

From England

FROM DOUBT TO ACCEPTANCE - A CATHOLIC PERSPECTIVE ON HUMAN RIGHTS

By Cherie Booth

‘I am not the evangeliser of democracy, I am the evangeliser of the Gospel. To the Gospel message belongs all the problems of human rights, and if democracy means human rights then it also belongs to the message of the Church.’¹

The Tyburn lecture is intended as a memorial to the people executed on the gallows known as the Tyburn Tree. Tyburn was the place of execution reserved for crimes directed against the body politic, the King’s person/the State, which is to say ‘treason’. As such some 50,000 people were put to death here over the 600 or so years that it served as a place of execution from the 12th century. The form of execution was often the ritual torture of being hanged, drawn and quartered.

That was the fate suffered by the last of the Martyrs to die at Tyburn, St. Oliver Plunkett. Earlier in the year when we visited the Pope, we stayed in the Pontifical Irish College. It was the alma mater of St. Oliver and where he signed the oath promising to return to Ireland after ordination. Seeing that oath was a vivid reminder of the price paid by earlier generations for our contemporary religious, social and political liberty.

As Elizabeth I consolidated her father’s break with Rome, continued allegiance to the Pope was regarded in England as an act of treason. The Monarch claimed to be able to exercise full imperial powers within his own realm - *Rex est in Regno suo Imperator* - which meant that he was subordinate and subject to no-one but God. This high theory of imperial Kingship carried with it a right to govern the Church. One result of this re-definition/re-alignment of the English

body politic was that from 1531 up to 1681 some 105 people were executed for their Catholic faith. Of course throughout the Middle Ages there were frequent tensions between Monarchs and Popes. This came more sharply into focus at the time of the Reformation.

We see, then, in Tyburn a place where the State claimed the authority of life and death over all those finding themselves within its territorial jurisdiction. And in its execution of Catholic martyrs, it was clearly also a State which claimed the right to bind the consciences of individuals in religious matters and to impose a degree of uniformity in religious practice and allegiance. A State in other words which denied individuals' fundamental rights - namely the right to life, and the right to freedom of conscience, to religious liberty and toleration.

Tyburn then is a monument, a memorial to the idolatrous State which sees itself as the regulator of people's consciences and reserved to itself the power of life and death. A State which did not then respect the injunction of rendering unto 'Caesar that which is Caesar's and to God that which is God's.' It was instead an absolutist State which abrogated to itself powers which did not belong to it and falsely claimed a Divine Right to its kingship or dominion. In our society Catholics were at the receiving end, while in other parts of Europe roles were reversed.

Today, our country is a pluralist society of faiths and a very different environment to the one our forefathers experienced at Tyburn. Catholics and other faiths are integrated into society in a way unimaginable only one hundred years ago. Intra-faith is taken for granted - inter-faith is the new challenge.

It seems highly appropriate then that in a lecture memorialising this place of execution and of martyrdom, we should be talking about human rights. Because human rights are precisely about setting limits on State power: affirming that there are properly limits in law and morality beyond which the State cannot trespass; that there is a sphere of individual personal autonomy which the State must respect and, indeed, provide the conditions within which individuals may flourish as individuals.

Catholicism and Human Rights

There is no doubt that the language of human rights, when it first emerged in the throes of the French Revolution and the Enlightenment attack on religion, was viewed by the Church with suspicion. It was seen as part of a secularist project, aimed at removing religion and religious practice from the Body Politic. Thus it was thought to be a continuation of an attack by the State on the Church. If the Reformation was seen from a Catholic perspective as subordinating the Church to the State, the Enlightenment was seen as an attempt by the State to completely remove the Church from public life.

But the Church's suspicions over the language of human rights have long since gone and today one of the foremost exponents of human rights is the present Pope. Pope John Paul II has said many times that human rights are at the centre of the Church's concerns. And in his Message for the Celebration of the World Day of Peace on 1 January 1998, he specifically endorsed the 1948 Universal Declaration of Human Rights. Its promulgation, he said, 'was a solemn act, arrived at after the sad experience of war, and motivated by the desire formally to recognize that the same rights belong to every individual and to all peoples', adding: 'That the document must be observed integrally in both its spirit and its letter'.

In his address in October 1995 to the Fiftieth General Assembly of the United Nations Pope John Paul emphasised the natural law and fundamental moral status of human rights when he observed:

'It is a matter for serious concern that some people today deny the universality of human rights, just as they deny that there is a human nature shared by everyone. To be sure, there is no single model for organizing the politics and economics of human freedom; different cultures and different historical experiences give rise to different institutional forms of public life in a free and responsible society. But it is one thing to affirm a legitimate plurality of 'forms of freedom' and another to deny any universality or intelligibility to the nature of man or to the human experience.'

It is significant that it is the development of human rights after World War II that has received the specific endorsement of the Church. The

Pope recognises that we live in a 'post-Nuremberg Europe', that is to say a Europe ineradicably marked and changed by the experience of the perversion of law and the utter tyranny of State power which characterised the years of Nazi rule in Germany and occupied Europe from the early 1930s to the mid 1940s. This is no coincidence. It must always be remembered that Pope John Paul II lived as a young man under the tyranny of Nazi occupied Poland. As President Bush said in Krakow last month 'Karol Wojtyla saw the swastika flag flying over the ramparts of Wawel Castle. He shared the suffering of his people and was put into forced labour. From this Priest's experience and faith came a vision: that every person must be treated with dignity, because every person is known and loved by God.'

The Nazi State - law without rights

The unique horror of the Nazi system is that it purported to maintain the forms of law and legality, while permitting tyranny and injustice to reign. Under the Nazi State, however, the legal system not only provided for punishment and death. It allowed for torture to be used against individuals. It routinely reversed the presumption of innocence and the principle that criminal legislation should not be applied retrospectively. It legislated for people to be held in slavery and conditions of forced labour. It grossly interfered in the rights to privacy of those under its rule, and denied them rights to free expression, free assembly and to freedom of thought, conscience and religion. The Nazi authorities in the name of 'eugenics' withdrew from certain individuals the right to marry and to found a family. Notoriously, they discriminated amongst the populations under their control on the grounds of race, religion, sexual orientation, national and social origin and political or other opinion. In the words of the Nuremberg War Crimes Tribunal the Nazi legal system was one which nurtured:

'a nationwide government-organised system of cruelty and injustice, in violation of the laws of war and of humanity, and perpetrated in the name of law by the authority of the Ministry of Justice and through the instrumentality of the courts. The dagger of the assassin was concealed beneath the robe of the jurist'.

All the while, however, the German legal system, continued to function in other ways, with the courts resolving disputes among

those of appropriate Aryan ancestry over questions of succession to estates, claims for divorce and custody, matters of contract, employment rights and jurisdiction. The grotesque nature of such a legal system lies in the fact that all the rules which it sets out, no matter their content, continued to be applied according to the classic methods of legal reasoning. Judges and lawyers considered the text of the laws passed by the governing authorities and attempted to apply those laws to the factual situations presented before them. The forms of rationality and objectivity were maintained, but the substance of the law was surrendered to sheer barbarism. The law became a mere idol, in the sense that the Psalmist uses it (Ps 115:5-6), as having a mouth that did not speak, eyes that did not see, ears that did not hear - that is to say a legal system dumb, blind and deaf before the claims of justice.

The 'pre-Nuremberg' response of the lawyer and judge to a claim that the substance of a particular law was unjust or immoral was to say that it was not for them to strike down or refuse to apply a law simply because it was immoral. The lawyer or judge had instead to find a way within the system which rendered the unjust law unlawful - because, for example, it was unconstitutional or it contravened some other provision of positive law. Where, however, the whole legal system had been corrupted, because it legitimised discrimination, and ultimately the expropriation and extermination of the Jews, then it was not possible for a conscientious judge or lawyer within that system to find to any legal norms to nullify or mitigate the effects of its unequivocally unjust laws. The pre-Nuremberg response, then, was wholly inadequate because it permitted evil to operate under the cloak of legitimacy and co-opted lawyers and judges into its actions. It also allowed individuals to disown any moral responsibility for their grossly immoral actions on the ground that they were only carrying out lawful orders and commands.

The Nuremberg War Crime trials were set up in response to this catastrophic failure of the German legal system to keep true to the norms of justice and morality in the face of the idolatry of the State that characterised Nazism. In *United States v. Altstötter and others* a selection of some 16 jurists (public prosecutors, presiding judges and officials, lawyers and ministers in the Ministry of Justice) who had

assisted in the administration of the legal system during the Nazi era were put on trial for their involvement in 'judicial murder and other atrocities which they committed by destroying law and justice in Germany and by utilising the empty forms of legal process for persecution, enslavement and extermination on a vast scale'.

The end result of the Nuremberg War Crime trials was the articulation of a new legal order under which individuals were bound by the general principles of international humanitarian law and morality recognised by civilised nations, no matter the terms of their national legal systems. It was no longer an excuse or a defence to a criminal prosecution to say that one was only following orders or applying the law as set down by the governing authorities of the State. Instead (civil) disobedience to the claims of the governing authorities was made into a duty. It is on the basis of this new legal order that War Crimes trials have since been instituted into the genocides in, for example, the former Yugoslavia and Rwanda.

The post-Nuremberg vision - fundamental rights setting limits on the law on State power

But it was not simply in the realms of international law that Nuremberg had an impact. The response to the horrors and excesses of the Nazi State and legal system was also for jurists to come together to set out, both in international Charters and national constitutions, the actual substance of the moral underpinnings to the domestic law of States. Thus, the United Nations proclaimed the Universal Declaration of Human Rights in 1948. International regional agreements were also entered into, notably the 1950 European Convention on Human Rights. The post-War German national constitution set out a list of basic rights which the German State was henceforth bound to accept and which could not be changed or abrogated by any constitutional amendment. In the post-War process of decolonisation, too, States newly independent of the British Empire were given written constitutions containing bills of fundamental rights modelled on the European Convention. And in the years after the War, Canada, New Zealand and South Africa created and incorporated their own Bills or Charters of Fundamental Rights and Freedoms. As Lord Bingham has noted:

‘Before the Second World War there were no international agreements governing the protection of human rights, which was indeed an expression rarely used. Gradually and erratically, as very well described by Professor Brian Simpson in *Human Rights and the End of Empire* (2001), chs 4 and 5, such protection emerged as an allied war aim. The Universal Declaration of Human Rights 1948 (which contained nothing equivalent to the reasonable time requirement) was one product of that movement; the European Convention for the Protection of Human Rights and Fundamental Freedoms was a later and much more potent product. Those who negotiated and first signed the Convention were not seeking to provide a blueprint for the ideal society. They were formulating a statement of very basic rights and freedoms which, it was believed, were very largely observed by the contracting states and which it was desired to preserve and protect both in the light of recent experience and in view of developments in Eastern Europe. The Convention was seen more as a statement of good existing practice than as an instrument setting targets or standards which contracting states were to strive to achieve.’

On 2nd October 2000 the Human Rights Act 1998 came into force here in the UK. The declared intention of the government in bringing forward the Bill was to ‘bring rights home’. The Human Rights Act is not a Bill of Rights in the sense traditionally understood by the term, nor does it confer new rights upon British citizens. Rather, what the Act does for the first time, is to incorporate the rights of the European Convention on Human Rights into domestic law. It should be appreciated that British citizens have held these rights for over half a century - since the United Kingdom ratified the Convention in 1951 - and indeed it is an often noted irony that British lawyers were instrumental in the creation of the Convention; lobbying for its existence and drafting many of its articles. Britain, furthermore, was also one of the first countries to sign up to the Convention. All the more surprising then, that it has taken almost 50 years for its provisions to become part of substantive UK law.

One of lesser known provisions of the Act is section 13 which provides that if a court’s¹ determination of any question arising under

the Act might affect the exercise by a religious organisation (itself or its members collectively) of the right under Article 9 of the Convention of freedom of thought, conscience and religion, it must have particular regard to the importance of that right. This reinforces the fact that for the first time in English law the Human Rights Act gives explicit support to the freedom of religion. And the liberal assumptions that underpin the Act absolutely allow for and support the practice of religious faith within the law. This recognition by the law of the importance of religious belief is also seen in the new UK Regulations which, with effect from December 2003, will outlaw discrimination in employment on grounds of religion or belief - a development which was prefigured in Northern Ireland's fair employment legislation but which now applies through the whole of the United Kingdom (and indeed of the European Union, given that these regulations implement an EU Directive).

Since World War II, more and more nations in the world have experienced significant constitutional change or development whether through the creation of the European Union, the dismantling of Communism, the process of decolonisation, the transformation of Empire into Commonwealth, or the ending of apartheid. Part of that constitutional change, included the incorporation into the structures of the States the insights gained from the post-Nuremberg experience, in particular the need to protect individuals' fundamental rights and set substantive limits on the powers of the State. This embracing and incorporation of fundamental rights standards within national legal systems post-Nuremberg may be seen as a memorial for or legal monument to the victims of Nazism.

Should the State have powers of life and death over individuals?

Although the result of certain of the Nuremberg War trials was that sentence of death was pronounced against a number of individuals indicted before it, one of the developing post-war insights into the requirements for the proper protection of fundamental rights is that the death penalty is unacceptable. For example, the Sixth Protocol to the European Convention, dating from 1983 provides that: 'The death penalty shall be abolished. No-one shall be condemned to such penalty or executed.' This is a right that has been incorporated into UK law by the Human Rights Act 1998. And there has been a

growing amount of case law - under the European Convention, the South African constitution and the Canadian Charter of Rights - to the effect that to expose an individual to the possibility of the death penalty violates their rights to fundamental justice and/or the right not to be subjected to cruel, inhuman or degrading punishment. This developing jurisprudence against capital punishment might also be understood as the legacy of Nuremberg and the memory of the excesses of Fascism.

In his 1995 encyclical *Evangelium Vitae* Pope John Paul concluded that in most cases there was no longer any moral basis to justify the use of the death penalty by the State. Yet on 25 January 2002, Justice Antonin Scalia, one of the nine judges who make up the bench of the Supreme Court of the United States - and one of the three Catholics on that bench - addressed a conference held at the University of Chicago on the topic 'Religion, Politics and the Death Penalty'. Justice Scalia made clear, at the outset, that his remarks had nothing to do with how he might vote as a judge in any particular case. He also stated that he took no public position on the policy desirability, or otherwise, of capital punishment. What he was concerned with was whether or not it could properly be said that the authorities of the State had no moral right ever to impose and execute the death penalty. His concern with this moral question came from the fact that as, a judge within a legal system which does allow for capital punishment, his vote in any death penalty case before the US Supreme Court could determine whether or not the authorities would go ahead and put an individual to death. He concluded therefore that

‘the choice for the judge who believes the death penalty to be immoral is resignation rather than simply ignoring duly enacted constitutional laws and sabotaging the death penalty. He has, after all, taken an oath to apply those laws, and has been given no power to supplant them with rules of his own.’

Justice Scalia then set out his personal view that the State had a moral right to impose the death penalty and that he saw no justification for civil disobedience in the sense that an individual citizen might be justified in disobeying an unjust law. He concluded his address with a re-affirmation of the proper limits of the judicial role. He remained publicly neutral on the policy question as to whether there ought to be

capital punishment. His view was, simply: that the State was not prevented by moral considerations from maintaining the death penalty; and that those who participated in the State's lawful imposition of the sentence of death were not co-operating in an evil act. He warned that if the 'Church's new, albeit non-binding position' on the immorality of the death penalty were imposed on the faithful, then this would require American Catholics to withdraw from public life because it would effectively disqualify them from running for political office, from sitting as judges, from working as criminal prosecutors, or from serving on juries. This was not, he suggested, the course of prudence.

Even though we no longer have the death penalty in the UK, there will be circumstances when our judges too have to wrestle with the same moral, legal and constitutional dilemmas placed upon the Justices of the Supreme Court of the United States. Does this mean that they too would be forced to resign over matter of conscience?

As was pointed out in a recent *Tablet* article by my Matrix colleague Aiden O'Neill QC Justice Scalia was right, at least, to point out that for individuals to be able to participate properly and conscientiously within the legal system (whether as a judge, lawyer or juror) there has to be a congruence between what their legal duties are, and what they see to be their moral duties. But his assertion that those who oppose the death penalty as immoral can therefore no longer participate as officials within the legal system is more problematic. This claim might only be justified if Justice Scalia was correct in his legal judgement that United States law **obliged** judges to implement the death penalty.

Laws in the United States, however enacted, have to be in accordance with the requirements of the US Constitution and its Bill of Rights. Constitutional Amendment VIII of 1791 provides that 'Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.' Justice Scalia's view is that the question of what is cruel and unusual punishment has to be judged by the standards of the founders of the Constitution and not of the present day.

There is however another interpretation that can be made of the Constitution which would give those working within the US legal system who accept recent Papal teaching on the death penalty a choice other than resignation from their posts. Such jurists may, instead, reject Scalia's strict constructionism and choose to interpret the US Constitution as a 'living instrument', in the way we in Europe interpret the European Convention on Human Rights. In accordance with *Evangelium Vitae*, the moral principle of respect for life, combined with consideration of the existing Constitutional prohibition against the infliction of cruel and unusual punishment, may lead US lawyers to a proper legal judgment that the infliction of the death penalty is not only immoral, but is also unconstitutional and so unlawful. The Pope's Encyclical, then, does not require the mass resignation of Catholics from public legal life. It just requires them to inform their interpretation of the US Constitution with the legal and moral insights gained after Nuremberg, namely that the law must always show respect for the life of every individual, no matter their race, their religion or, indeed, their crime. Constitutional law of all law should be able to learn the lessons of history and adapt and change as society progresses.

Human Rights within the Catholic Church

As Justice Scalia's concerns make clear, the Church has been at the forefront of this renewed emphasis on the moral and legal limits on the competences and powers of the State and its particular duty to respect the dignity of each individual. The Church has also endorsed the notion that the rightly ordered State had strictly limited and legally defined powers, primarily to do with the protection of individuals' fundamental rights and the maintenance of the public order necessary for civil society's pursuit of the common good.

In 1967, the Synod of Bishops on 'Justice in the World' declared:

'While the Church is bound to give witness to justice, it recognizes that everyone who ventures to speak to people about justice must first be just in their eyes. Hence we must undertake an examination of the modes of acting and of the possessions and lifestyle found within the church herself.'

Thus the present Pope has explicitly acknowledged that the Church's own historical human rights record has been less than perfect. He has therefore taken the unprecedented step of acknowledging the Church's own institutional guilt and has apologised to various groups in whose persecution the institutional Church was complicit, notably the persecution of Jews under the Inquisition. The Church has prided itself on being at the forefront of the fostering and the practical defence of women's rights. Most notably the right of women to education and to health care, particularly in the developing world and fundamentalist societies where all too often being a woman means being condemned to a life of poverty, ignorance and disease. The Church has exhorted the international community to 'strive to help women to live their full dignity by exercising those political, economic, social and cultural rights which have been recognized in the Universal Declaration of Human Rights.'

The Church rightly sees it as its duty to speak on human rights internationally where they have considerable influence, but no direct power to effect change. What about the question of respect for human rights within the Church itself, in areas where the Church has not only moral authority, but actual authority to make a difference? One thinks for example of the need for fair procedures, for what used to be called natural justice; this is as important for the priest under scrutiny - and perhaps suspicion of serious wrongdoing - as it is for any other citizen in society. Scripture itself gives us a radical message of the fundamental equality before God of all in the Church, as St. Paul says in the Letter to the Galatians (3: 28): '[In] Christ there are no more distinctions between Jew and Greek, slave and free, male and female, but all of you are one in Christ Jesus'.

This vision of equality before God and under the law is reflected also in the Second Vatican Council's 1964 Pastoral Constitution on the Church in the Modern World (*Gaudium et Spes*) where it is stated in Article 29(2), in language consciously echoing both Article 2 of the 1948 Universal Declaration of Human Rights and Article 14 of the European Convention on Human Rights that: 'Any kind of social or cultural discrimination in basic personal rights on the grounds of sex, race, colour, social conditions, language or religion must be curbed and eradicated as incompatible with God's design'.

The Church is a pilgrim Church. It has not yet arrived at its destination. It is not perfect. It may be that the implications of the radical equality proclaimed in Galatians and Vatican II (and now set forth in the civil law of the European Convention on Human Rights) will in time come to change perceptions on the role of women within the Church. Certainly in my lifetime there has been a sea change in the visibility of women in the Church. In my pre Vatican II childhood, women were seen but not heard in the Church. The Second Vatican Council changed all that. In the Council Fathers' closing message they said:

'The hour is coming, in fact has come, when the vocation of women is being acknowledged in its fullness, the hour in which women acquire in the world an influence, an effect and a power never hitherto achieved. That is why, at this moment when the human race is undergoing so deep a transformation, women imbued with a spirit of the gospel can do so much to aid humanity in not falling'.

Pope John Paul has laid out a new perspective on the role of women in the Church in his 1988 Apostolic Letter *Mulieris Dignitatem*. The Church has still some way to go in practically introducing his concepts into Church and lay life, but as in many other areas, he is often ahead of his time. In particular, the Pope speaks of the 'feminine genius' and that the Christian Gospel is in 'consistent protest with whatever offends the dignity of women'. The concept of the 'feminine genius' will have varying interpretations and, as I have indicated, historically the Church has not always lived up to that interpretation of the Gospel. But today and in the future we must work towards realising this vision of an integral role for women, and indeed for the laity, in the Church; demographical changes alone make this essential.

In England and Wales today, and in the Church world-wide, we see that spirit moving and the laity playing a far more public role in the Church. Indeed there are often more lay people on the sanctuary than there are clergy as lay people take up their roles as Eucharistic minister, readers, cantors and servers. Laity are now more engaged at both parish and diocesan level. In some dioceses we are already seeing some green shoots with the appointment of female religious

Chancellors, etc. Canon Law seems to be following Civil Law in opening its doors to greater female participation. A generation ago there were few if any female Canon Lawyers, but now that is changing and as the pool expands we can expect to see many more female and lay judges working in the ecclesiastical courts.

In the sacramental life of the Church, Canon Law expressly recognises that where ministers are not available lay people can exercise the ministry of the word, preside over liturgical prayers, confer baptism and distribute Holy Communion. All this is rightly encouraged by the Church's hierarchy. But there is still a sense in which some in the Church see women as the 'praying Church' and the 'working Church' but not the 'thinking Church'; they are embraced as handmaidens but not as thinkers or leaders. Women are still seen as progressing the ideas of the masculine other in the Church rather than being acknowledged for what the 'feminine genius' can contribute in its own right to the Church. On my recent visit to the Vatican for example, I thought that there could be greater scope for active female participation in the Curia.

Some in the Church's hierarchy and especially in our own country are responding to these trends. I welcome the recent homily by Archbishop Puente, the Papal Nuncio at the European Conference of the World Union of Catholic Women's organisations . He called upon Catholic women to be true to their mission in speaking out about the role of women in society and in the Church today and to take up the challenge which Christ gave to Mary Magdalene when he met her in the garden on Easter Sunday. He said to Mary 'Go and find my brothers and tell them: I am ascending to my Father and your Father.' In so doing he appointed her his witness and the messenger of the Resurrection to the apostles.

Recently I hosted a reception at No.10 for the Margaret Beaufort Institute of Theology in Cambridge, which prepares women for service in the mission of the Church. I was minded of what Cardinal Cormac Murphy-O'Connor said at the Institute last year. He said 'the time has come, belatedly, for the role of women in the Church as co-workers in collaborative ministry to become a reality. Not a subject of conjecture, but a goal to be achieved.'

There is still more that we can do not least at the parish, diocesan, national and international structures of the church to be more inclusive. The renewal of the Church demands that each of us play a part. The hierarchy has an obligation to ‘acknowledge and foster the ministries, the offices and the role of the lay faithful’. Meaningful space must be created in which service can thrive and grow. Lay people need to develop a more generous and willing spirit and to be prepared to step forward and serve. It is incumbent on us all to realise the doctrine of the ‘priesthood of all believers’ which was so strongly re-affirmed at the Second Vatican Council. Further realisation of that doctrine can be a faithful calling, a real challenge and a tremendous vehicle of renewal in the Church and the world.

Footnotes

- 1 Pope John Paul II quoted in Roberto Suro, ‘Pope, on Latin Trip, Attacks Pinochet Regime’, New York Times, April 1, 1987, pp. A1 at A10.
- 2 See, too, the English Catholic Bishops 1998 Booklet *Human Rights and the Catholic Church* which was sent to parishes across England and Wales.
- 3 See Professor Brian Simpson *Human Rights and the End of Empire* (Oxford, 2001). See, too, Reyes v. The Queen [2002] 2 AC 235, JCPC per Lord Bingham refers to it in at 245 paragraph 23: ‘[An] important development has been the advance to independent statehood of many former colonies under entrenched Constitutions expressed to be the supreme law of the state. In the majority of such countries, as in Belize, the practice was adopted of setting out in the Constitution a series of fundamental rights and freedoms which were to be protected under the Constitution. It is well-established that in drafting the chapters containing these statements of rights heavy reliance was placed on the European Convention, first in drafting the Constitution of Nigeria and then in drafting those of Jamaica and many other states around the world: see *Minister of Home Affairs v Fisher* [1980] AC 319, 328, Simpson, *Human Rights and the End of Empire* (Oxford, 2001), pp 863-872 and Demerieux, *Fundamental Rights in Commonwealth Caribbean Constitutions* (University of West Indies, 1992), p 23.’
- 4 *Dyer v. Watson* [2002] 1 WLR 1388, JCPC per Lord Bingham at 1506-7.
- 5 ‘Chose Life not Death’ 23/02/02.
- 6 See Dr Suzanne Scorsone *Statement on behalf of the Holy See to the 42nd Session of the UN Commission on the Status of Women*, delivered on 3 March 1998 and reported in L’Osservatore Romano, Weekly Edition in English, v31, n17(1539), 29 April 1998.
- 7 In David Lodge’s *How Far Can You Go* (Penguin) a character adds ‘gay or straight’ to this list, but that may be going too far (for St. Paul at least).
- 8 Article 2(1) of the Universal Declaration of Human Rights provides that: ‘Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.
- 9 Article 14 of the European Convention on Human Rights provides that: ‘The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status’.
- 10 Can. 230 .3.
- 11 18th March 2003.
- 12 John 20:17.
- 13 Christi Fideles Laici No 33.

The high profile annual Tyburn lecture was inaugurated two years ago by Tyburn Nuns at their London convent to provide a platform for national figures to speak on a contemporary topic of their choice. The inaugural Tyburn Lecture was delivered in 2001 by Charles Moore, Editor of the Daily Telegraph, and given in 2002 by Gyles Brandreth, the author and broadcaster.

Tyburn Convent is the home of the Tyburn Nuns, The Adorers of the Sacred Heart of Jesus of Montmartre, Order of St Benedict. They pray night and day before the Blessed Sacrament to honour the 105 Catholic martyrs who suffered and died for their faith on the scaffold of Tyburn Tree between 1535 and 1681. They also pray continuously for the needs of all mankind, especially for the people of Great Britain. Tyburn Convent is at 8, Hyde Park Place, London W2 2LJ

As the wife of the British Prime Minister, Tony Blair, and a Catholic, Cherie Booth QC is uniquely placed to observe the interaction of the government, law and Church in respect of human rights. This is a transcript of the 2003 Tyburn Lecture. It is reproduced with permission from The Tablet, a weekly Catholic publication, obtainable from Tablet Subscriptions, Tower House, Lathkill Street, Market Harborough, LE16 0EF, UK.

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