

LAW AND ORDER

By RICHARD R. ROACH

WHAT LAW and whose order?

Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore he who resists the authorities resists what God has appointed, and those who resist will incur judgment. For rulers are not a terror to good conduct, but to bad. Would you have no fear of him who is in authority? Then do what is good, and you will receive his approval, for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain; he is the servant of God to execute his wrath on the wrong-doer. Therefore one must be subject, not only to avoid God's wrath but also for the sake of conscience. For the same reason you also pay taxes, for the authorities are ministers of God, attending to this very thing.¹

Few passages of scripture have troubled christians as much as this. French calvinists were worried about it when they resisted the catholic monarchy. More recently, german christians delayed their attempts on the life of Hitler because Paul seemed to say that Hitler held his power from God. In these and many other ways christians through the years have taken the problem of law and order seriously. Old as the problem is, it seems to have taken on a new aspect in our own day. Just as we may legitimately speculate whether or not Paul would have written in this way after the roman persecution of christians had begun, so we must ask ourselves whether we are justified in supporting current calls to uphold law and order on the ground that this is God's law and legitimate authority. I doubt whether we may.

The dilemma which so often faced our forefathers in the faith was that almost any conceivable law and order seemed preferable to chaos and anarchy. Perhaps the role played by the Church in the west after the collapse of the roman empire shaped this pre-occupation and formed the traditional christian attitude in the face of the dilemma. Or perhaps the inherent conservatism of any

¹ Rom 13, 1-6.

belief, once it becomes the ideology of an establishment, better explains past christian preoccupation with defending and legitimizing the established social, political and economic law and order. No matter what the reason, in our day the forces of law and order no longer need the support of christian belief. In fact, only a shadow of that support still remains. However, when an eminent british judge writes that 'no society has yet solved the problem of how to teach morality without religion',² he is epitomizing the outmoded 'christian' preference for the defence of virtually any system of law and order, on the grounds that the only alternative would be a chaos worse than the manifest deficiencies of the system. He takes as fact the assumption that law and order are fragile, and require the support of christian belief. He assumes that a system requires an ideology, but he does not seem to see that a system of law and order can generate and spread its own supporting 'faith'. Instead of christian beliefs, America's civil religion could have used variants of greek and roman polytheism, if these had been current when the american civil religion was establishing itself. In other words, systems of law and order generate their own rationalizations, using any symbol-system available; they are not so poor that they must go in humble search for an adequate system of beliefs to give them support. If we are right, as I believe we are, in holding that the christian faith is concerned with God's activity among men, we should regard all civil religions as potential or actual idolatries, as the early christians regarded the roman civic religion. The christian should always be prepared to play the role of outsider, prophet, social critic, even revolutionary, rather than establishment ideologue, because our faith has a different source. It was not invented as the rationalization of an existing order: it comes from God.

If our faith were required as the sole bulwark against a chaos more destructive than legal and orderly evils, we christians would have no choice but to set strict limits to our prophetic and critical activities. In principle we could never exceed the bounds of her Majesty's loyal opposition. We could speak from within the system, exhorting, moralizing, chiding, but without questioning the system itself. So with Martin Luther we could exhort the Princes to lead good lives and be fair and good rulers, but we would be forced to rail against the peasants when they sought to defend their lives and dignity

² Devlin, Patrick: 'Morals and the Criminal Law', in *The Enforcement of Morals* (London/New York, 1972), p 25.

through revolt. We would be forced, as Luther was, to call down on their heads the wrath of God and to justify the butchery of the rebels.³ Nor does there seem to be any point in claiming that our faith comes from God if, in its social expression, it can afford no political stance truly independent of this world. To hold that plots for the overthrow or even the assassination of a Hitler would open the floodgates to evils worse than those Hitler perpetrated, would seem to be confessing a deeper faith in the 'principalities and powers'⁴ of this world than in the Lord.

It is surely an acceptable interpretation of the pauline statement in Romans, even though it was written before any official persecution of christianity, that the only legitimate authority is one that is in harmony with God's institutions;⁵ there may well be very few of these. At least it becomes clear that an authority does *not* express God's will simply because it is an authority; on the contrary, it is an authority only because it is expressing God's will. Thus to relate human authority to God becomes liberating and critical, and not the justification of a blind conservatism. The 'law and order' question has taken on a new aspect because of the mounting evidence that we are in the grip of systems which do not serve humane purposes; so that their laws and order require radical revision.

That institutions which embody God's authority must have a humane purpose is not simply a new theological theme. It is the conviction of the Church in council.

The People of God believes that it is led by the Spirit of the Lord, who fills the earth. Motivated by this faith, it labours to decipher authentic signs of God's presence and purpose in the events, needs and desires in which this People has a part along with other men of our age. For faith throws a new light on everything, manifests God's design for man's total vocation, and thus directs the mind to solutions which are fully human.⁶

Events which stem from a purely human law and order without

³ Cf Cone, James H.: *A Black Theology of Liberation* (New York, 1970), p 71. Cone relies on P. S. Watson, *The State as a Servant of God* (London, 1946). Martin Luther, 'Against the Robbing and Murdering Hordes of Peasants', and 'An Open Letter on the Harsh Book Against the Peasants', trans. Charles M. Jacobs, in *Luther's Works*, vol 46: *The Christian in Society III*, (ed R. C. Schultz, Philadelphia, 1967), pp 49-55, 63-85.

⁴ Col 2, 15.

⁵ Cf Fitzmyer, Joseph A.: 'The Letter to the Romans', in *The Jerome Biblical Commentary* (New York/London, 1968), 53: 122-4, p 326.

⁶ *Gaudium et Spes* (Pastoral Constitution on the Church in the Modern World), 11.

embodying God's true purpose will be inhuman, and must therefore stand under critical judgment and action. *Gaudium et Spes* is full of such judgments. For example:

Let everyone consider it his sacred obligation to count social necessities among the primary duties of modern man, and to pay heed to them. For the more unified the world becomes, the more plainly do the offices of men extend beyond particular groups and spread by degrees to the whole world. But this challenge cannot be met unless individual men and their associations cultivate in themselves the moral and social virtues, and promote them in society. Thus, with the needed help of divine grace, men who are truly new and artisans of a new humanity can be forthcoming.⁷

We can justly consider that the future of humanity lies in the hands of those who are strong enough to provide coming generations with reasons for living and hoping.⁸

But the Fathers did not leave us with only general exhortations and counsel. They passed specific judgments against merely human law and order and their implementation. In the light of the energy crisis and a spreading world famine, their statement on the ordering of the economy is a sweeping condemnation of the *status quo*:

Economic development must be kept under the control of mankind. It must not be left to the sole judgment of a few men or groups possessing excessive economic power, or of the political community alone, or of certain especially powerful nations. It is proper, on the contrary, that at every level the largest possible number of people have an active share in directing that development. When it is a question of international developments, all nations should so participate. It is also necessary for the spontaneous activities of individuals and of independent groups to be co-ordinated with the efforts of public authorities. These activities and these efforts should be aptly and harmoniously interwoven.⁹

In the light of these words, it seems impossible for a christian to support a law and order that maintains the concentration of power embodied in the oil cartels. Unfortunately, this is but one example of other concentrations which systematically exclude humane purpose, because too few human beings share in the disposition of the power.

In the United States, during the recent vietnamese war, only a

⁷ *Ibid.*, 30.

⁸ *Ibid.*, 31.

⁹ *Ibid.*, 65.

few persons made the decisions, generally acknowledged to be inhuman. Yet they did so without effective challenge from all but a tiny handful of catholic christians, in spite of the strong words of Council:

Any act of war aimed indiscriminately at the destruction of entire cities or of extensive areas along with their population is a crime against God and man himself. It merits unequivocal and unhesitating condemnation.¹⁰

The vast majority of the faithful were then and are still inclined to give those who create and implement 'law and order' (foreign and military policy) more than the benefit of the doubt. They were and are really inclined to see them as necessarily the representatives of what is right simply because they embody law and order. Such is the deformation of christian conscience. It has ceased to be moulded by or expressive of true faith by its acquiescence in the ideological support of the *status quo*.

How did we, as christians, arrive at such an uncritical and passive acceptance of the powers and principalities of this world? I think that there were sound historical reasons. Until very recently, mankind lacked the resources to provide a truly human life to all human beings. The price of civilization was discontent for the majority of men. The majority had to work as slaves, serfs or labourers, so that a minority could exercise creatively that freedom which is 'the divine image within man'.¹¹ So Freud could say:

It is just as impossible to do without control of the mass by a minority as it is to dispense with coercion in the work of civilization. For masses are lazy and unintelligent; they have no love for instinctual renunciation, and they are not to be convinced by argument of its inevitability; and the individuals composing them support one another in giving free rein to their indiscipline . . . To put it briefly, there are two widespread human characteristics which are responsible for the fact that the regulations of civilization can be maintained by a certain degree of coercion – namely, that men are not spontaneously fond of work and that arguments are of no avail against their passions.¹²

But with new modes of production, the systematic deprivation of the majority and to some degree their practical enslavement need not be the price of human civilization. It requires only the

¹⁰ *Ibid.*, 80.

¹¹ *Ibid.*, 17.

¹² Freud, Sigmund: *The Future of an Illusion* (New York, 1964), pp 5–6.

redistribution of what *Gaudium et Spes* calls 'benefits of culture',¹³ for all men to share in authentic freedom ('the divine image within man') in some more reasonable measure. Nevertheless, the weight of the past and its pessimism, which Freud so well expresses, is great indeed. The christian community had of necessity to see the exercise of man's freedom in terms not of this but of the next world, since they knew in faith that God had not abandoned even the slave who, practically speaking, could not now be free.¹⁴ The question now is the christian's stance before the discriminatory structures of merely human law and order when the necessity for the discrimination can be done away with, or at least greatly reduced. Evidently he must be in the vanguard of the change designed to free men from a bondage which is no longer necessary, rather than in the rear with those who defend bondage because of a lack of faith in the work of God among men which calls all to freedom. We are just at the beginning of such an effort.

In the light of this christian call to authentic freedom, current appeals to preserve law and order as a pre-condition for 'real' freedom is shown to be a rationalization of the privileges of the minority who benefit from present discriminatory structures. Hitler provides the grossest example of this cry to preserve 'law and order' as the systematic defence of the privileges of a minority. In 1932 he said:

The streets of our country are in turmoil. The universities are filled with students rebelling and rioting. Communists are seeking to destroy our country. Russia is threatening us with her might and the republic is in danger. Yes, danger from within and from without. *We need law and order.* Yes, without law and order our nation cannot survive. Elect us and we will restore law and order. We shall by law and order be respected among the nations of the world. Without law and order our republic will fail.¹⁵

Because Hitler was a moral monster, whose tyranny the entire english-speaking world fought to the end, we do not feel implicated in his deceptive use of the cry for law and order. During the rise of Richard M. Nixon, who also campaigned on a law and order platform, student organizations in the United States rightly juxtaposed Hitler's speech and Nixon's campaign rhetoric; and the

¹³ *Gaudium et Spes*, 9.

¹⁴ Cf Col 3, 22; Philemon.

¹⁵ Cited by Cone, *op. cit.*, p 229.

Watergate scandal has in some measure borne out the validity of their comparison.

What is more significant is that the speech is cited by a black theologian of liberation. For Cone, the similarity between Hitler's understanding of law and order and that generally prevailing in the western democracies is deeper than the decay revealed in the scandals of a single President of the United States. Cone and the american blacks know that law and order meant and still means systematically depriving a people of their full rights and dignity in order to benefit others. The defence of present law and order, therefore, is really a defence of a property purchased at the price of a discrimination which, in the optimistic view of the Council, runs counter to the feelings of modern man: 'Now for the first time in human history, all people are convinced that the benefits of culture ought to be and actually can be extended to everyone'.¹⁶ All men *should* be convinced that cultural benefits ought to be and actually can be extended to everyone. Only the weight of a sad past and a lack of faith prevent us from realizing such a vision. The continued misuse of the christian faith in defence of established discriminatory structures of law and order paradoxically contributes to the lack of faith. Perhaps that is why Freud could speak of belief in the God of christian faith as an illusion. With many christians he mistakenly held that discriminatory, non-liberating structures were necessary for civilization. Evidently, the God who sanctions such structures is an illusion. He is Marx's opiate of the people who keeps the masses docile in their deprivation and makes possible the mastery of a few over the 'benefits of culture'. He is not our God, the Father of our Lord and Saviour Jesus Christ.

How have we arrived at such a common and unchristian identification of faith with an ideology of the Establishment?¹⁷ The necessities of the past drove us to accommodate the latent call in Christ's redemption for solutions to man's earthly problems 'which are fully human' to the exigencies of pressing reality; for example, in St Paul's time the institution of slavery could not be overthrown. Therefore, we adjusted to it and we adjusted far too long. The accommodation took the form of an imbalanced emphasis on the

¹⁶ *Gaudium et Spes*, 9.

¹⁷ For a discussion of what we are calling 'conservative ideology', see Karl Mannheim, 'Conservative Thought', in *Essays on Sociology and Psychology* (New York/London 1953), pp 74-164; and Charles Hampden-Turner, *Radical Man: The Process of Psycho-Social Development* (New York, 1971), esp. pp 257-320.

contemplative dimensions of Christ's redemptive call. Then we justified that imbalance with a cosmological vision and a distorted psychology of man which are not securely based in revelation, and which now we not only may, but must discard.

The cosmological vision which obscured our christian task as 'artisans of a new humanity' was a congeries of theories and theologies which made a virtue of necessity. As the physical universe was made up of greater and lesser entities hierarchically arranged, so the moral universe was constructed of 'masters and slaves', each born to his respective state in life and called to fulfilment through the duties of that state. Because we could always exhort one another to greater perfection within the structures, it was a moral order; but, because its fundamental hierarchy was given as the human condition, we could not change it any more than we could change the structures of the cosmos. Ironically, we perhaps have changed more the physical structures of the universe than its supposed moral structures. At any rate, in the conservative vision the two structures are equally given, and man's duty is to conform more perfectly – an effort which is often mistaken for obedience. Within this vision, the moral life is not a creative activity in the sense of building something new. It is rather the activity of discerning what is ageless and unchanging and conforming to it. The conscience formed within this vision is predisposed to defend established authority and bow without question before its edicts. Further, the vision is by its very nature élitist. Because the moral structure is even more subtle and hidden than the physical structure, the majority of us must depend on the guidance of the expert few who know what we all ought to do, just as we depend on the guidance of a small handful of men who alone can tell us how to interfere with the structure of uranium atoms and produce fission. The moral vision engenders a profound fatalism before the thrones and dominions of this world, and drives man to seek consolation solely in what transcends this world.

Christian faith provides such consolation; legitimately, on God's own promise. The resurrected and eternal life after death to which we are called personally in Christ our Lord is the consummation of that consoling promise. I insist that hope of happiness with the Lord hereafter was *not* illegitimately taken as the sole import of God's promise by individuals for whom there was no other realistic hope. But it is not the sole import of God's redemptive love. In the fulness of time further implications of the good news appear. Ours is either the beginning of such a fulness of time, *or* it is the beginning of an

even more definitive rejection of Christ than was possible in the past. While in the past we could trust in his goodness to heal the wounds and reshape the deformities inflicted by the social sin of this world, most of which we had merely to tolerate in hope and ameliorate with some personal charity, now we are called more clearly and specifically to share in God's work in this life as 'artisans of the new humanity' which will enjoy him forever. Failure to answer the call will be in some way a failure to enjoy him forever. Therefore, if we insist on the contemplative dimension of faith, as known in the past, to the exclusion of hopefully effective and affectively filled measures to build the new humanity, then we have failed to meet his promise.

To carry into the present this past emphasis on the contemplative dimension of faith clearly contributes to the misuse of christian belief as a conservative ideology, because it relies on a distorted psychology in which man is primarily a knower rather than a doer. This domination of knowledge over action fits well with the cosmological vision of moral life as conformity to the hidden and changeless structures of the human condition: in that vision, doing is largely restricted to conforming – which is not what 'doing' should mean. By 'doing' we mean not mere activity, but the realization of authentic freedom in the creative task of building a new humanity. In no adequate sense can the new humanity be the object of contemplation. It is more fundamentally the goal of creative effort. The 'conservative' contemplative thrust, with its emphasis on flight from the world, tends to become an intellectualization of the faith; it reads the good news not in order to find a guide for creative effort, but to fill the mind with knowledge in which it can rest consoled, until the new humanity comes to us in Christ's return. Preparation for that return is patient waiting, rather than creative and loving effort to build in some measure what he will assume as the fulness of his mystical body.

This intellectualizing of our faith began very early. We read in St Irenaeus that 'the glory of God is a living man'; and all too often today this text is cited to support the emphasis of *Gaudium et Spes*. In fact it belongs to an intellectualized appreciation of the faith which, anachronistically extended into our day, militates against both the understanding and implementation of *Gaudium et Spes*. The sentence concludes 'and the life of man consists in beholding God'.¹⁸ The context more than bears out the implications of the second half

¹⁸ Irenaeus: *Against Heresies*, IV, 7: *The Writings of Irenaeus*, vol. 1 (*Ante-Nicene Christian Library*, vol V, ed. A. Roberts and J. Donaldson, Edinburgh 1868), p 444.

of the sentence.¹⁹ Irenaeus did not see the glory of God as man striving to build a new humanity, but rather as contemplation.

St Thomas provides another example of this intellectualization. In a discussion of vainglory, Thomas says: 'God seeks his glory, not on his own account, but for our sakes' (*Deus gloriam suam quaerit non propter se, sed propter nos*).²⁰ Taken out of its context and of the time, the sentence could mean that our striving for the greater glory of God would consist in striving for a new humanity. However, its real point is that true glory is distinguished from vainglory by the manifestation of a goodness which can clearly be seen to be God's. Its lesson is that to seek authentic glory is virtue, because our good deeds lead men to the praise of our Father who is in heaven. The real emphasis is on personal mental and moral states. Thomas's interpretation of Augustine's exegesis of John 13, 13, the washing of the disciples' feet, shows where this intellectualizing process ultimately leads. The point of the washing becomes the manifestation of God's glory for the good of man as the pure contemplative: an occasion for wonder that one so mighty could stoop so low, rather than the starting point for theological reflection on the humble and creative ways in which we women and men may act to enhance and build anew the broken dignity of our fellow-men. Evidently, these two responses to Jesus's washing the disciples feet can be complementary. But they will hardly be so if the first practically excludes the second, or reduces its moral implications to isolated gestures of private charity, whose main value is to be a sign of the goodness that transcends our daily lot. If the emphasis is left where it was in Irenaeus and Thomas, then our theologies, our practical believing and our consciences, become the prisoners of a conservative ideology which undermines the living out of authentic christian faith in our day.

What can we do about it? Before we can answer, we must acknowledge that as the People of God we are only at the beginning of an understanding of our task as 'artisans of a new humanity'; and that we are late starters. We must further acknowledge that our faith does not provide us with all the answers. This was the attitude of the Council:

What does the Church think of man? What recommendations seem needful for the upbuilding of contemporary society? What is the

¹⁹ E.g., *ibid.*, III, 2: *loc cit.*, pp 348-9.

²⁰ *Summa Theologica*, II-II. q 132, a 1, *ad primum*.

ultimate significance of human activity throughout the world? People are waiting for an answer to these questions. From the answers it will be increasingly clear that the people of God and the human race in whose midst it lives render service to each other. Thus the mission of the Church will show its religious, and by that very fact, its supremely human character.²¹

The Church guards the heritage of God's Word and draws from it religious and moral principles, without always having at hand the solution to particular problems. She desires thereby to add the light of revealed truth to mankind's store of experience, so that the path which humanity has taken in recent times will not be a dark one.²²

From these citations, and the encouragement the document gives to open dialogue with those who are not believers, we may say that a start in finding an answer to our question will be to enter into dialogue with those non-believers who share our concern to build a new humanity. This dialogue requires both courage and humility, because many who share our concern take a revolutionary stance and vigorously attack both our faith and the Church as an institution. Nevertheless, the dialogue has begun. Already it has borne some fruit in the theology of liberation which seeks to serve the Church by providing reflection to assist those striving practically as 'artisans of a new humanity', especially in Latin America.²³

A second step would go beyond a theology of liberation and seek to liberate theology. If as believers we are preoccupied with theologies that merely intellectualize the faith, or express anachronistic visions of man and society, we will inevitably find ourselves more concerned with the individual and private rather than the social dimension of man, and, inevitably be unconscious conservatives when we function in the body politic. But what is worse, we will lack training and guidance in the reflective and prayerful ways in which action becomes also the service of God and his kingdom. As a result faith will wither, and many will abandon, as many already have done, the active profession of christian faith, and confirm those left behind in their belief that social action leads to a loss of faith. Already there are voices saying: 'See, if you become socially involved, you will lose your faith'. Conservatism thereby becomes more

²¹ *Gaudium et Spes*, 11.

²² *Ibid.*, 33.

²³ E.g., Juan Luis Segundo, S. J. with the staff of the Peter Faber Center in Montevideo, *A Theology for Artisans of a New Humanity*, 5 vols (Maryknoll, New York 1973-1974); Gustavo Gutiérrez, *A Theology of Liberation*, (Maryknoll, New York, 1973).

entrenched and intransigent in its 'defence of the faith'. We therefore need to liberate theology, so that it can provide sustenance and guidance for the new evangelical work of the Church, the building of a new humanity.

But perhaps most practically, we must jump into the water wherever we are, for only by challenging the laws of this world's thrones and the order of this world's dominions can we learn, as Paul must have learned after the roman empire ceased to protect and began to persecute christians, that the only authority that comes from God is the authority that carries out God's designs for man. In the living out of the challenge we will learn under what law and under whose order we are authentically free. We should enter the foray with the courage of faith in God's call. We should recognize that we shall make grievous mistakes, and we should be prepared in christian love to forgive one another and begin again.

These words will cease to be mere rhetoric when a loud chorus of christian voices demand to know according to what law the goods of this world are distributed, and according to whose order we in Canada and the United States, at the moment of this writing, are slaughtering cattle in order to bury them and keep them off the market, while children starve in Bangladesh.