces. This second defeat convinced Süleyman that Austria would not be taken easily, and in 1533 he accepted a truce and turned his attention again to the east. The struggle between the Habsburgs and Ottomans for suzerainty of Hungary would continue late into the seventeenth century, leading to the second siege of Vienna (as it had led to the first) in 1683. When the Turks were defeated this time, they went into headlong retreat, a retreat that only came to an end with the formal dissolution of the Ottoman state in 1923.

How does the threat from the east that we find ourselves contending with today differ from that which More's generation had to confront in the sixteenth century? The answer, of course, is significantly. The Ottomans in More's day were the foremost power in Europe. They far excelled the European armies in the effectiveness and discipline of their infantry (the Janissaries), artillery and cavalry (sipahisies), and their

military and naval capacity was immense. Süleyman conquered not only Belgrade, Budapest and Rhodes, but Tabriz (in Persia), Baghdad, Aden and Algiers. Until the Battle of Lepanto in 1571 the Mediterranean was very nearly an Ottoman lake, and Süleyman's naval reach was such that he despatched a fleet to Aceh in an attempt to liberate his co-religionists there from the Portuguese. Unlimited despotism and a large tributary population meant that the Ottoman state enjoyed greater stability and cohesion (not least because of the law permitting the sultan to execute potential heirs and rivals, based on the Koranic injunction that "executions are to be preferred to revolutions"), and greater wealth than the European powers. The empire also boasted a culture which, until the renaissance, regularly surpassed that of Europe in learning, toleration and openness. Süleyman's great-grandfather, Mehmed II, gathered humanists and scholars at his court, established colleges and centres of learning, and oversaw a great efflorescence of the arts and sciences in his new imperial capital Istanbul. He even invited the Venetian painter Gentile Bellini to paint his portrait (still extant) and to adorn his palace with frescoes, although these were removed by his successor Bayezid the Pious.

Today, the situation is very different. For most of us Islam is associated with fanaticism, arid legalism and intolerance. Politically it is associated with tyranny, corruption and terrorism. The Muslim faith is often seen as a third-world religion, synonymous either with poverty, backwardness and slavery, or petro-dollar parvenus. Many people, I suspect, are secretly very sceptical when they are told that Islam was once home to one of the greatest civilizations in the world, and

when you behold the epiogini of this civilization chanting "death to America" or imposing the *burqa* on their women, the magnificent achievements of the past can indeed seem like fables. Whereas in More's day Islam represented a great civilizing force to be respected, today it too often represents something that is despised - and more lately, feared.

The rise of Islamic extremism which troubles us so much today can be understood in the same way as the experiment with socialism, secularism and pan-Arab nationalism that preceded it during the 1950s and 1960s; namely as an attempt to restore the prestige and power of Muslim countries in response to the ascendancy of the West. The secularist modernizers attempted to revive Muslim greatness by adopting Western ideas and technical innovations to overcome the legacy of corruption, incompetence and failure bequeathed by the Ottoman empire. Fundamentalist Islam also seeks to revive Muslim greatness and to overcome a legacy of corruption, incompetence and failure, but its preferred means is the restoration of an historical "pure" Islam and the transformation of the nation into a faithful community of believers (*umma*). While both approaches were driven by a desire to assert Muslim independence and manifested themselves as movements of defiance and resistance against the West, both were decisively shaped by Western influences. It will be obvious how this was so for the secularist modernizers. Secularism, socialism and nationalism were not ideas that naturally occurred in the Muslim world. As Bernard Lewis has observed, while secularism was part of the repudiation of a failed religious culture, nationalism and socialism appealed in no small part because of their anti-democratic

and anti-capitalist animus. Mixed in with this was the conceit that despite their weakness, even secular Muslim states represented a more "spiritual" and more authentic "civilization" than the soulless consumerist world of the imperialist West.

Islamic fundamentalism's relation to Western influences is considerably more convoluted. Islamic fundamentalism as we understand it is often traced back to the Muslim Brotherhood, founded in Egypt by Hasan al-Banna in 1928. In the period after the Second World War the Muslim Brotherhood became increasingly radicalized, and after falling out with the Nasar regime it internationalized with the assistance of Saudi Arabia. One of its most important figures was Sayyid Qutb (1906-66). Malise Ruthven describes Qutb as "the intellectual mentor of modern Islamism," and his influence on Islamic fundamentalism cannot be overestimated. "Since Qutb, it has been one of the central tenets of Islamic fundamentalism that politics does not involve merely the confrontation of competing political organizations, but also of entire philosophical systems." Despite this, Qutb drew heavily on Western ideas in the formation of his own philosophy, in particular Henri Bergson's "vitalist" approach to culture, and existentialist ideas "of action-oriented commitment." The first fundamentalist group to emerge in Egypt after the regime there executed Qutb took this last a step further, drawing its inspiration not solely from "Islamic ideas" but also from the Baader-Meinhof gang's concept of the "propaganda of the deed." Ayatollah Sayyid Ruhallah Khomeini, who was radicalized by Shah Mohammed Reza Pahlavi's attempts to break up the huge land-ownings that helped sustain the power of the Shi'a

religious establishment in Iran, was also deeply influenced by Western ideas, especially those of Sartre and - not least of all - Marx. Far from being exclusively Islamic, the ideologies of Muslim fundamentalists are hybrids that reflect a perverse form of engagement with both modernity and the West. That this particular form of engagement is so fruitless is doubtless partly attributable to the way the sources drawn on lock those using them into the political and philosophical discourse of the West in the 1930s and 1960s.

To some extent, the disaffection to which Islamic fundamentalism gives expression is similar to that which has fed into extremist political groups in the West. Urbanization has proceeded rapidly in Muslim countries, and for those whose character and outlook have been formed in the traditional faith of the rural hinterland the confrontation with the chaotic and pagan world (*jahiliya*) of big cities, either at home or abroad, can be profoundly dislocating. Education and economic developments have made it harder to maintain the traditional extended family structure and are changing the roles that women are allowed to play. The encounter with the new worlds of cinema, satellite television and information technology, and through them with Western-style consumerism, also plays a part. For some, this change is experienced not as a liberation but as an attack on culture, tradition and religious observance. It is also experienced as a humiliation. The Westernising trend of these changes and the pre-eminence of the West over the Muslim world are clear to all who can see. For Muslims, however, the world divides into two realms, the realm of believers (*dar al-islam* - the house of Islam) and the realm of unbelievers (*dar al-harb* - the house of unbelief, or war). As

Bernard Lewis explains, while it is "proper and natural" for believers to rule unbelievers, it is "blasphemous and unnatural" for unbelievers to dominate believers. Accepting this situation "leads to the corruption of religion and morality in society, and the flouting and even the abrogation of God's law." The "corruption of religion and morality" through the invasion of foreign ideas and ways of life has been apparent for some time, but more recently its effects have begun to be felt in the most private realm of the family, where "emancipated women and rebellious children" now threaten the believer's mastery in his own house. At the same time, however, anger and resentment at the impact of the West co-exists with a strong sense of the attractiveness of the Western way of life and of the appeal (for some) that a free society has as an alternative to what Anatol Lieven has described as "the multiple failures of development and progress within the Muslim world."

Complicated and important as the question of Islamic fundamentalism is, the crucial question both now and longer term concerns the openness of Islamic culture to freedom. Freedom in the Islamic world generally refers to national independence or to the freedom of the community of believers to maintain religious observance, rather than the freedom of the individual. Ali Belhadj, one of the leaders of the Algerian Islamic Salvation Front (FIS), claims that the object of the West is "to weaken the Muslims' resolve to do good and reject evil under the pretence that individuals are free in choosing their acts." For Belhadj, at least, Islam entails a different concept of human nature from the one common to the West which sees individuals as free agents. The word "Islam" means submission or obedience, and in its

expansionist phase Islam was certainly spread through compelling the submission of conquered peoples rather than through persuasion or conversion. The main requirement of the believer is to "obey God's commands and use [his] intelligence in discerning truth from falsehood." He will be held responsible for how well he has done this on the day of judgement, and responsibility implies freedom to act. But this responsibility is not the *personal* responsibility that arises from living out one's faith according to the lights of conscience; and the freedom of action it implies is not the freedom of *choice* which Westerners assume goes with it. It is the freedom to submit or surrender to God's sovereignty (*hakimiya*), as measured primarily against the *external* requirements of the five pillars.[1]

Obviously, "no religion could prosper and survive, as Islam has prospered and survived into modern times, if it were bound only to the outward forms of observance." For example, while *jihad* is typically understood in the West to mean holy war, the first meaning of the word is "exertion" or "struggle," and as traditionally formulated "the believer may undertake *jihad* by his heart, his tongue, his hands, and by the sword - the most important of these being the first." The emphasis on interior struggle is sometimes referred to as "the greater *jihad*," and it was the path adopted by Sufism, Islam's mystical offshoot, which directed some of Islam's energies towards inwardness. This deepening of religious experience, however, was not undertaken in opposition to outward observance but as a means of perfecting that observance and maintaining it even more strictly. And while its focus was on individual religious experience, it did not seek or work to displace the

corporate foundation - family, tribe, *dar al-islam* - of the believer's identity. It is quite a different situation with Christianity. While the Koran also speaks of God's love, the overriding emphasis given to the demands of that love in the Gospels leads in another direction altogether. Christ's answer (Mt 22:36-40) to the lawyer's question about the greatest commandment - "You shall love the Lord your God with all your heart and all your soul and all your mind. This is the greatest and first commandment. And the second is like it. You shall love your neighbour as yourself On these two commandments depend all the law and the prophets" - makes this direction abundantly clear.[2] The life of faith is first and foremost the inner life, and the deepening and cultivation of that life is enjoined both as the means of living out the law and of *sustaining* it as a law of love. The concepts of responsibility, freedom, and the human person implicit in this are radically different from those at work in Islam, and without them, as Kenneth Minogue has pointed out, the individuality and individualism that we take for granted in the West would never have emerged.

Many significant consequences flow from the differences between Christianity and Islam for the development of democracy and a free society. In one sense, Islam is individualistic. As there is no church in Islam, the believer's relationship with God and his commands is direct and unmediated. But the consequence of this is to leave the individual exposed to greater domination. The lack of any central institution in Islam impeded the emergence of its counterweight in the shape of the secular state. The Islamic law developed separately from the agencies entrusted with its enforcement, and so military-tribal

rule became the norm. The state was thus something which sat on top of society, not something which was rooted in it. A related issue is that Islamic law (*Shari'a*) only takes cognizance of individuals. The Shari'a does not possess a concept of juridical personality for corporate entities, and the public domain is treated as simply the sum of its private components. The absence of institutional boundaries and legal recognition for intermediary groups in Islam has meant that even today it is struggling to develop a legitimate public realm in which economic and political freedom might develop. This is compounded by the fundamental role the family plays in Islamic culture. The family is the only corporate entity the Shari'a recognizes. It occupies a privileged position in the law and is accorded a degree of real independence. But when combined with the lack of a clear delineation of public and private and the artificial position of the state in relation to society, the consequence is to make government and institutions more than usually vulnerable to capture and corruption by powerful extended family networks.

The concept of democracy as it is understood in the West is problematic for Islam, in part because it is associated with the Western domination, and in part because the underlying principle of the sovereignty of the people makes it irreconcilable with the sovereignty of God. What is required is the development of a concept of the person which accepts that along with attributes such as love and reason, freedom is part of what constitutes human nature, and that this gives rise to a legitimate autonomy under the supremacy of the truth. Coming to grips with this requires in turn that Islam recover some of the intellectual suppleness that

produced the scientific and cultural greatness of the period that fell between the ninth and fifteenth centuries. Clearly, it is a very long term project since Islam tends to see freedom as something external and conditional on the sovereignty of God, rather than as something interior and constitutive of human beings. Law and morality are seen in a similar way, as external precepts imposed by the will of God, rather than as formulations of the practical knowing of the good "written on the heart" which serves as the basis of the Christian concept of conscience.

Today we celebrate the feast of one of the great Christian champions of conscience. It is surprising to learn that Thomas More wrote very little on the threat from the east, perhaps because the external threat to the Christian dominion was not quite so great in his mind as the internal danger posed by the reformation. While imprisoned in the Tower of London he wrote *A Dialogue of Comfort Against Tribulation*, which is set in Hungary in the period between Süleyman's first and second invasions. It takes the form of a conversation between two Catholic nobles, an uncle and nephew. Their discussions revolve around how a Christian should conduct himself when he is called upon to renounce the faith by the overwhelming power of a new dispensation brutally imposed upon his country, and how to best respond to the treachery, cruelty, back-sliding and simple human weakness that dominates the scene in this sort of situation. The shadow of the Great Turk falls heavily over the *Dialogue*, but the Great Turk that More primarily had in mind was not Süleyman. It was Henry. As the Yale editors of the *Dialogue* observe, More employs a "loose metaphoric analogy" of Islam and Protestantism. It was claimed at the time of the first invasion of Hungary in 1526 that 20,000 Lutheran mercenaries fighting alongside the Janissaries had helped deliver the victory to Süleyman, and More uses this to portray the Protestants as the Turk within the gates. Another image he uses throughout the work is that of a rampaging lion "runnyng & rorying" about us, an image which conflates all the enemies of the faith - the King, the Turk and the Devil - into one terrible form. This is hard on the Turk, for as More himself tells us "the Turke is but a shadow," the roaring lion Henry in Ottoman garb. But even Henry is not so important in the end. For it is not wisdom "so mych to thinke vppon the Turkes, that we forgete the devill," and it is the devil that "roreth out vppon vs by the threttes of mortall men." When we meet him thus, More says, "let vs tell him that with our inward yie we see hym well ynough, & intend to stand & fight with hym evyn hand to hand."

One should probably not speak of the devil before lawyers, although after the attacks of September 11 it is difficult to avoid doing so. Certainly, talk of the devil does not further our understanding of Islam and the challenges we face in dealing with it. But More's words remind us that evil can assume many guises, even the guise of religious faith, and we should not confuse the evil done in the name of faith with authentic religious belief. True religious belief enhances human flourishing; the use of religion for other purposes enhances only human power. Thomas More experienced this directly, and at the cost of his life bore witness to this truth of faith. Today throughout the Muslim world many people who wish to see Islam serve human flourishing rather than human destruction find themselves in situations similar to the one More found himself in over 500 years ago. Our task is to do all we can to support them in their efforts and to help ensure that they end up not as martyrs, but as the leaders of a new culture of freedom and prosperity, inspired by the religion of peace.

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1. The five pillars are: the *shahada*, the declaration of faith according to the formula: "There is no God but God, and Muhammad is the Messenger of God"; *salat* (worship or prayer); *zakat* (alms-giving); *sawm* (the fast during Ramadan); *hajj* (pilgrimage to Mecca).

2. The importance of the interiority of the individual is also made clear in negative formulations such as: *"For within, out of the heart of man,* come evil thoughts, fornication, theft, murder, adultery, coveting, wickedness, deceit, licentiousness, envy, slander, pride, foolishness. *All these things come from within,* and they defile a man" (Mk 7:21-22). The imposition of the *burqa* on women under Taliban rule represents the polar antithesis of the concept of faith - and human nature - at work here.