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CULTURE OF LIFE, CULTURE OF DEATH

REV. MSGR. GEORGE P. GRAHAM*

The oldest Christian writing outside the New Testament is the *Didache*. It was most likely written in Syria shortly after the year 100 A.D. The *Didache* begins with this striking statement: "There are two Ways, one of Life, and one of Death"¹

This document is the earliest witness to the Catholic teaching on the Fifth Commandment of God; it says:

"Thou shalt do no murder . . ." thou shalt not procure abortion, nor commit infanticide . . . [T]he Way of Death is this: . . . unmerciful to the poor, not working for him who is oppressed with toil, without knowledge of him who made them, . . . turning away the needy, oppressing the distressed, advocates of the rich, unjust judges of the poor . . ."²

This is the great moral tradition followed by Christians from the beginning. It is this same moral tradition that has been proclaimed to the modern world by Pope John Paul II, especially in his moving encyclical *The Gospel of Life*. When I first read this encyclical shortly after its appearance, I realized that it is the most unusual encyclical I have ever read. It is traditional, yet expressed in a personal language. It is a profound theological statement, but it is expressed in a very pastoral way.

The Pope wrote:

This situation, with its lights and shadows, ought to make us all fully aware that we are facing an enormous and dramatic clash between good and evil, death and life, the "culture of death" and "the

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¹ DIDACHE in 1 THE APOSTOLIC FATHERS I.1 (Kirsopp Lake trans., Harv. Univ. Press 1965) (1912).

² *Id.* at II.2, V.1-2.

culture of life.” We find ourselves not only “faced with” but necessarily “in the midst of” this conflict: we are all involved, and we all share in it, with the inescapable responsibility of *choosing to be unconditionally pro-life*.³

Despite these striking words of the Holy Father, many have rejected his teaching. Some are secularists, who want to pigeon-hole religion and keep it separate from everyday life. Some are skeptics, who ask with Pilate: “What is truth?”⁴

The culture of death may seem to many to be in the saddle today. And yet I think the time is coming, and not long delayed, when the culture of death will be unhorsed. The change is near, and just as the Evil Empire collapsed, with a nudge from Pope John Paul II, so the new evil empire within our own culture is moving to a fall. The most interesting writers, the best-written periodicals, the smartest political thinking, all give grounds for hope that a new flourishing of the culture of life is near at hand.

The culture of death still dominates the laws and the courts of our nation. For the culture of life to once again hold the place of honor in our legal traditions, lawyers and judges must give their own lives a basic orientation to God, to commit themselves to living the Law of the Lord faithfully and consistently. The Old Testament Book of Deuteronomy commands us to “Choose Life, then, that you and your descendants may live, by loving the LORD, your God, heeding his voice, and holding fast to him.”⁵ This unconditional choice for life reaches its full religious and moral meaning when it flows from, and is nourished by, faith in Jesus Christ, who came to us so that we might have life and have it more abundantly. The blood of Christ speaks more graciously than the blood of Abel.

The present day attacks on human life are disguised as the exercise of rights given by the state. The good of human life is devalued by proportionalist calculations, comparing this pre-eminent good with other lesser goods, and balancing it against them. At the basis of all these tendencies lies ethical relativism. We say that moral norms are objective and binding, and the secularists charge that they lead to authoritarianism and

³ JOHN PAUL II, ENCYCLICAL LETTER *EVANGELIUM VITAE* ¶ 28 (March 25, 1995).

⁴ *John* 18:38 (New American).

⁵ *Deuteronomy* 30:19–20 (New American).

intolerance. While it is true that history has known cases where crimes have been committed in the name of "truth," outrageous crimes and radical denials of freedom are still being committed in the name of ethical relativism, as when a state decrees that it is legal to kill unborn life. Is it not in reality making a tyrannical decision with regard to the weakest and most defenseless of human beings? The sheer number of victims of abortion dwarfs all the victims of any of the tyrants of history.

When the culture of life enters into the law, it goes under the name of Natural Law Jurisprudence. Natural Law jurisprudence may be an ideal, but is it possible today in the courts and the universities? Professor Robert George, McCormick Professor of Jurisprudence at Princeton University, says "Yes." While secular liberals claim that their positions are the fruit of pure reason, Professor George argues that, on all the controversial issues, Judaeo-Christian beliefs are rationally superior to secular alternatives. Professor Mary Ann Glendon, Professor of Law at Harvard, supports the ideas of Robert George, and holds that his spirited and rational defense of traditional principles shows why he has become one of America's leading public intellectuals. The convert professor Elizabeth Fox-Genovese also recommends Robert George's new book. She writes that far from being irrational, outmoded, or arbitrary, moral behavior is inherently reasonable.

The time has come for a rebirth of Natural Law Jurisprudence in the United States. But does anybody really care about Natural law? Before Justice Clarence Thomas was nominated and confirmed for the Supreme Court, he had voiced his approval of Natural Law Jurisprudence. At the beginning of the hearings, his opponents made Thomas' acceptance of Natural Law the dominant issue in the confirmation process, dominant until the unfair harassment charges were brought against him. A writer in *The New York Times* commented that one of the more curious displays of cultural illiteracy was the consternation and bafflement created by Justice Thomas' expressions of esteem for Natural Law. The *Times* writer said, for some of the critics of the nominee, it was as if he had let slip a remark approving of torture by thumb-screws.⁶ The writer saw strange reactions to a

⁶ See Peter Steinfels, *Natural Law Collides in the Laws of Politics in the Squabble Over a Supreme Court Nomination*, N.Y. TIMES, Aug. 17, 1991, at L9.

philosophical theory stretching back to Socrates, Plato, and Aristotle, a doctrine evoked in the cause of racial equality by Abraham Lincoln, the Rev. Martin Luther King Jr., and yes, even the man Justice Thomas had been nominated to replace, Thurgood Marshall.⁷ One might suggest that Natural Law Jurisprudence is a special concern only for conservative jurists. The response to that is that the late Justice William Brennan has never been called a conservative. Justice Brennan routinely opposed the imposition of the death penalty for whatever crime, and under all circumstances, on the ground that it violated the Eighth Amendment's prohibition against "cruel and unusual punishment."⁸ Brennan took this position even against the Constitution itself, where capital punishment is explicitly permitted by the Fifth Amendment. Justice Brennan defended his view by saying:

I view the Eighth Amendment's prohibition of cruel and unusual punishments as embodying to a unique degree moral principles that substantively restrain the punishments our civilized society may impose on those persons who transgress its laws. . . . [T]he State, even as it punishes, must treat its citizens in a manner consistent with their intrinsic worth as human beings.⁹

One of the most significant conversations that Christ had was with a lawyer. The Doctor of the Law asked Jesus which was the First Commandment of all. Jesus said, "You shall love the Lord your God with all your heart, with all your soul, with all your mind, and with all your strength. The second is this: 'You shall love your neighbor as yourself.'"¹⁰

The great professor of jurisprudence, John C. H. Wu, called this word of Christ "the cornerstone of the philosophy of law," and notes that "[i]t was no accident that such an important teaching . . . should have been delivered to a lawyer. It may be regarded as Christ's special gift to the profession of law."¹¹

⁷ See Charles E. Rice, 50 QUESTIONS ON THE NATURAL LAW, WHAT IT IS AND WHY WE NEED IT 21, (Ignatius Press 1995).

⁸ See *Gregg v. Georgia*, 428 U.S. 153, 231 (1976) (Marshall, J., dissenting).

⁹ William J. Brennan, Jr., *Construing the Constitution*, 19 U.C. DAVIS L. REV. 2, 13 (1985) (quoting RICE, *supra* note 7, at 96).

¹⁰ *Mark* 12:30-31 (New American).

¹¹ JOHN C.H. WU, FOUNTAIN OF JUSTICE A STUDY IN NATURAL LAW 159 (1955).