

2014 Red Mass Homily

**St. Thomas More Lawyers Guild Red Mass
Cathedral of the Immaculate Conception
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The Relationship between the Law and the Heart

Reverend Fathers and Deacons, consecrated Religious, civic officials, honored judges, fellow attorneys, and my dear brothers and sisters in Christ:

The patron saint of Catholic lawyers and politicians, Sir Thomas More, was a devoted husband, a loving father, a generous friend, a gifted writer, a renowned scholar, and a skilled lawyer and judge. He is also remembered as a devoted servant in the court of King Henry VIII in which he held a number of important posts, rising to become Lord Chancellor of the Realm, a position that would be roughly equivalent in our political system to being White House chief-of-staff, Secretary of State, and Chief Justice of the Supreme Court all at once, a position second in power only to the King himself.

Of course most of all, and in a way that captures all the best qualities that he exhibited in life, Thomas More is remembered today as a *saint* – a man who was devoted to Christ and his Church, and who willingly sacrificed his power, his wealth and security, and ultimately his life out of love for God. Because he would not accede to the Act of Supremacy declaring Henry to be the supreme head of the church in England or take the Oath of Supremacy, renouncing Rome’s authority in ecclesial matters, More was beheaded on Tower Hill, July 6, 1535. As he stood on the scaffold before his execution, he briefly addressed the crowd gathered, telling them that he died “the King’s good servant, but God’s first.”¹

In this simple phrase – “the King’s good servant, but God’s first” – St. Thomas More summarizes the call of Christian discipleship and the proper perspective we must all bring to our daily work – *to be God’s servant first!* As such, in his life and in his death, St. Thomas More is a model for Christian engagement in the world. This is precisely the vocation that most of us receive from God – to be *in* the world as the followers of Jesus Christ proclaiming the Good News – to be the leaven that makes the bread rise, to be *in* the world, to address *present things*, even as we keep our eyes fixed on heaven. Specifically, as Christians and as citizens, we are obliged to work

for justice and promote the common good – an obligation that is especially meaningful in a democratic society like ours, where a government by, of, and for the people possesses limited constitutional authority to care for the common good, and where the balance is entrusted to the care of non-governmental institutions, including churches and other religious groups.

It is a great challenge to be *in* the world – to address *present things*, while keeping our eyes fixed on heaven – because there is a growing “disconnect” between our secular laws and our Christian faith, for example, the secular redefinition of marriage and the religious understanding of holy matrimony.

We are encouraged when decisions of judges conform to the moral law expounded by Catholic Church teaching, such as the decision of the United States Fifth Circuit Court of Appeals earlier this month, which upheld a Texas law passed last year requiring abortion clinics to qualify as “ambulatory surgical centers” – a standard currently met by only seven abortion facilities out of the forty located in the state’s five largest cities. All but seven of these forty abortion clinics in Texas are faced with the prospect of closing because they do not meet the surgical-center standards.² But such judicial decisions that are consistent with the natural law seem to

be the exception to the prevailing jurisprudence that upholds the right to abortion and now finds an unprecedented constitutional right to marriage between partners of the same sex. Indeed, just last week the United States Supreme Court blocked Texas from implementing portions of the abortion-clinic restrictions from taking effect while a lawsuit challenging the law's constitutionality proceeds in the courts.³

Taking time in this Red Mass to reflect on the spiritual aspects of our vocation in the legal profession provides an occasion for us to examine the implications of this divergence between our civil laws and our Catholic faith for judges, lawyers, legal professionals and other people of faith.

It is not just the pro-lifers who object to *Roe v. Wade* and proponents of natural marriage between one man and one woman who disagree with and dissent from decisions of our courts. Liberal lawyers from the left have also expressed their objections, such as the recent book published by Erwin Chemerinsky with the blunt title, *The Case Against the Supreme Court*. According to Chemerinsky, a law professor of liberal conviction at the University of California, Irvine, the United States Supreme Court has been a disaster in the post-Warren era, during which the Supreme Court has not had a liberal majority. One chapter is entitled, "Is the Roberts Court Really

So Bad?" For Professor Chemerinsky the answer is yes, it really is, having, in his words, "caused great harm" and "made the country much worse off than it would have been without the Supreme Court."⁴

My purpose today is not to examine whether decisions of the United States Supreme Court are more of a disappointment to people on the left, the right or the center of the political spectrum. The fact is that decisions of human judges will always disappoint somebody, because only the Divine Judge administers true justice in its pure sense. Therefore everyone here on earth will, at some time or another, experience dissatisfaction with human and thus imperfect attempts to administer justice. What should we do when that happens?

The answer to the question of how to deal with the injustices of an imperfect legal system is not simple or one-dimensional. That is because law is at times a matter of knowledge, a matter of intellect, a matter of reason, a matter of will, a matter of emotions, and a matter of conscience that is, a matter of the mind, the heart and the soul.

One may have accurate knowledge of the law, but not the intellect to understand or the capacity of right reason to interpret it. One may have the intellect to understand and the reason to interpret the law correctly, but not

the will to follow it. One may have the will to follow the law, but may not like the law or may feel constrained by conscience from doing so.

Lack of knowledge can be remedied through education. Lack of intellect or right reason can be addressed by looking to those who have the intellectual and rational capacities to understand and properly interpret laws. Lack of will can be rectified by practicing the virtue of fortitude.

The constraint of conscience means that at times one must refuse to comply with the demands of human laws even if that means paying whatever penalties may result from such civil disobedience. This is in keeping with the scriptural admonition articulated by Saint Peter and the other apostles before the authorities of their time, when they said, "We must obey God rather than men" (Acts 5:29). A recent example is when our Catholic Charities refused to place foster care and adoptive children with same-sex couples or heterosexual couples who cohabited but were not married, as the state had demanded. This conscientious objection cost our diocesan Catholic Charities a six million dollar contract with the State of Illinois and ended our foster care and adoption services.

Unfortunately too many Catholics have justified their rejection of Catholic teaching on the life issues, human sexuality, marriage and family

life as a matter of following their “conscience,” but apparently without properly understanding what “conscience” means. The word “conscience” comes from two Latin words, “co-” (which means “together” or “with”) and “science” (which means to have knowledge about something). Conscience means to share knowledge with someone else about what is right or wrong. Conscience does not act in isolation on some sort of personal or individual intuition disconnected from someone or something else. For a Catholic, a properly formed conscience means to share God’s knowledge and the Church’s teaching about right or wrong. So those who invoke “conscience” to justify their rejection of divine law as taught by the Catholic Church are saying that they have chosen to follow the thinking, knowledge and values of someone or something other than the Pope or the Catholic Church.

An illustration of the proper use of conscience was when Saint Thomas More invoked his conscience in refusing to sign Henry VIII’s Oath of Supremacy declaring the King to be the Head of the Church of England. Thomas was not just following a personal preference, but was declaring that he was thinking with the Pope and would follow him, not the King. Others chose instead to think with the King, and follow him.

Related to the question of conscience is the relationship between the law and the heart. One may know and understand the law, have no qualms of conscience about following the law and thus may even have the will to comply with the law, but still may not like the law on an emotional level, such as the legal requirement to pay taxes. Thus, Jesus said, "Render unto Caesar what belongs to Caesar, and to God what belongs to God" (cf. Matthew 22:21, Mark 12:17, and Luke 20:25).

Most of the time, we should comply with civil laws even if we do not like them, unless there is a moral objection. Again it is the first Pope, Saint Peter, who instructs Christians how to relate to civil authorities when he wrote, "Submit yourselves for the Lord's sake to every human institution, whether it be to the emperor as the one in authority, or to governors as sent by him for the punishment of evildoers and the praise of those who do right. For such is the will of God, that by doing right you may silence the ignorance of foolish men" (1 Peter 2:13-14).

Even when we obey the law, that does not mean that we have given the affection of our heart to any particular civil law. While the law may coerce the body through imprisonment or financial penalty, the only law that can compel the heart is Christ's command to "love God with all your

heart, with all your soul, with all your mind and with all your strength, and love your neighbor as yourself” (cf. Matthew 22:37, Mark 12:30-31, and Luke 10:27). This law is written on our heart (cf. Jeremiah 31:33) the fulfillment of which is found in love (cf. Romans 13:10). This is why I chose as my episcopal motto, *Lex cordis caritas*, “The Law of the Heart is Love.”

That is also why Saint Paul objected to Christians suing fellow Christians in civil court and letting unbelievers decide the case. Saint Paul saw the very fact that Christians have legal disputes among themselves as a complete failure of love (cf. 1 Corinthians 6:1-7).

Cardinal Francis George, the Archbishop of Chicago, in his column for the September 7, 2014 issue of the diocesan newspaper for the Archdiocese of Chicago, wrote about some of the implications of the divergence between the values of the Church as founded by Jesus Christ, what I would call the values of our heart, and the quasi-religious elements of what may be called our “State religion”:

Throughout history, when Catholics and other believers in revealed religion have been forced to choose between being taught by God, or instructed by politicians, professors, editors of major newspapers and entertainers, many have opted to go along with the

powers that be. This reduces a great tension in their lives, although it also brings with it the worship of a false god. It takes no moral courage to conform to government and social pressure. It takes a deep faith to swim against the tide, as Pope Francis encouraged young people to do at last [year's] World Youth Day.⁵

In other words, our best approach to law may be the attitude one should have to the world as suggested by G.K. Chesterton in his book, *Orthodoxy*, when he wrote that “what we need is not the cold acceptance of the world as a compromise, but some way in which we can heartily hate and heartily love it. We do not want joy and anger to neutralize each other and produce a surly contentment; we want a fiercer delight and a fiercer discontent. We have to feel the universe at once as an ogre’s castle, to be stormed, and yet as our own cottage, to which we can return at evening.” In short, he asks, can one hate the world (or, I might add, the law) “enough to change it, and yet love it enough to think it worth changing?”⁶

In this regard, Pope Benedict XVI wrote an article for the *Financial Times*, dated December 19, 2012, focusing on how Christians are to engage with the world. It is an article which begins with the line, “Render unto

Caesar what belongs to Caesar and to God what belongs to God.” He goes on to say:

Christians should not shun the world; they should engage with it. But their involvement in politics and economics should transcend every form of ideology. . . . Yet Christians render to Caesar only what belongs to Caesar, not what belongs to God. Christians have at times throughout history been unable to comply with demands made by Caesar. From the emperor cult of ancient Rome to the totalitarian regimes of the past century, Caesar has tried to take the place of God. When Christians refuse to bow down before the false gods proposed today, it is not because of an antiquated worldview. Rather, it is because they are free from the constraints of ideology and inspired by such a noble vision of human destiny that they cannot collude with anything that undermines it.⁷

In the end, it is Jesus, “who called himself the true bread come down from heaven, the true nourishment that we need to be fully ourselves. This is the true bread that gives true life, eternal life.”⁸

May God give us this grace. Amen.

¹ E.E. Reynolds, *St. Thomas More* (Garden City, N.Y.: Image Books, 1958), p. 299.

² Nathan Koppel, "Texas Can Enforce Law On Abortion, Appeals Court Says," THE WALL STREET JOURNAL, October 2, 2014, <http://online.wsj.com/articles/texas-can-enforce-law-on-abortion-appeals-court-says-1412302204?KEYWORDS=texas+abortion+law>.

³ Jess Bravin, "High Court Blocks Texas Abortion Curb," THE WALL STREET JOURNAL, October 15, 2014, p. A3.

⁴ Erwin Chemerinsky, *The Case Against the Supreme Court* (New York: Viking Penguin, 2014).

⁵ Francis Cardinal George, "A Tale of Two Churches," *The Catholic New World*, September 7, 2014, <http://www.catholicnewworld.com/cnwonline/2014/0907/cardinal.aspx>

⁶ G.K. Chesterton, *Orthodoxy* (Garden City, New York: Garden City Publishing Company, Inc., 1908), p. 130.

⁷ Pope Benedict XVI, "A time for Christians to engage with the world," *Financial Times*, December 19, 2014, <http://www.ft.com/cms/s/0/099d055e-4937-11e2-9225-00144feab49a.html#axzz3FDNGPP6j>.

⁸ Joseph Ratzinger/Pope Benedict XVI, *Jesus of Nazareth: The Infancy Narratives* (Colorado Springs, Colorado: Image Books, 2012), p. 68.