

**Red Mass Homily for the Diocese of Phoenix
Saint Mary's Basilica, Phoenix, Arizona
January 20, 2015**

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"The Law of the Heart is Love"

Your Excellencies, Bishop Olmsted, Bishop O'Brien, and Bishop Nevares;
Reverend Fathers and Deacons, consecrated Religious, Governor Ducey, civic officials,
honored judges, fellow attorneys, and my dear brothers and sisters in Christ:

It is a privilege to be with you here at Saint Mary's Basilica for this Red Mass, so
called because of the red vestments that we wear to symbolize the Holy Spirit, whose
blessings we invoke on the community of legal professionals in the Diocese of Phoenix.

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 when our
civil laws and the tenets of our Catholic faith diverge or even contradict each other.

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."¹

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 in Illinois 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 the Latin phrase, *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).

True love expresses itself not just in words and affections, but in one's actions. That is why, as a newly-ordained priest, I decided to go to law school. I wanted to help the poor, but I did not want my efforts to promote a more just society to be limited to preaching words from the pulpit, but to put that faith into action. In other words, I did not want simply to talk about helping that poor, I wanted to do it in my ministry. Thus I co-founded the Chicago Legal Clinic in 1981 and last year established Catholic Charities Legal Services in the Diocese of Springfield in Illinois.

My understanding of the essential link between one's words and one's actions to promote justice were profoundly influenced by a single sentence in a document issued by the 1971 Synod of Bishops called *Justice in the World*, in which the bishops said, "Action on behalf of justice and participation in the transformation of the world fully appear to us as a constitutive dimension of the preaching of the Gospel, or, in other words, of the Church's mission for the redemption of the human race and its liberation from every oppressive situation."² Notice the emphasis on *action on behalf of justice* and *participation in the transformation of the world* as being a *constitutive dimension* of the preaching of the Gospel, that is, working for justice is essential to the task of preaching the Gospel, not just something additional that we do if we have spare time or extra resources.

As we consider what actions to take on behalf of justice, it is important that we do not fall into a false dichotomy between helping the poor on the one hand, and being faithful to the full spectrum of the Church's teachings on the other. For example, it is not sufficient to help the poor by feeding the hungry and providing *pro bono* legal services for the indigent, but then ignore the right to life from conception to natural death. On the other hand, it is not sufficient to be pro-life and defend natural marriage as the lawful union of one man and one woman, but then ignore the corporal works of mercy by feeding the hungry and providing jobs for the unemployed. This is what the late Cardinal Joseph Bernardin called the "consistent ethic of life." I had the privilege to serve as Cardinal Bernardin's Chancellor in the Archdiocese of Chicago from 1992 until his death in 1996. I mention his consistent ethic of life because it is sometimes

erroneously invoked to suggest a watering-down of commitment to the pro-life cause as long as one is helping the poor. I know that this misinterpretation of the consistent ethic of life deeply troubled Cardinal Bernardin.

In an interview published in the *National Catholic Register* on June 12, 1988, Cardinal Bernardin said, "The beauty of the consistent ethic is that it provides an overall vision and it shows how issues are related to each other, even though they remain distinct. You can't collapse them into one. Each requires its own moral analysis." Cardinal Bernardin was then asked by the interviewer how Catholics could defend themselves from being called "single-issue voters." Cardinal Bernardin responded, "Depends on how you approach it. In one sense I think there *is* a single issue, and that issue is life." He went on to say, "I know that some people on the left, if I may use that label, have used the consistent ethic to give the impression that the abortion issue is not all that important anymore, that you should just be against abortion in a general way but there are more important issues, so don't hold anybody's feet to the fire just on abortion. That's a misuse of the consistent ethic, and I deplore it."³

Similarly, there are those who misuse the teachings of Pope Francis to support their own agendas. It is a mistake to try to distill the Church's teachings into political categories of "liberal" or "conservative." The doctrinal teachings of the Church are Catholic because they provide universal principles that apply to all aspects of life across the spectrum of human activity.

In this regard, Pope Francis has been outspoken both in his concern for the poor and in his defense of the right to life of the unborn from the moment of conception,

placing this concern under the umbrella of his critique of what he calls a “throwaway culture.” In his address to the Parliament of the European Union in Strasbourg, France, on November 25, 2014, Pope Francis said that “there are still too many situations in which human beings are treated as objects whose conception, configuration and utility can be programmed, and who can then be discarded when no longer useful, due to weakness, illness or old age. . . . To tend to those in need takes strength and tenderness, effort and generosity in the midst of a functionalistic and privatized mindset which inexorably leads to a ‘throwaway culture.’ To care for individuals and peoples in need means protecting memory and hope; it means taking responsibility for the present with its situations of utter marginalization and anguish, and being capable of bestowing dignity upon it.”⁴

Pope Francis has also spoken often to remind people that the biggest obstacle to putting our love of God and neighbor into action is the devil. In his homily for Palm Sunday in St. Peter’s Square on March 24, 2013, Pope Francis said, “Ours is not a joy born of having many possessions, but from having encountered a Person: Jesus, in our midst; it is born from knowing that with him we are never alone, even at difficult moments, even when our life’s journey comes up against problems and obstacles that seem insurmountable, and there are so many of them! And in this moment the enemy, the devil, comes, often disguised as an angel, and slyly speaks his word to us. Do not listen to him! Let us follow Jesus! We accompany, we follow Jesus, but above all we know that he accompanies us and carries us on his shoulders. This is our joy, this is the

hope that we must bring to this world. Please do not let yourselves be robbed of hope! Do not let hope be stolen!”⁵

In this Red Mass, we prepare now to receive 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.”⁶

May God give us this grace. Amen.

¹ Erwin Chemerinsky, *The Case Against the Supreme Court* (New York: Viking Penguin, 2014).

² Synod of Bishops, *Justice in the World*, 1971, no. 6. Full text retrieved January 16, 2015 at <http://www.cctwincities.org/document.doc?id=69>.

³ Charles Isenhart, “Bernardin: Chicago’s pastor on consistency and the ‘88 vote,” *National Catholic Register*, June 12, 1988, p. 7.

⁴ Pope Francis, “Address to European Parliament,” November 25, 2014. Full text retrieved January 16, 2015 at http://en.radiovaticana.va/news/2014/11/25/pope_francis_address_to_european_parliament/1112318.

⁵ Pope Francis, “Homily for Palm Sunday,” St. Peter’s Square, Vatican City, March 24, 2013. Full text retrieved January 16, 2015 at http://w2.vatican.va/content/francesco/en/homilies/2013/documents/papa-francesco_20130324_palme.html

⁶ Joseph Ratzinger/Pope Benedict XVI, *Jesus of Nazareth: The Infancy Narratives* (Colorado Springs, Colorado: Image Books, 2012), p. 68.