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Learning to confess : the Inquisition in the age of reforms.

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LEARNING TO CONFESS:
THE INQUISITION IN THE AGE OF REFORMS

A Dissertation Presented

by

MARGARET I. MOTT

Submitted to the Graduate School of the
University of Massachusetts Amherst in partial fulfillment
of the requirements for the degree of

DOCTOR OF PHILOSOPHY

February 2002

Department of Political Science

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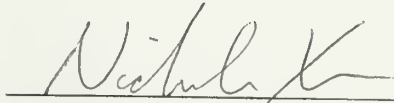
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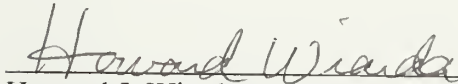
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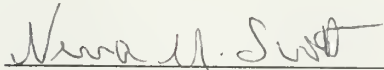
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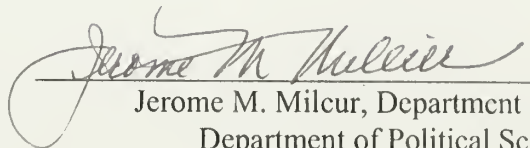
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Burning of the Heretics (Auto-da-fé)

Pedro Berruguete

c. 1490

Wood, 154 x 92 cm

Museo del Prado, Madrid

ACKNOWLEDGMENTS

I would like to thank my chair, Nicholas Xenos, for his willingness to see political science in a historical context. Thanks are also due to Howard J. Wiarda, who introduced me to Francisco Suárez and the idea of Spanish Thomism, and to Nina Scott, who has always presented learning as a social and sentient experience.

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ABSTRACT

LEARNING TO CONFESS: THE INQUISITION IN THE AGE OF REFORMS

FEBRUARY 2002

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While the English-speaking world explored the possibilities of liberalism, their Catholic neighbors to the South continued to develop the political and social theories developed by St. Thomas Aquinas. The principles and values of Thomism continued to inform the organizing of empires and the distribution of justice. This work focuses on the early modern reforms of Thomism, particularly the Jesuit influence, and how those reforms were practiced within the Spanish Inquisition.

Relying on philosophical texts of the sixteenth and early seventeenth centuries as well as inquisitorial archival materials, this work considers both the confessional relationship and the process of reconciliation within a Thomistic framework. Rather than a juggernaut of death, as the Black Legend would suggest, or a vehicle of discipline, as Foucault argued, the handbooks used within the Holy Office suggest a commitment to the corporate and corporeal principles of St. Thomas Aquinas. While not an apology for the Inquisition, this research suggests that the Holy Office may offer a valuable alternative to liberal jurisprudence, particularly in cases when social connections are more pertinent than individual rights.

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CHAPTER I

INTRODUCTION

Why care about Thomism?

The student new to philosophy is warned that the initial going will be rough. "It is like stepping into the middle of a conversation that has been going on for centuries," is how one philosophy professor explained it to its undergraduates at Haverford. Kant talks to Hume who is talking to Descartes and on and on back through the ages. To enter into the discussion is to find oneself face to face with a multitude of great thinkers all of whom know each other on a first principle basis. Anyone who wants to join in the conversation needs to know how to speak the language of the other philosophers in the room.

Political philosophy is no less conversational, no less engaged in pitching back and forth through the centuries ideas on the purpose, function, and meaning of a public life. However, the conversation with regard to political matters is, for the most part, interrupted. Between the writings of classical thinkers, such as Plato, Aristotle, and Cicero, and the writings of modern thinkers, such as Machiavelli, Hobbes, and Locke, there lies a rich assembly of political thinkers who, at least in recent centuries, have received very little attention: the natural law theorists. Indeed, a look at the job openings in political theory listed in the personnel service newsletter of the American Political Science Association suggests that the middle ages and Catholic Reformation made no contribution to our understanding of what it means to lead a political life. Departments looking for someone to teach the history of political theory are looking for someone trained in classical and/or early modern political thought. The history of political thought, in other words, means Plato and Machiavelli, not St. Augustine, William of Ockham, or

St. Thomas Aquinas; early modern means means Hobbes and Locke, not Suárez or Vitoria.

There is an exception to this institutionalized oversight. The genealogically-minded, pursuing the origins of natural rights and private property, have begun to wander into the dusty gothic halls of Thomism. Brian Tierney discovered a vociferous debate between Ockhamists, Thomists, and canon law jurists in his thoughtful consideration of the idea of natural right.¹ James Tully uncovered a family resemblance between the sixteenth century Thomists and Locke's handling of property rights in the seventeenth century, determining that there was much more of natural law thinking in Locke's theory of government than twentieth century scholars, committed to the idea of "possessive individualism," realized.² Quentin Skinner and Richard Tuck have also increased our understanding of the foundational role that natural law theory has played in the formation of modern political thought.³

For the most part, however, the political philosophy of these Catholic writers has largely been ignored. *The Princeton Readings in Political Thought*,⁴ for instance, which claims to include "essential texts since Plato" provides one hundred pages on the classical authors, a mere twenty-five on the middle ages, and three hundred on modern political thought, none of whom espouse a Catholic position. Luther participates in the political

¹Brian Tierney, *The Idea of Natural Rights* (Atlanta: Scholars Press, 1995).

² James Tully, "After the Macpherson thesis," *An Approach to Political Philosophy: Locke in Contexts* (Cambridge: Cambridge University Press, 1993), 71-95.

³ Richard Tuck, *Philosophy and Government 1572-1651* (Cambridge: Cambridge University Press, 1993); Quentin Skinner, *The Foundations of Modern Political Thought* (Cambridge: Cambridge University Press, 1978).

⁴ Mitchell Cohen and Nicole Fermon, editors, *Princeton Readings in Political Thought* (Princeton, N.J.: Princeton University Press, 1996).

discussion, as does Calvin, but nowhere do we hear the "other side" of the argument, the argument for the natural abilities and innate capacities of man; the argument for corporate good over individual rights.

This professional oversight has created theoretical problems for scholars studying ecclesiastical base communities in Latin America. Ethnographers hoping to explain the values of the Popular Church, or other Catholic movements involved in social justice, are faced with the unfortunate choice of either translating those liberationist efforts into liberal discourse or, alternatively, losing professional legitimacy by speaking the language of the Roman Catholic Church.⁵ Were the moral language of Thomism better recognized, a more fitting option would be available to these researchers.⁶

Thomism, which is also referenced as natural law theory, stresses the natural abilities placed in man by God. The universe envisioned by St. Thomas Aquinas was a rational and purposive universe and man's very nature was a part of that rational plan. Every human being was sown with the necessary seeds to reach perfection. Every human was equipped with the tools to distinguish between right and wrong, to participate in reason. Grace, the divine powers of Christ, did not operate against nature, as nominalists were suggesting, but in perfect harmony with it.

The fundamental assumption of all Thomist thought is that grace does not destroy nature but rather perfects it. Through grace and our natural intellectual powers, Aquinas and his followers believed we might move up the Chain of Being, approaching the angelic spheres. Although we would never have God's synoptic vision, we might come to

⁵ See Carol Ann Drogus, *Women, Religion, and Social Change in Brazil's Popular Church* (Notre Dame: University of Notre Dame, 1997), 91.

⁶ For an example of an ethnography that was able to avoid the sterile polarity of liberalism v. the Catholicism, see Kristin Luker, *Abortion and the Politics of Motherhood* (Berkeley: University of California Press, 1994).

understand our place in the greater order of things. Inasmuch as movement up the intellectual Chain of Being granted one a larger perspective, it entailed a greater political and social awareness. The Thomist version of metaphysics, therefore, was not a practice in escaping the world, but of seeing the world as part of a larger plan. Politics, as in the Aristotelian framework, was an opportunity to practice one's natural abilities, to put virtuous thoughts in action. The element of grace added a supernatural aspect to those virtuous thoughts; mystery was an essential ingredient in one's perfection.

In the thirteenth and fourteenth centuries, Thomists applied this very generous, rational and supernatural understanding of our intellectual and social abilities against the claims of nominalists who argued that the very nature of God's omnipotence was that he could not be understood. According to the nominalists, any attempt to understand God's will was blasphemy. All we could do was to love and to fear. Obedience was the virtuous path, not reason. In the sixteenth century, nominalism found new meaning in the Protestant split. Both Luther and Calvin turned their back on the rational and purposive framework of natural law. Conscience – what Calvin referred to as "the Divine tribunal," "appointed, as it were, to watch over man, to observe and examine all his secrets, that nothing may remain enveloped in darkness" – replaced natural abilities.⁷ What mattered, according to the Protestants, was the recognition of God's incomprehensible will. God's reason, his rationality and therefore predictability, was minimized. Grace was not grounded in nature, as the Thomists argued, but was a thing completely outside the natural world.

⁷ John Calvin, "God and Political Duty," in *Princeton Reader*, 201.

Elsewhere, Howard J. Wiarda and I have argued that Thomism continues to inform the social and political values of Iberian and Latin American governance.⁸ The Aristotelian/Thomist assumption that man finds perfection through participating in a larger, more perfect whole informs much of the authoritarian, corporatist, organic form of politics that survives in Southern Europe and Latin America. Thomist principles – a strong head, a corporate understanding of government, an organic relationship between the various members of society – continue to inform political values and practices, even under the guise of so-called liberal democratic governments. Democracy in Southern Europe and Latin America, we argue, is less about the protection of individual rights, the separation of powers, and a government constrained by an active and independent civic society, and more about a strong government that takes care of all of its member through a coordination of powers.

This work is a theoretical extension of those earlier comparative works. Certainly the argument put forth by Professor Wiarda and me, i.e. that St. Thomas is to Iberic-Latin political development what Locke is to American political development, is assumed at the outset. I strongly believe that our ideas shape our political choices, that Locke's ideas framed the political discourse in the English-speaking world and that Aquinas' ideas framed the political discourse in the Spanish-speaking world. My interest in this work is to consider the origins and implications of these seemingly incompatible frameworks in terms of jurisprudence.

⁸ Howard J. Wiarda and Margaret MacLeish Mott, *Catholic Roots and Democratic Flowers: Political Systems of Spain and Portugal* (Westport, Ct.: Praeger Press, 2001); Howard J. Wiarda and Margaret MacLeish Mott, editors, *Politics and Social Change in Latin America: Still a Distinct Tradition?* (Westport, Ct.: Greenwood Publishing Co, forthcoming).

Despite nationalist claims to the contrary, both England and Spain engaged in a similarly repressive jurisprudence. Yet, somehow, liberalism was able to keep its hands clean from its violent and coercive founding while the Holy Office in Spain came to represent institutionalized sadism. I will argue here that the central distinction between inquisitorial justice and liberal justice is not the absence or presence of violence, as the Black Legend would have it, but in how each system conceived of the citizenry and the possibilities of society. This work, then, questions the notion that liberalism is the only container for a universal jurisprudence and that its attributes – atomistic, voluntary, rational, autonomous, and equal – are the sine qua non of justice.

Why study the Inquisition?

I became interested in alternative systems of justice after working as the Court Advocate for a battered women's shelter in Southern Vermont. My position was funded by the Violence Against Women Act (VAWA), which President Clinton passed as part of the Crime Bill of 1994. In order to get those funds, my town had to demonstrate to the Justice Department that we had developed a "coordinated response" to the problem of domestic violence. Coordinated response meant that prosecutors worked with police departments and battered women's shelters to fight the pernicious evil of domestic violence. Working together meant being on the same conceptual page. We all agreed that domestic violence included emotional and psychological abuse; we all were trained in the niceties of recognizing controlling behavior; we all wanted to protect women and children from abusive men; we all wanted to put the batterers in jail.

Since the judges were also part of this campaign against domestic violence, they were more willing to issue a restraining order. A plaintiff just needed to prove that she was reasonably afraid of the defendant in order to get a civil order that had the power to

(1) remove the defendant from the family home; (2) deny him visitation of the children; (3) order child support; and (4) restrict his movement within the community. Although the relief from abuse order was generally only granted for a short period of time, six months to a year, the holder of such an order was in a particularly good position should she decide to look for divorce. The defendant, on the other hand, might as well sign everything over. An effort to prove his innocence could easily be read as stalking or emotional abuse. Too much effort and he could end up in jail.

Although I was initially excited about this new order of justice, the proceedings themselves made me increasingly anxious. I worried about due process. I wondered what had happened to the presumption of innocence. I noticed how lawyers who attempted to play by the old rules, such as rules of evidence, were overruled by this new VAWA breed of judges. In fact, the lawyer's roles in these proceeding became less and less necessary as judges pronounced from the bench that they could care less about legal formalities. What really concerned them was getting to the truth, i.e. was she abused?

The anxieties I experienced watching Family Court reinvent itself as a Crusader against Domestic Violence were liberal anxieties. All the procedures I had learned as a paralegal, which predicated justice as fair procedure over justice as social policy, were no longer relevant. When I questioned the means we were using to fight domestic violence, I was labeled a heretic. In a sense, my accusers were right. According to the members of the Windham County Domestic Violence Task Force, there was a greater social good than procedural justice. That social good was described as "making the world safe for women and children." When I complained that we were "creating an inquisition," the other members of the Task Force responded, "if that's what it takes, so be it."

I went to graduate school in order to find out more about the Inquisition. Maybe my concern about the changes in Family Court was a knee-jerk liberal response. Maybe a

different type of judicial system was necessary for domestic violence. Feminist legal theory had already taught me that liberalism did not always serve the needs of women. Most of the scenes of violence took place in the home. Many of the justifications of abuse were phrased in terms of absolute control of one's property. In a perverted version of John Locke's theory of property, sexual intimacy seemed to entitle the batterer to some hold on his girlfriend or spouse. Privacy and property rights in this framework did not enhance anybody's public participation, as John Locke would have argued. Rather, it turned the world into a stage of terror. With the blessings of liberal jurisprudence looking less universal, perhaps its ignoble adversary, the Spanish Inquisition, might be less harmful than I had been led to believe.

The initial reading I did on the Inquisition only confirmed the Black Legend. William Prescott, H. C. Lea, and Cecil Roth presented a tribunal fueled by cruel fanaticism, whose dark-robed members took sadistic pleasure in the smell of burning flesh. It was only when I came across Fernando Cervantes' work on the Dominican and Jesuit inquisitors in New Spain that I began to see the Inquisition outside of the anti-Hispanic, anti-Catholic propaganda of the Black Legend and more as a stage for early modern Thomism.⁹ Cervantes suggested that when the inquisitors followed a natural law perspective, the relationship between inquisitor and the accused was didactic and redemptive. When the inquisitors followed a nominalist perspective, the relationship between the inquisitor and the accused was authoritarian and coercive. Studying the methods and the judicial reasoning of those inquisitors who subscribed to natural law theory, i.e. the Dominican and Jesuit inquisitors, offered an opportunity to see what early modern Thomism looked like in practice.

⁹ Francisco Cervantes, *The Devil in the New World* (New Haven: Yale University Press, 1994).

After reading some of the actual proceedings of the Holy Office, I began to think this ecclesiastical tribunal was not as cruel as the Black Legend suggested. The inquisitors, like the members of the Domestic Violence Task Force, were not afraid to track down elite members of the community because they had abused women and children. The inquisitor, whether Thomist or nominalist, was just as likely to go after lewd and lascivious priests as any radical feminist. In Colonial Mexico and Peru, the inquisitors prosecuted landowners who raped Indians servants and conquistadors who took more than one wife. It wasn't that the Holy Office was set up to destroy procedural justice; rather the procedure was engineered in such a way as to bring about a higher social good: to protect the weaker members of the community from evil. To be safe from evil religious beliefs is a hard social good to imagine in this day and age. Safety from evil behavior, and I can only describe the stories I heard in Family Court as evil, is something we continue to struggle with.

That the family was the locus of tyranny would not have been news to the early modern Spanish Thomists. Based on the laws of *dominium*, the family unit lacked the "moral power" of the more perfect society, i.e. the political unit. According to the Thomists, the goal of the family was undeveloped or "imperfect"; it only wanted to preserve itself and its property. A more perfect group, therefore, was a group that wanted to preserve the entire society. Between the imperfect family and the perfect society there was a multitude of intermediary groups: guilds, military orders, religious orders, townships. All of these intermediary groups offered an opportunity to put corporate virtue into action. The Inquisition, therefore, might be understood as part of a system that wanted each member to move out of *dominium* and towards a more perfect union. That effort was reflected in the language of reconciliation. At the auto de fe,

inquisitors pronounced the reconciled as "reincorporated into the guild (*gremio*) and union of the sacred mother Catholic church."

The VAWA-funded jurisprudence I saw emerging in Family Court was equally concerned with moving the parties out of a system of *dominium* and into a more socially-minded grouping. After an initial experiment in putting all the batterers in jail, many of the judges had come to realize that destroying the family unit, particularly at a time when welfare benefits were being reduced, was not beneficial to anyone involved, especially the children. The judges increasingly ordered anger management groups and parenting classes in the hopes that both plaintiffs and defendants would learn other ways to deal with one another. However, efforts to reconstitute the tyrannical family into the civic-minded unit also produced liberal anxieties. Should the state really be taking on the role of parenting the parents? Were the judges guilty of over-extending the reach of a liberal government?

Despite liberalism's limits within domestic situations, it continues to dominate the legal discourse in criminal matters. In fifth amendment jurisprudence, the Inquisition reliably stands in as the evil alternative to the more civilized liberal method. For instance, Peter Brooks' recent book *Troubling Confessions* cautions that any weakening of the rights codified in *Miranda v. Arizona* will lead us into inquisitorial hell.¹⁰ Using a Foucaultian framework as well as scenes from Dostoevsky and Rousseau, Brooks illustrates the complexity of the confessional relationship urging us to keep confession out of the courtroom. According to Brooks, justice demands that we maintain the sanctity of the autonomous will. A legal process that penetrates that autonomy, i.e. an inquisitorial system, is a corrupt legal process.

¹⁰ Peter Brooks, *Troubling Confessions: Speaking Guilt in Literature and Law* (New Haven: Yale University Press, 2000).

Indeed, by the terms of liberalism, the Inquisition is an unjust system. However by the terms of natural law theory, the Inquisition was right on track. Scholars such as Anthony J. Lisska, engaged in keeping natural law theory alive in these skeptical times may not, at first, welcome the association.¹¹ It's one thing to argue that natural law is the basis for international declarations on human rights and another thing entirely to suggest that natural law was the guiding principle of inquisitorial jurisprudence. Yet I would argue that inquisitorial practices articulate the generous possibilities inherent in natural law in a manner overlooked by liberalism. Confession, a highly problematic practice in liberal jurisprudence, takes on a very different aspect when understood within the inquisitorial framework.

Considering natural law within the context of the Inquisition keeps us cognizant of its essential attributes, which I understand as corporate, corporeal, cosmological, confessional, and hierarchical. When scholars diminish any of these attributes they diminish the possibility of understanding a jurisprudence outside the limits of liberalism. Efforts to minimize the hierarchical nature of natural law, for instance, may make the theory more palatable to modern democratic audiences but it reduces the true alternative that natural law offers.¹² Rather than squeeze natural law into modern ideas of justice, we might learn more from considering the values of natural law as a viable alternative to liberal jurisprudence.

This project is set up as a series of essays, each one exploring the distinctions between liberalism and natural law in the early modern era. I chose the form of the essay

¹¹ See Anthony J. Lisska, *Aquinas's Theory of Natural Law* (Oxford: Oxford University Press, 1996).

¹² See Paul J. Weithman, "Complementarity and equality in the political thought of Thomas Aquinas," *Theological Studies* (June 1998), 277ff. for an argument against the use of Aquinas as a source for liberal democracy.

as a vehicle for this study because it is itself a creation of early modern reforms. Although by persuasion a skeptic, Montaigne's method of listening to his own words suggests the internal dialogues central to natural law and described by Jacques Maritain as "consult[ing] and listen[ing] to the inner melody that the vibrating strings of abiding tendencies make present in the subject."¹³ The mechanisms of the essay also reinforces the corporeal nature of natural law. The essay succeeds in as much as it speaks to the senses, persuading through possession, leading Cynthia Ozick to describe an essay as "a warm body," not "a hidden principle or a thesis or a construct" but "a living voice."¹⁴

Although St. Thomas never explored the form of the essay, living almost three hundred years before its creation, his epistemology supports such an endeavor. Like Aristotle, Aquinas understood that all our generalities were understood through particularities: the particularities of this sight in front of these eyes, this vision on this day. Ralph McInerny summarizes this "settled and reiterated view" of St. Thomas: "any knowledge we have of things immaterial is founded on and derived from our knowledge of the material."¹⁵ The general principles, or immaterial things, were reached through analogic reasoning: as my hand is to my head, so am I to the monarch; as the pot is to the potter so am I to God. To unpack these simple analogies is to understand one's place in an all-inclusive, purposive order. Like the essay, Aquinas' universe has a point that can only be understood through both the imagination and the senses.

¹³ Jacques Maritain, *Man and the State* (Chicago: University of Chicago Press, 1951), 100, cited in Anthony J. Lisska, *Aquinas's Theory of Natural Law: An Analytic Reconstruction* (Oxford: Clarendon Press, 1996), 28.

¹⁴ Cynthia Ozick, "Introduction: Portrait of the Essay as a Warm Body," *The Best American Essays 1998* (Boston: Houghton Mifflin, 1998), xxi.

¹⁵ Ralph McInerny, *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas* (Washington, DC: Catholic University Press, 1997), 76.

The essay allows for language outside of the dictates of positivism. In as much as American political science has become ruled by the principles of positivism, political science methods tend to value the scientific and ahistorical over the interpretive and historical. However, as Dorothy Ross has pointed out in *The Origins of American Social Science*, scientific discourse, although claiming an ahistorical objectivity, served a historical purpose.¹⁶ Ross concludes that "American social science has consistently constructed models of the world that embody the values and follow the logic of the national ideology of American exceptionalism."¹⁷ Similarly in an early modern context, nascent positivist tendencies constructed models of the world that embodied the values of the Reformation. To subscribe to that anti-Catholic project seems inappropriate for exploring Thomas's argument. The essay, on the other hand, subscribes to the more interpretive methods employed by Max Weber and John Bossy, where history and social science converge.

Chapter 2 introduces the approach of understanding the principles of Thomas's political philosophy in an inquisitorial context, of considering the generous dictates of natural law within a transparently violent setting. "Thomism in action" explores some of the scriptural reasons for employing force against unorthodox Christians and how the inquisitors understood their role as both the distributors of mercy and the prosecutors of the One, True Faith.

Chapter 3 investigates the place of Thomism within an auto de fe. Using Pedro Berruguete's fifteenth-century painting as a focus, "Hierarchy's Spiritual Charge" considers the traditional hierarchy of grace, education, and force and how that tradition

¹⁶ Dorothy Ross, *The Origins of American Social Science* (Cambridge: Cambridge University Press, 1991).

¹⁷ Ross, 471.

was brought into the early modern era through the Jesuit imagination. Berruguete's auto is considered through the eyes of Lutherans, who see a corrupted Church, and through the eyes of Vitoria and Suárez, who see a well-ordered and rightly-proportioned society.

Chapter 4 looks at one reconciliation trial in Colonial Mexico. I chose this case for close study because the defendant is from a *converso* family that was repeatedly scrutinized by the Mexican Inquisition. Many members of the Carvajal family were burnt at the stake. The prosecutions against them are often cited by historians wishing to depict the intolerance of the Holy Office. Yet the trial of a fourteen-year-old girl of this persecuted family reveals how the inquisitors understood their judicial purpose: not as enforcers of the anti-Semitic *limpieza de sangre* statutes but engaged in Thomist jurisprudence.

Chapter 5 focuses on the conception of the citizen within the Catholic and Protestant worlds. As with the competing visions of the auto de fe, the understanding of the self is radically different in the Catholic and Protestant context. "Substantial Change" traces the development of the self in consciousness in Protestant thinking against the competing claims of self in substance as understood by the Thomists.

Chapter 6 focuses on the dilemma of prosecuting supernatural occurrences, i.e. visions and internal movements. Because grace was both an extension and beyond human reason, prosecutors of *alumbrados* and *ilusos* (people experiencing supernatural visions and revelations) cultivated a jurisprudence that was both accepting and critical of cosmological occurrences. The cases considered in "The Sin of Self-Assurance" demonstrate how Aquinas' theory on prophesy was effectively used to distinguish between the demonic and the divine while at the same time reducing the political challenge of prophesy by reaffirming the corporate identity of the self.

The final chapter summarizes the argument found in all of the various chapters: that Thomism provides a coherent vision of justice that may, in certain circumstances, provide a valuable alternative to liberalism. While not promoting any social policy, per se, a closer reading of the Inquisition does provide a more accurate measure of the competing brands of jurisprudence within the Western tradition.

A final note on translations. All the works of the Thomists were written in Latin, a language I recognize but do not know. Whenever possible, I relied on English or Spanish translations. All the archival material I used was written in Spanish. Unless otherwise noted, all translations from Spanish sources are mine. Also, all biblical citations were taken from the Revised Standard Version.

CHAPTER II

THOMISM IN ACTION¹

We tend to think of human knowledge as progressive; because we know more and more, our parents and grandparents are back numbers. But a contrary theory is possible –
Robertson Davies, *The Rebel Angels*

Introduction

When Martin Luther dismissed the powers of the papacy, he not only initiated the Great Schism in Christianity but he also delivered the final blow to an already fissured Western thought, splitting the thing in two. With the establishment of Lutheranism, the "two major theological traditions of the early modern period,"² moved out of their troubled marriage under the Roman Catholic Church and into separate quarters. Nominalism, or Ockhamism, moved North leaving behind Intellectualism or Thomism in the South.

In the thirteenth century, William of Ockham argued for a separation between the secular and the spiritual realms. His argument was based on the theory that God's will was supreme to God's reason. The creation of the universe, therefore, was a product of divine will, a momentary act that did not necessarily entail any intellectual reasoning on God's part. The contingent nature of Ockham's model of creation, its lack of rational ordering, meant that mere humans would always remain clueless as to the big picture.

¹ Parts of this chapter appeared as "The Rule of Faith over Reason: The Role of the Inquisition in Iberia and New Spain," *The Journal of Church and State* (Winter 1998), 57-82. I am indebted to Laura C. Stevenson for her invaluable comments in bringing that article in line with the project of this book.

² James Tully, *An Approach to Political Philosophy: Locke in Context* (Cambridge: Cambridge University Press, 1993, 202).

God's will be done, according to the nominalists, meant that the best a human could do was to pledge obedience and to tolerate ignorance of divine reason. As one medieval scholar put it, nominalist theology had a "ceiling," the will of God.³

Thomism, the philosophical system based on the writings of St. Thomas Aquinas, had reached a very different conclusion. Being a rational and purposive being, God had created a rational and purposive world or, as James Tully puts it, "a product made in accordance with a plan."⁴ Humans participated in that product through the light of reason, which, although of a different order than God's reason, was of a similar kind. Thomists spoke of human nature as "implanted" and "instilled" with a natural power of comprehension, i.e. natural law. God's will be done involved the powers of the intellect, not just obedience. Before obeying a divine command, the human mind was engaged and active, determining for itself what the particulars of God's will might be in any given circumstance.

In their battles against the heretics to the North, sixteenth-century Spanish Jesuits and Dominicans drew on Aquinas' generous understandings of human nature. As far as these Spanish Thomists were concerned, the source of Luther's error, like the error of his nominalist predecessors, was his limited notion of human potential. The Jesuit Francisco Suárez (1548 - 1617) insisted that "the fundamental error of the heretics" was that they did not recognize that "we are truly and intrinsically justified through an inherent justice given by Christ" and that we are "subject to a true law at all times."⁵ As far as the

³ Cited in Francisco Cervantes, *Devil in the New World* (New Haven: Yale University Press, 1994), 22.

⁴ Tully, *An Approach*, 202.

⁵ Francisco Suárez, quoted in Quentin Skinner, *The Foundations of Modern Political Thought Volume 2: The Age of Reform* (Cambridge: Cambridge University Press, 1978), 167.

Thomists were concerned, the Lutherans were disregarding the natural capacities of mankind.

The other source of power that the Lutherans belittled was the power of the Roman Catholic Church. Not only did the Lutherans, staying true to their Ockhamist tradition, deny the importance of the intellect in determining the ways of God but they also denied the efficacy of the Church in reworking the substance of the human soul. Focusing on the corruption of bishops, the Lutherans denied the very possibility of absolution and other sacramental functions that enhanced the powers of the human mind. The Church may have trafficked too widely in the granting of indulgences but it also held out the possibility of redemption. The spiritual powers invested in the Roman Catholic Church included the ability to reinstalled the light of reason after sin had reduced the wattage.

Thomist rationality always included supernatural thought processes. It was not just a matter of obeying the priest's orders, but of moving one's mind up the Chain of Being. For the Lutherans, there was no Chain of Being, no possibility of mentally walking up the ladder into the angelic spheres. Instead, the mind could only go so far. Beyond the natural world, there was the unspeakable and unknowable world of God. God could only be known in name alone, hence the term, nominalism.

Inasmuch as the modern era has favored the intellectual climate of the North, the Thomist arguments have rarely found a wide audience in English-speaking circles. Early modern political thought generally begins with Machiavelli and Hobbes and runs straight to Locke with little mention of the work of the Catholic branch of political philosophy that flourished in the sixteenth and early-seventeenth centuries. Indeed, according to many English-speaking sources, Catholicism and political theory were mutually exclusive. Thomas Babington Macaulay (1800-59) described Roman Catholicism as "a complete

subjection of reason to authority, a weak preference of form to substance, a childish passion for mummies, an idolatrous veneration for the priestly character, and, above all a merciless intolerance."⁶ John Adams, writing to his wife Abigail in 1774, described a Roman Catholic Mass he happened to come across in Philadelphia: "Here is everything which can lay hold of the eye, ear, and imagination – everything which can charm and bewitch the simple and ignorant. I wonder Luther ever broke the spell."⁷ According to these Protestant sources, Catholicism bewitched the mind rendering it incapable of reason.

Lewis Hanke first broke the spell of anti-Catholic historiography with his work on Bartolomé de las Casas and the Francisco de Vitoria's natural law arguments on behalf of the Indians in the New World.⁸ Anthony Pagden added to Hanke's effort by describing the "political imagination" of the Dominicans involved in the Conquest of the New World.⁹ Their works on sixteenth-century Thomists illuminated the rational basis of Catholic political thought, particularly the natural law argument that reduced the rights of the Spaniards and enhanced the rights of the Indians in the New World. The writings of Vitoria and de las Casas revealed a compassionate, rational system of thought that, in Hanke's words, "struggled for justice."

⁶ Cited in Richard John Neuhaus, *The Catholic Moment: The Paradox of the Church in the Postmodern World*, (San Francisco: Harper & Row, 1987), 10.

⁷ Cited in Neuhaus, 10.

⁸ Lewis Hanke, *The Spanish Struggle for Justice in the Conquest of America* (Boston: Little, Brown & Company, 1965).

⁹ Anthony Pagden, *Spanish Imperialism and the Political Imagination* (New Haven: Yale University Press, 1990).

Quentin Skinner, Richard Tuck, and James Tully have further enhanced the status of the Thomists in their studies of the foundations of early modern political thought.¹⁰ Rather than offering a condition for absolutism, as Macaulay's opprobrium suggests, sixteenth-century Thomist arguments provided the basis for constitutionalism, community consent, limited property rights, and international law. Indeed, these scholars argue that Protestant early modern political thought can only be understood in the context of debates with their Catholic adversaries: particularly Francisco Suárez, Luis de Molina, Domingo de Soto, and Juan de Mariana. Thanks to the extensive research of Skinner, Tully, and Tuck, we now understand that modern democratic theory did not spring full-grown from the Reformation's head but, on the contrary, was brought into being as part of a mind-to-mind conflict between Protestants and Catholics. Indeed, Tully's research suggests that when it came to property rights, John Locke was as influenced by Suárez as anything Luther or Calvin said.¹¹

Understanding the Thomist position offers more than just historical or geneological explanations. The arguments drafted by Thomists against what they saw as Protestant absurdities – i.e. that man's natural state was individualistic, that the government's role was purely coercive, and that the use of one's private property was absolute – suggest a radically different way of going about things. According to the Thomists, an individual's perfection did not come from autonomy or the protection of private property but from participation in a larger group. Surprisingly enough, one of the institutions that worked to enhance that participation was the Inquisition.

¹⁰ See Richard Tuck, *Philosophy and Government* (Cambridge: Cambridge University Press, 1993).

¹¹ See James Tully, *A Discourse on Property: John Locke and his Adversaries* (Cambridge: Cambridge University Press, 1980).

Thomists such as Francisco de Vitoria and Bartolomé de las Casas, who argued for the rights of Indians in the New World, make for appealing poster children. The human rights concerns they voiced on behalf of all humans, whether Christian or pagan, resonate in our twenty-first century ears. The Inquisition, on the other hand, appears at first glance to be a wretched place to consider the Thomists contribution to modern political thought. The grisly image of an auto de fe, the suspicious character of an inquisitorial tribunal, make questionable the very notion that the Spanish were struggling for justice. The question remains, however, given the strong anti-Catholic bias in Protestant intellectual thought, how much of our understanding of the Spanish Inquisition is based on historical accuracy and how much on Protestant propaganda?

The portrait of the Holy Office painted by Protestant historians featured intolerance, bigotry, sadism, and corruption. William H. Prescott referred to the Inquisition as an "eye that never slumbered."¹² The extensive work of historian Henry Charles Lea, completed in the early part of the 20th century, reinforced any anti-Catholic, anti-Hispanic tendencies.¹³ These works spawned a generation of historians who perpetuated the representation of the Inquisition as Evil institutionalized. Given the success of this Black Legend with regard to the Holy Office, why use its proceedings as the site of inquiry into the philosophical system of Spanish Thomists? Wittgenstein offers a clue.

If one of the problems inherent in philosophical language games is the underlying assumption that a general cohesive theory will explain what is in fact complex,

¹² Cited in Edward Peters, *Inquisition* (New York: Free Press, 1988), 286.

¹³ See Henry Charles Lea, *A History of the Inquisition of Spain*, 4 vols, (New York: Macmillan, 1906-8) as well as Lea's *The Inquisition in the Spanish Dependencies* (New York: Macmillan, 1908).

overlapping, and contradictory, then the only hope of achieving real understanding is to pay attention to details.¹⁴ This means looking at a system of thought both in its more sympathetic settings, as Hanke did with the missionaries involved in the Conquest, and in its least sympathetic, i.e. the Holy Office. Not only do we see natural law theory in action in the New Laws of Burgos, which used natural law reasoning to curtail the practice of enslaving Indians, but we also see natural law theory in practice in the persecution of heretics in the post-Tridentine era.

The practices and predicaments of the inquisitors offer a field rich in Thomist details. For instance, how did the inquisitors square protection of the Indians with the eradication of idolatry in the New World? What was the relationship between an innate sense of justice and a cosmology peopled by demonic forces who might corrode that inner sensibility? If the Thomists believed so much in the natural powers of the individual, why did they burn some of those individuals at the stake? The proceedings of the Inquisition provide answers to these questions.

Rather than see the Holy Office as a perversion of justice, therefore, it might better be understood as "an exemplary center," what Clifford Geertz describes as "an image of divine order and a paradigm for social order."¹⁵ The auto de fe, in particular, provided an opportunity for the Thomists to make visible to the multitude what their world view looked like in practice. The divinely-ordered universe was laid out in royal splendor with the sinners on the bottom and the most blessed at the top. The frontispiece, a fifteenth-century painting by Pedro Berruguete, illustrates the divine order

¹⁴ See Ludwig Wittgenstein, *Philosophical Investigations*, trans. G.E. M. Anscombe, nos. 65-97 (New York: Macmillan, 1958).

¹⁵ Clifford Geertz, *Islam Observed: Religious Development in Morocco and Indonesia* (Chicago: University of Chicago Press, 1971), 36.

at its best: a saint is presiding, St. Dominic. Although the burning of heretics is troubling to modern sensibilities, it should not be confused as the beginning and end of Thomist justice. Rather Berruguete's painting offers a range of possibilities: The sinner might stoop to the necessity of force (the soldiers) or rise to the powers of the intellect (the friar at the base of the stairs). The Thomists would argue that the natural tendency was to the latter. Only the poor soul corrupted by evil would need the prodding tools of the soldiers.

The distinguishing feature of Thomism was its essential belief in the capacity of the sinner to be reconciled. The heretic who came before a Thomist inquisitor was assumed to have an innate sense of justice. Should a bit of force be applied, it was only to make clear what the sinner had clearly forgotten. According to the Thomists, the coercive powers of the state gave force in the world (*in foro externo*) to what was already known in each person's conscience (*in foro interno*).¹⁶ The use of force did not corrupt the mission, as Locke would argue in the next century in his *Letter on Tolerance*, but provided incentive and instruction for the fallen. In this regard, the Thomists were consistent with divine scripture. In the words of the Psalmist, God fashioned pain "to be a lesson." In the words of Deuteronomy, God "strikes to heal." Augustine read these passages and concluded that God brings "death upon us so that we should not die apart from him."¹⁷ The Thomists tempered Augustine's stoicism by expanding the emphasis beyond the painful lesson. Force might be necessary at times, however, what was most important was the human capacity to learn and be healed. The Inquisition, inasmuch as it followed Thomism, was part of that process.

Not all inquisitors were Thomists, however. Many of the original colonial inquisitors were Franciscans and their proceedings largely followed nominalist guidelines.

¹⁶ Skinner, 149.

¹⁷ Augustine, *Confessions* II,ii,4 (Oxford: Oxford University Press, 1991), 25.

Fernando Cervantes' extensive research on the Colonial Holy Office outlines the internal struggles between the nominalist and Thomist perspectives. These thirteenth and fourteenth century internal struggles became external struggles in the sixteenth and seventeenth centuries against the Protestants. Some of the arguments pitched against the Lutherans in the sixteenth century were drawn from Thomist arguments pitched against the nominalists in the fourteenth and fifteenth centuries. The question of what was superior, God's will or God's reason, was as much a part of the medieval and Catholic reformation debate as it was a place of dissent between the Protestants and the Spanish Thomists. Some of those internal disagreements are apparent in the different methods employed by various schools of inquisitors. The three orders involved with the Holy Office each understood Aquinas in a different way: the Franciscans, who followed a more nominalist framework, looked for obedience over understanding; the Dominicans, who subscribed to a more rational understanding looked for intellectual awareness; the Jesuits, who added the affections into the intellectual mix, looked for spiritual movement.

The Higher Law of Inquisitorial Justice

The Inquisition was in the business of prosecuting heretics, those members of the flock who strayed from the orthodoxy of the Roman Catholic Church into some unauthorized brand of faith. A heretic, it should be noted, was not an infidel, someone outside of the faith, such as a Jew, a Muslim, an Aztec. A heretic was a Christian whose internal beliefs were inconsistent with Church doctrine: a Cathar, a *judaizante*, a Protestant; someone who presented himself as a Christian but, from the Church's perspective, was engaging in speculative error to the risk of his own personal salvation and that of his neighbors. Unlike petty criminals, who were charged with crimes against the state, the heretic was charged with crimes against God. Within the hierarchy of laws

established by St. Thomas Aquinas, the law that the heretic violated was of a far greater magnitude than those laws enforced by the civil courts.

Because the Inquisition was involved in spiritual concerns, its authority was ranked high in the Thomist hierarchy of laws, beneath eternal law and an extension of divine law. The highest order of law, one beyond the ken of mere humans, eternal law, is the law created by God as he set about making a rational and purposive universe. Divine law, which is subject to eternal law, is the law which God revealed to humans and is thus of a supernatural order. The Church's authority and, by extension, the Holy Office's jurisdiction, was founded on divine law, particularly Jesus' final order to Peter, "Feed my sheep,"¹⁸ the terms of which were enumerated in a passage from Matthew: the power to bind and loose.¹⁹ Natural law, which is subject to both eternal law and divine law, is the law that God "implants" in men "in order that they should be able to understand his designs and intentions for the world."²⁰ Human law, which is subject to all three higher laws, is the posited law by which men rule themselves. Human law, as promulgated by the king to his people, controlled much of the temporal sphere.

According to Aquinas, divine law was divided into two separate categories, the Old Law of Moses and the New Law of Christ.²¹ In the transition from Judaism to Christianity, the scrutiny of the law moved beyond external actions, the fulfillment of the Covenant, and into the activities of one's soul, the obligation of faith. No longer would

¹⁸ John 21:15. All biblical quotes are taken from the Revised Standard Version.

¹⁹ Matthew 16:19.

²⁰ Skinner, *Foundations*, 148. See also Suárez, *De Legibus*, I, iii, 7, in *Selections from Three Works of Francisco Suárez* (Buffalo, NY: William S. Hein, 1995), 41.

²¹ St. Thomas Aquinas, ST I-II, Qu. 91, art. 5, from *A Treatise on Law* (Washington, D.C.: Regnery Press, 1996).

compliance be enough. Going through the motions, i.e. keeping the Sabbath, not sleeping with your neighbor's wife, no longer fulfilled man's covenant with God. Under the terms of the New Law, what mattered was the activity of the mind, the yearning of the heart, the pull of the conscience. The Old Law "induced men to observe its commandments... by the fear of punishment," wrote Aquinas. The New Law accomplished the same objective "by love, which is poured into our hearts by the grace of Christ."²² Fear of punishment was a less perfect vehicle for bringing the soul around than the more perfect vehicle of grace. Still, love and grace were not always effective in saving society from the corruption of heretics. Aquinas is most insistent in this regard: "If it is just for counterfeiters or other criminals to be executed immediately by secular rulers, it is all the more just for heretics once they are convicted of heresy not only to be excommunicated but to be put to death."²³

The methods of the Old Law, therefore, were never discarded but developed into something more perfect. "[A]s perfect and imperfect in the same species, e.g. a boy and a man," wrote Aquinas, "in this way the Divine law is divided into Old and New."²⁴ The essence of the Old Law, punishment and intimidation, remained in the New and was perfected through love. Judgment was no longer distant and unconnected but intimate and immediate. "If your right hand causes you to sin," said Jesus to his disciples in the Sermon on the Mount, "cut it off and throw it away; it is better that you lose one of your members than that your whole body go into hell."²⁵

²² Aquinas, *Treatise*, 24-25.

²³ St. Thomas Aquinas, *Summa Theologiae*, II-II, Qu. 11, art. 3, in Paul E. Sigmund, ed., *St. Thomas Aquinas on Politics and Ethics* (New York: Norton, 1988), 63.

²⁴ Aquinas, *Treatise*, 24.

²⁵ Matthew 5:30.

The paradox presented by a New Law that espoused both forgiveness and social amputation was not lost on any of the Church Doctors. Immediately after imposing a death sentence for heretics, Aquinas reminds the reader that "[t]he Church... is merciful and desires the conversion of those who are in error. Therefore she does not condemn them immediately 'but after a first and second admonition.'"²⁶ Aquinas is citing a passage from St. Paul's letter in which he advises Titus how to deal with a "factious man." "[A]fter admonishing him once or twice, have nothing more to do with him, knowing that such a person is perverted and sinful; he is self-condemned."²⁷ In Paul's epistle, the punishment of the sinner is postponed to the afterlife; the factious man is self-condemned. By the time of Aquinas' writing in the mid-thirteenth century, postponing judgment to God's final tribunal was not as acceptable as putting the confirmed heretic to death.

St. Paul's recommendation to let God be the final arbiter was consistent with the policies of the the early Church, an institution that saw itself more persecuted than persecuting. Elphege Vancandard, a French Church historian, reports that "as late as the middle of the fourth century and even later, all the Fathers and ecclesiastical writers who discuss the question of toleration are opposed to the use of force."²⁸ The principle that was to prevail for centuries was "*Ecclesia abhorret a sanguine* (The Church has a horror of bloodshed)." As far as the early Church Fathers were concerned, "faith must be absolutely free, and conscience a domain wherein violence must never enter."

²⁶ Thomas in Sigmund, 63.

²⁷ Titus 3:10.

²⁸ E. Vancandard, *The Inquisition: A Critical and Historical Study of the Coercive Power of the Church*, trans. by Bertrand L. Conway, C.S.P. (New York: Longmans, Green, and Co., 1908), 7.

Nonetheless, when confronted with a particularly anti-social sect even the most tolerant theologians had to formulate a middle ground. St. Augustine, for instance, may have declared abstractly that the death penalty was unjust in the case of heretics and schismatics, yet the Donatist reality prompted a different response. "They kill the souls of men, and the State merely tortures their bodies; they cause eternal death, and then complain when the State makes them suffer temporal death."²⁹ Self-condemnation, the penalty articulated by St. Paul, was not enough of a judgment when other men's souls were at risk. For not only did the early Church understand itself as God's attorney general, in which case the wrongdoer might just as well wait until the Final Judgment Day to pay for his sins, but it also saw itself as engaged in cosmological battles, in which the very survival of mankind was at risk.

The Spanish Thomists saw much of Ockham in the heresies of Luther and his followers. According to Skinner, these Dominicans and Jesuits "deliberately turned away from the form of scholasticism developed by Ockham and his disciples, perceiving it to be too closely linked – especially in its skeptical analysis of man's reasoning powers – to the heresies of the Luthcrans."³⁰ In that turning, the Spanish Thomists reemphasized the role of natural law in spiritual matters. Aquinas may have called for the execution of heretics after a first and second admonition, but the Thomist Jesuits, such as Suárez, expanded on the possibility of redemption by recommending execution only "after sufficient education and ecclesiastical admonitions."³¹

²⁹ Vancandard, 19.

³⁰ See Skinner, *Foundations*, 148.

³¹ Suárez, *Opera Omnia, Editio Nova*, XII, tr.1, cited in Reiko Wilenius, *The Social and Political Theory of Francisco Suárez* (Helsinki: Societas Philosophica Fennica, 1963), 69.

In the sixteenth-century, this renewed sense of the importance of natural law informed the relationships between the inquisitor and the accused. The emphasis on man's innate sense of justice, however, should not be construed as implying any less emphasis on divine law. Just as natural law enhanced the powers of the person, so divine law enhanced the powers of the Church, a point the Thomists were most eager to defend against Protestant challenges. The *Decree concerning the canonical Scriptures*, promulgated by the Council of Trent in 1546, declared the Church to be, in Quentin Skinner's words, a "visible and jurisdictional institution, the structure and traditions of which are derived directly from the inspiration of the Holy Ghost."³² The power granted to the Church, and by extension the Holy Office, included both the power to direct and the power to coerce in spiritual matters. In his *Defence of the Catholic and Apostolic Faith*, Suárez argues against James I's oath of allegiance by citing scriptural authority for the Church's coercive powers:

Feed my sheep, is not limited, and accordingly, since the term 'feed' (*pascendum*) embraces even coercive power, which must necessarily reside in every pastor, the said power is not restricted to the imposition of censures, but rather remains to be shaped through prudence and equitable justice into some [appropriate] form of punishment or coercion. For every shepherd has power to coerce his sheep, not [simply] in some predetermined manner, but in accordance with what may be suitable and expedient for those sheep.³³

The many meanings that Suárez attaches to the word "feed" explains how the Inquisition could use force and still be in compliance with holy scripture. The Church needed force not just to move the sheep up the intellectual Chain of Being but also to keep the sheep from being devoured by demonic wolves. Part of the purpose in God's rational universe

³² Skinner, *Foundations*, 144.

³³ Francisco Suárez, *A Defence of the Catholic and Apostolic Faith* III, xxiii, 10 in *Selections*, 692.

was to rid the world of evil, an evil that had bedevilled the faithful since the beginning of time. The Church needed both directive and coercive powers because the Church was engaged in a battle of enormous magnitude. The skirmish with the Lutherans, in other word, was only the tip of the iceberg.

The Problem of the Apocalypse

Beginning as early as the Book of Daniel, the Israelites were warned about the presence of an anti-Messiah.

In his place shall arise a contemptible person to whom royal majesty has not been given; he shall come in without warning and obtain the kingdom by flatteries. Armies shall be utterly swept away before him and broken and the prince of the covenant also. And from the time that an alliance is made with him he shall act deceitfully; and he shall become strong with a small people.³⁴

The falseness of the Antichrist was an essential part of his nature. His coming to power would be done "by flatteries;" he would be able to convince "small people" of his legitimacy. His power and legitimacy would not be a measure of his own strength but of the naivete of the people. The only hope the People of the Covenant had of enduring his reign was to recognize him for what he was: a force of evil.

The prophesies of the Old Testament were incorporated into the cosmology of the early Christian church. Hippolytus, a Greek who served as presbyter in Rome from about 200 to 235 CE, wrote several exegetical tracts on the Antichrist explaining how the "Antichrist will be a perverted imitation of Christ." Hippolytus listed five criteria that the Antichrist would share with the Messiah: (1) he will be of Jewish origin; (2) he will send out apostles; (3) he will bring together people who have been scattered abroad; (4) there will be a sealing of his followers; (5) he will appear in the form of a man; and (6) there will

³⁴ Daniel 11:21-24.

be a building of a temple (in Christ's case the temple of his body in the resurrection; in Antichrist's the raising of a new stone temple in Jerusalem)."³⁵ All the signs for Christ, "the annointed one," were also the signs of the Antichrist, a condition that strikes at the problem of heresy. Heresy is, at its etymological root, a poor choice; a mere imitation of orthodoxy.

The appearance of the True Christ indicated the beginning of the judgment phase, the second stage of the Apocalypse. In the struggle over the fate of the world, the Christ would be killed by the Antichrist and the faithful, continuing to believe in the righteousness of the Chosen one, would have to endure a specific number of days until God rewarded them with eternal salvation. In the final stage of the Apocalypse, the phase of reward, all pretensions would be removed and the truth finally would be revealed. Those who followed the true Prophet would be saved and those who followed the false Prophet would be eternally damned.

Christians, wanting to validate their chosen Messiah, pointed to tyrants such as Antiochus and Nero as historical evidence that the end times had begun and that Jesus of Nazareth was, in fact, the Son of Man, brought down to earth to wage battle with these forces of evil. Those Jews who did not immediately convert to Christianity were likened to the "small people" deceived in the Book of Daniel. In a shift that would have tragic consequences for Jews throughout history, the people of Israel went from being the Chosen People to having their powers of judgment denied. But it was worse than that statement implies. In terms of the Apocalypse, the Jews were viewed not just as imperceptive or stubborn, but as having been coopted by the forces of evil.

³⁵ Bernard McGinn, *Anti-Christ: Two Thousand Years of the Human Fascination with Evil* (New York: HarperCollins, 1994), 61.

Theological scholar Elaine Pagels has demonstrated how Matthew, Mark, Luke, and John used the rhetoric of Satan to explain the conduct of what she calls "the intimate enemy." In all four gospels, the scriptural authors depicted the Jewish leaders and the Jewish mobs as being controlled, "however unwittingly," by Satan. Instead of laying the blame for the persecution of Jesus at the door of the Roman state, where from a historical perspective it clearly belonged, the Gospel writers depicted Pontius Pilate as harmless and the Scribes and Pharisees as possessed by the devil.

In history, Pontius Pilate used his Roman appointment to terrorize the colonized Jewish people of Jerusalem. In the Synoptic Gospels, these historical cruelties are omitted. Instead of framing Christ's death in terms of political prosecution, the Gospel writers explained his crucifixion in terms of the Jewish leaders' lack of faith. The Jews were held accountable because they should have known better. As far as the writers of the Gospels were concerned, the problem was not from without, it was from within. "The figure of Satan," writes Pagels, "is not a hostile power assailing Israel from without, but the course and representation of conflict *within* the community."³⁶ The fear of an intimate enemy did not end with the separation of Christians from the Israelites. The Christians had their own intimate enemies, people who pretended orthodoxy but had "unwittingly" entangled themselves with the forces of evil. The light of reason was not strong enough to separate them from their error.

Man's innate sense of justice, therefore, was challenged by supernatural actors. Satan and his minions had the power to corrupt the inner workings of the mind, to smudge the law written on men's hearts. An individual alone was not in a position to fight these supernatural forces. Only the Church was granted sufficient power to rid the world of evil. The divine and apostolic traditions – going to mass, taking the Eucharist,

³⁶ Pagels, *The Origins of Satan* (New York: Vintage Books, 1996), 34.

confessing fully to all one's sins – helped the faithful to remain spiritually fit so that they could survive the apocalypse. This concern for apocalyptic matters may explain part of the Thomist reaction to Luther's claim of *sola scriptura*, that scripture alone would save a person's soul. The Thomists declared that "as well as the written word of God we require the unwritten word, that is, the divine and apostolic traditions."³⁷ To think that a person alone with her bible could outwit the forces of evil was to minimize a cosmology that, at any time, could erupt into a state of war.

The Auto de Fe and the *corpus mysticum*

Historian Alejandro Cañeque describes the public spectacle of the auto de fe as "a performance that revealed the fate sinners would have to face when the Last Judgment Day came."³⁸ Cañeque's research underscores the connection between the colonial government and the powers of the Holy Office; by participating in the ritual the Viceroy positioned himself clearly on the side of God's will. However, the highly ritualistic performance of the auto not only solidified colonial political powers, but it also made visible the divine and apostolic powers of the Church. According to the Thomists, the auto displayed the Church's power not over the political body but against the powers of evil; a point not lost on the Catholic spectators.

As far as the Catholic was concerned, the Inquisition was performing a necessary function by ridding the community of dangerous internal elements, either through extermination or reconciliation. Those who were unwilling to recognize the justice of Christ, even after sufficient education and ecclesiastical admonition, were cut off from the

³⁷ Robert Bellarmine, cited in Skinner, 146.

³⁸ Alejandro Cañeque, "Theater of Power: Writing and Representing the Auto de Fe in Colonial Mexico," *The Americas* 52 (January 1996), 321-343, 343.

community. Those who responded to the teachings of the Dominican and Jesuit inquisitors were reconstituted into a working member of the mystical body of believers, the *corpus mysticum*. A reconciliation, therefore, should not be confused with a pardon but was, instead, a reconfiguration of the citizen on the level of transubstantiation. In terms of natural law, reconciliation meant having one's nature as well as one's place in the *corpus mysticum* restored.

The first *ecclesia* outlined by St. Paul in his first letter to the Corinthians was a corporate organic entity. The many "were made to drink of one Spirit"³⁹ and in that making were made into one. The phrase "were made" (or in Spanish, *se nos dio*) might be understood as an expression of natural law. It might also be understood as scriptural permission to coerce, a point not lost on the inquisitors. To make the heretic drink of the Spirit of Christ was to restore a natural order, to make the lost one part of the mystical body.

The body metaphor also articulated a social order in which every segment of society had its own type of perfection, its own contribution to the whole. Just as the ear was not expected to see, but depended on the eye for that function, so the member of a weaver's guild was not expected to understand the nuances of theology but depended on the Church for instruction. The head of the body religious would do the thinking for all the organs and limbs. The faithful would be taught the Pater Noster, the Ave María, and the Credo, the divine and apostolic traditions of the Church, but they would not be given translations into the vulgar tongue. It was enough that they fully participated in the mystery of the sacraments. Confession, in particular, would perfect their imperfections. Reason and thinking would be the burden of the scholars, the inquisitors, the ecclesiastically-trained. They alone would bear the weight of interpretation. The faithful

³⁹ 1 Cor. 12: 13.

would be free to live the life of pure faith, following the law that St. Paul had described as "written on their hearts."⁴⁰

This neatly compartmentalized solution was not without its problems. The fact that the masses' understanding of faith was based more on obedience than reasoning put them at risk of corruption, of being lead astray by false prophets. As a social policy, it smacked of nominalism; participation might be based purely on obedience and not on reason. Bartolomé de Las Casas, for instance, lamented the practice of baptism *en masse*. He insisted that conversion required more than just going through some sacred motion but demanded some intelligence as well. His views were shared by the Apostolic Inquisitor Don Vasco de Quiroga, a Franciscan, who set up hospital-villages, based on Thomas More's *Utopia*, which provided the Indians of the New World with religious instruction.⁴¹

Not all inquisitors were as convinced of the population's ability to learn. Cecil Roth describes an auto de fe in Andalusia, c. 1501, when 107 persons were burned alive "on the charge of having listened (not necessarily with approval) to the addresses of a certain Bachelor of Divinity named Membreque, who was accused of attempting to propagate the teachings of Judaism."⁴² Having listened to a heretical priest, the supplicants were found to be unredeemable. Roth does not mention any efforts to reconcile the listeners back to the faith. The inquisitors in this Andalusian case were obviously not guided by natural law reasoning. Rather, having found over one hundred members who threatened the social body, they cut them off immediately.

⁴⁰ Romans 2:15.

⁴¹ Paulino Castañeda Delgado, *Don Vasco Quiroga y su Información de Derecho* (Madrid: Ediciones Jose Porrua Turanzas, 1974).

⁴² Cecil Roth, *The Spanish Inquisition* (New York: Norton, 1964), 60.

Inquisitorial proceeding that resulted in penances and other visible forms of redemption suggest a different line of reasoning, not of a purely disciplinary nature. The penances performed at an auto de fe visibly changed the substance of a soul from heretic to reconciled, more in keeping with Aristotle than Foucault. The elaborately staged spectacle, with banners and platforms, scaffolding and velvet, illustrated the extent of the Church's powers in remitting sins, in restoring a person's nature, in removing the blot of evil from her soul.

Originally, the Inquisition was purely an examining board. Created by Pope Gregorio IX in 1233, the Dominican-led tribunal limited its powers to interrogations and the ordering of spiritual penances. Yet pilgrimages and the saying of Ave Marias were not enough to combat the growing forces of evil, particularly in the matter of witchcraft. Innocent VIII, writing in 1482, decried the numbers of the Catholic faith, "many of both sexes, unmindful of their own salvation and straying from the Catholic Faith, [who] have abandoned themselves to devils, incubi and succubi..." Despite the good work of the Dominicans, continued the Pope, an order "not ashamed to contend with the most unblushing effrontery," these inquisitors were unable to enforce their rulings without legal authority. In order to remove "all hindrances and obstacles by which the good work of the Inquisitors may be let and tarred" as well as to "prevent the disease of heresy and other turpitudes diffusing their poison to the destruction of many souls," Innocent VIII decreed that the inquisitors "be empowered to proceed to the just correction, imprisonment, and punishment of any persons, without let or hindrance in every way as if the provinces, townships, dioceses, districts, territories, yea, even the person and their crimes in this kind were named and particularly designated in Our letters."⁴³

⁴³ "The Bull of Innocent VIII," in *The Malleus Maleficarum of Heinrich Kramer and James Sprenger*, trans. Rev. Montague Summers (New York: Dover, 1971), xliii-xlv.

Although the Inquisition was a court of law it did not follow the workings of the continental civil courts. Whereas an accuser in a civil matter had to post a bond, which was forfeited if the defendant was not convicted, the accuser in inquisitorial matters was not held liable for an accusation which did not prove to be true. A civil case had to be disposed within thirty days of initiation. A case before the Inquisition could take years before reaching a final determination. The defendant in a civil trial was given the names and statements of his accusers. There were no such discovery procedures in the inquisitor's court. H. C. Lea explains:

To the conscientious judge, eager to destroy the foxes which ravaged the vineyard of the Lord, the task of exploring the secret heart of man was no easy one. We cannot wonder that he speedily emancipated himself from the trammels of recognized judicial procedure which, in preventing him from committing injustice, would have rendered his labours futile... Omniscience alone was capable of solving with justice the problems which were the daily routine of the inquisitor; human frailty, resolved to accomplish a predetermined end, inevitably reached the practical conclusion that the sacrifice of a hundred innocent men were better than the escape of one guilty.⁴⁴

Although Lea's rhetoric suggests a certain willingness to convict the Holy Office of its own predetermined end, the emphasis on human frailty and the willingness to sacrifice a hundred innocent men certainly speaks to the record that Roth provided on the Membrequé case.⁴⁵ Yet neither Lea's accusation nor the Membrequé incident are consistent with the demands of Thomism. Some inquisitors were certainly caught up in

⁴⁴ H. C. Lea, *A History of the Inquisition of the Middle Ages* (New York: Macmillan, 1888), 100.

⁴⁵ The accuracy of Lea's scholarship has been challenged by both Greenleaf and Vacandard. Vacandard writes, "Lea's judgment, despite evident signs of intellectual honesty, is not to be trusted. Honest he may be, but impartial never. His pen too often gives way to his prejudices and his hatred of the Catholic Church. His critical judgment is sometimes gravely at fault" (vii).

the flames of anti-converso hatred that swept through Spain in the fourteenth century and early-fifteenth centuries.⁴⁶ But these judicial atrocities were not committed because of Thomism but in clear violation of its principles, and Thomists did complain.⁴⁷ Nor was the inquisitor completely free from "the trammels of recognized judicial procedure." Not only was his discretion subject to natural and divine laws, but the procedure itself was highly regulated.

The proceeding began with the *denunciamento*. Church authorities were sensitive to accusations of political misconduct, of being used as a pawn between rival factions. The inquisitors put every accuser and potential witness through careful and lengthy questioning to determine whether any accusing party or potential witness might be motivated by personal or political animosity. Evidence was then gathered by the investigators and was studied by the *calificadores*. If the evidence warranted it, the suspect (*reo*) was arrested and his property confiscated. He was then questioned without being charged and without knowing the allegations against him. After a brief time in prison, the charge was formulated and the indictment read. The *reo* would respond to the charges with the assistance of an attorney, someone employed by the Holy Office. The testimony of the witnesses was read without the benefit of their names.

If the *reo* did not confess to his sins, torture would be applied in order to induce a confession. The use of torture was also regulated. It was only to last for an hour. It was only to occur once for each charge. Any evidence which was gathered during the allowed hour was only permitted if the *reo* repeated it in court. According to ecclesiastical law, (*Ecclesia abhorret a sanguine*) no blood was to be shed. The defendant was either put on

⁴⁶ See Ben Zion Netanyahu, *The Origins of the Inquisition in the Fifteenth Century* (New York: Random House, 1995).

⁴⁷ See Henry Kamen, *The Spanish Inquisition: A Historical Revision* (New Haven: Yale University Press, 1997, 67-68).

the rack, submitted to water tortures, or had his hands and feet bound and then was dropped to within a few inches of the floor. Generally the authorities preferred to describe the torture instead of actually carrying it out. "There was always the admonition to tell the truth," reports Greenleaf, "and thereby avoid untold anguish."⁴⁸ The sentence was read, usually a very severe one, which served as another shock in a series of shocks set up to loosen the unrepentant's tongue. The actual sentence was usually much lighter than the one originally stated. This combination of severity and compassion allowed the inquisitor to fulfill his paradoxical mission: to eradicate heresy while modeling the Christian principle of forgiveness and grace. In this manner, it was thought, both the natural law of obedience and the natural law of reason would be engaged: by recognizing the Church's supreme authority, the heretic's mind would be set free to reason.⁴⁹

Even the prudent inquisitor, the faithful follower of official procedures and scriptural authority was not guaranteed immunity from judicial oversight. The case of Father Zumárraga in colonial Mexico provides a salient counter-example to Roth's Membreque account. The Membreque affair occurred on the heels of the expulsion of the Jews when anti-converso sentiments were particularly high in pockets of Spain. By the time of Zumárraga's case, some thirty years later, natural law reasoning was gaining the upper hand, particularly when the case involved the execution of an Indian.

⁴⁸ Richard Greenleaf, *Zumárraga and the Mexican Inquisition* (Washington, D.C.: Academy of American Franciscan History, 1961), 23.

⁴⁹ See Sabine MacCormack, "'The Heart Has Its Reasons': Predicaments of Missionary Christianity in Early Colonial Peru, *Hispanic American Historical Review* 65 (1985), 443-66.

The Case of Father Zumárraga

In his respectful biography of the Apostolic Inquisitor of Michoacán, Fray Juan de Zumárraga, Richard Greenleaf presents a substantially different story of the inquisitor's powers than that presented by Lea.⁵⁰ The trial of Don Carlos Chichimecatechuhua, in 1539, was, according to Greenleaf, "carried out without legal irregularities"⁵¹ and conformed to the standard procedures followed in Spain.⁵² Even so, when Fray Zumárraga burned the Indian cacique at the stake, he was found guilty of "excess zeal," and, in 1543, his apostolic title was taken away.⁵³

This case presents almost all the issues that perplexed the colonial Holy Office: jurisdictional difficulties, institutional legitimacy, anthropological puzzles, and the problem of idolatry. The defendant was an Indian at a time when Spanish theologians were still trying to determine whether the Indian had the capacity to profess the faith. This anthropological dispute had important bearing on the court's jurisdiction as only an erring Catholic could be tried by the Inquisition. If an Indian could not profess the faith then an Indian could not be subject to inquisitorial perfection. The case came some ten years before the famous trial at Valladolid (1550-1551), between the Spanish humanist, Juan Ginés de Sepúlveda and the Dominican Bartolomé de las Casas, in which the two great minds attempted to resolve the question of what was the nature of the Indian; and even then the result was unclear.⁵⁴

⁵⁰Greenleaf, *Zumárraga*, 22-23.

⁵¹Greenleaf, *Zumárraga*, 74.

⁵² See Henry Kamen, *The Spanish Inquisition: A Historical Revision* (New Haven: Yale University Press, 1997), 183 ff.

⁵³ Greenleaf, *Zumárraga*, 74-75.

⁵⁴ Lewis Hanke, *Aristotle and the American Indians* (Chicago: Henry Regenery Co., 1959), 88.

The case against Don Carlos Chichimecatechuhua also took place in the twilight era of colonial inquisitorial justice. At the time, an informal inquisition, set up by the Franciscans and other irregular Bishops, was prosecuting heretics under the Church's jurisdiction. Without the formal, centralized institution in place, the procedures varied wildly and irregularly with instances of prosecutorial abuse widely reported. Various complaints were registered in Castile calling, in particular, for the censure of the Franciscans. Eventually, these complaints prompted the Crown, in 1571, to establish the Mexican Holy Office under the administration of the Dominican order. The Crown's decision to put the Dominicans in charge underscores the rising legitimacy of Thomism.

Although he was a member of the Franciscan Order, an order noted for its cruelties in inquisitorial proceedings, Fray Juan de Zumárraga was one of those missionaries who believed that the Indian "was capable of the full cup of salvation."⁵⁵ Inquisition records reveal that Zumárraga was quite willing to prosecute Spanish landowners for mistreating Indians. In 1537, Zumárraga tried Gonzalo Gómez, an *encomendero*, who was accused of heresy for, among other things, working his "employees and his Indian charges on Sundays and feast days."⁵⁶ (A neighboring merchant also reported that he used crosses as a drying rack for chili peppers.) For these crimes, he was commanded to appear on Monday, 12 November 1537, at the altar rail of the Cathedral of Mexico City. Kneeling and with a candle in his hand, he was ordered to recite five Ave Marías and five Pater Nosters and the Rosary, "so that God would pardon his sins," explains Greenleaf. "As a penance he was to be confined in the Uruápan monastery for a period of thirty days to

⁵⁵ Greenleaf, *Zumárraga*, 28.

⁵⁶ Stephen Greenleaf, *The Mexican Inquisition of the Sixteenth Century* (Albuquerque, N.M.: University of New Mexico Press, 1969), 51.

meditate on his sins."⁵⁷ Gómez was also required to pay four hundred golden pesos before he would be released from jail, where he had been held since his arrest on 1 June 1537.

Zumárraga's prosecution of the local cacique might also be understood as a further protection of the Indians. Don Carlos Chichimecatechuhua told the men in his village to disregard any orders from the priest and to keep up the practice of concubinage. He told the women in his village "to obey their husbands in all things and not to complain when the husbands took other women. He related to others that he slept with his niece Inéz whenever he desired."⁵⁸ Besides terrorizing his people, in repeated violation of civil law, he also denounced the Church and the friars, claiming that Christianity was a false religion and telling his people that, without blood sacrifices, the insatiable Aztec gods would feed upon them all. "Few moments in history," writes Fernando Cervantes,

are filled with more bitter irony. The thought of a Franciscan friar, who was also a humanist, conversant with the writings of Erasmus and author of a treatise which spelled out Christian doctrine in simple language, acting out the role of inquisitor general, engaged in a ruthless and frantic persecution of unfaithful Indian apostates which culminated in the burning at the stake of a charismatic Indian leader, would have seemed like a very bad kind of nightmare to the early missionaries.⁵⁹

Nonetheless, Cervantes concludes that given the continued and widespread practice of idolatry – evidenced by the large numbers of young men "with their legs cut open or with wounds in their ears and tongues inflicted with the purpose of providing human blood for the idols"⁶⁰ – there was "no alternative action."⁶¹ Yet even the obvious presence of evil did

⁵⁷ Greenleaf, *Mexican Inquisition*, 69.

⁵⁸ Greenleaf, *Zumárraga*, 71.

⁵⁹ Cervantes, 14.

⁶⁰ Cervantes, 14.

⁶¹ Cervantes, 13.

not save Fray Zumárraga from censure. He was replaced by the Visitador Francisco Tello de Sandoval, who was sent from Spain to enforce the New Laws, the Thomist statutes which formally limited the *encomienda* system.⁶²

The case of Fray Zumárraga suggests that within the Holy Office, natural law was gaining legitimacy. No matter how troubling the cacique's behavior, Thomist doctrine required that the Indian be treated with leniency and mercy. The nature of the Indian was such that he should not be subjected to the cruelty of the stake but rather to the lessons of the priest. Zumárraga's humanism might have also landed him in difficulty. According to the Thomists, Erasmus, like Luther, was overly devoted to texts. The word, according to the Thomists, was not enough. It needed to be balanced by the traditions of the Church, by the mysteries of the mass, the practice of confession and the receiving of absolution. The light of reason was always enhanced by the nature of grace.

This two-fold understanding of human nature, part rational substance and part supernatural form, requires an almost poetic effort to fully comprehend. For natural law is not just the writing on the heart but the connection between human material and the supernatural scribe. Suárez explained that "with respect to the natural law, it is the teaching of theology that man may be considered from the standpoints of a twofold nature and dual light of reason." Suárez goes on to explain the components of this twofold nature:

The first standpoint deals with pure nature, or the substance of the rational soul, and consequently with the light of reason that is connatural to man. The second deals with the the nature of grace infused into man from above, and with the divine and supernatural light of faith which rules and guides him in this life.⁶³

⁶² Hanke, *The Spanish Struggle*, 97.

⁶³ Suárez, *De Legibus*, I,iii,11 in *Selections*, 43.

Inasmuch as the Inquisition conformed to these Thomist principles its own work was equally bifurcated. In other words, it was as involved in turning up the rational powers of the soul as in delivering, through its spiritual powers, an infusion of grace. The educational efforts of the inquisitors, examined in greater detail in Chapters 3 and 5, were aimed at increasing rationality by way of increasing the ability of the soul to receive grace. Blind obedience, the subjection of reason to authority, human frailty, all of these characterizations of the ignorant masses before the tyrannical inquisitors miss the nature of the enterprise, at least in its Dominican and Jesuit inceptions. Evil might be lurking around every corner, it might even be wearing the clothes of the orthodox, but that didn't mean the human mind wasn't up to the task. According to the Thomists every person before them was naturally endowed with a "form of law which dwells within the human mind, in order that the righteous may be distinguished from the evil."⁶⁴ All that was needed was to return the errant mind back to its natural harmony.

From a liberal perspective, this heavy-handed education smacks of intolerance, a denial of one's individual conscience, and the early liberals were eager to disabuse the true Christian of the need for so much mind-control. Yet just behind this notion of religious tolerance, which from a twenty-first century perspective appears to be the *sine qua non* of modernity, is the slightly troubling notion that we are severely limited in what we are allowed to know. For if liberal tolerance is predicated on voluntarism, on a limiting of the mind to this world, then what we may have gained in latitude we have lost in altitude. The word became enough because the apocalypse began to seem less likely. But along with a reduction of the Church's powers to fight off the forces of evil came a reduction in the mind's ability to ascend up the Chain of Being.

⁶⁴ Francisco Suárez, *De Legibus ac Deo Legislatore*, 1.3.9 in *Selections From Three Works of Francisco Suárez* (Buffalo, NY: William S. Hein & Co., 1995), 42.

CHAPTER III

HIERARCHY'S SPIRITUAL CHARGE

*A picture held us captive. And we could not get outside
it, for it lay in our language and language seemed to
repeat it to us inexorably.*
Ludwig Wittgenstein¹

The Picture that Held the Lutherans Captive

From the perspective of the two heretics, the elaborately staged spectacle of the auto de fe hardly looked Christian. By the time Berruguete's fifteenth century vision had become a sixteenth century reality, chances were good that the two men dressed in loin cloths, waiting to become one with the flames, were Lutherans. The extravagant display of political and ecclesiastical powers would have confirmed the Lutherans' worst suspicions about the Roman Catholic Church. Rather than feel the presence of divine judgment nipping at their heels, as the inquisitors intended, the confirmed and hapless Protestants would have gleaned an entirely different lesson from the whole affair. As far as the Lutherans were concerned, the auto was not an example of Catholic justice but a perversion of the Christian faith.

As was the case with the penitent at the base of the stairs, these two Lutherans would have been met by a priest hoping to persuade them of their errors. The Lutherans, however, would hardly have been impressed with the priest's authority. "All of us who are Christians, are priests by the same priesthood as Christ," wrote Martin Luther in *De abroganda missa privata*. "There is no scriptural testimony whatever in the New Testament that any men should be distinguished from lay folk as priests by being

¹ Ludwig Wittgenstein, *Philosophical Investigations*, edited by G. E. M. Amscombe (New York: Macmillan, 1958), r. 115.

tonsured and anointed."² In *An Open Letter to the Christian Nobility of the German Nation Concerning the Reform of the Christian Estate*, written in 1520, Luther claimed that the community itself had the power to choose its own priest.³

If a little group of pious Christian laymen were taken captive and set down in a wilderness, and had among them no priest consecrated by a bishop, and if there in the wilderness they were to agree in choosing one of themselves, married or unmarried, and were to charge him with the office of baptizing, saying mass, absolving and preaching, such a man would be as truly a priest as though all bishops and popes had consecrated him.⁴

Nor would a Lutheran have recognized the power of an auricular confession. According to Luther, "it is unnecessary for this kind of sin to be brought before the church: the prelate or priest as they pretentiously interpret the term."⁵ Rather, it was better for each one to confess privately his sins "by one brother to another."⁶

As far as Luther was concerned, the state might use temporal powers to coerce its citizens to good behavior but the Church had no right whatsoever to torment men's

² Martin Luther, *De abroganda missa privata*, 9; cited in Francisco de Vitoria, "II On the Power of the Church," in *Political Writings*, edited and translated by Anthony Pagden and Jeremy Lawrance (Cambridge: Cambridge University Press, 1991), 126.

³ Luther himself eventually refuted this earlier position after the peasant uprisings made visible the subversive implications of his challenge to the Church. My thanks to Laura C. Stevenson for pointing this out. See also Quentin Skinner, *The Foundations of Modern Political Thought : Volume 2 The Age of Reformation* (Cambridge: Cambridge University Press, 1978), 75-81.

⁴ Martin Luther, "An Open Letter to the Christian Nobility of the German Nation Concerning the Reform of the Christian Estate, 1520," Available at: <http://www.iclnet.org/pub/resources/text/wittenberg/luther/web/nblty-03.html>.

⁵ Martin Luther, "Pagan Servitude of the Church," in *Martin Luther*, edited by John Dillenberger (New York: Doubleday, 1961), 320.

⁶ *Ibid.*

consciences. In his diatribe against the humanist Erasmus, Luther rails against the practice of confession:

a good theologian teaches that the common people should be restrained by the external power of the sword when they do evil ... [b]ut their conscience must not be fettered by false laws, and thereby be tormented for sins there where God had willed to be no sins at all. For consciences are bound by the law of God alone. So that Papal tyranny, which falsely terrifies and murders the souls within, and uselessly exhausts the bodies without, is to be banished forthwith. Although it binds men to confession and other burdens by external pressure, it fails to restrain their minds, which are only the more provoked into hatred of both God and men.⁷

The priest urging the confession at the base of the stairs was nothing but a "barbarous soul-murderer," who was "fill[ing] the world with blaspheming vain hypocrites solely in order to restrain them a little from outward sin."⁸ All the Lutherans saw was the naked power of the Spanish state buttressed by a hypocritical Church. They could not see what the ecclesiastical authorities had laid out in perfect splendor before them: the *corpus mysticum*.

Inasmuch as the English-speaking world has digested Luther's perspective, we may also have trouble seeing any justice in the auto de fe. We may agree with Luther that the effort of extracting a confession is just a ruse. The priest has no power to remit sins. His sacramental actions are only a charade as he has no ability to grant mercy. Indeed, we too might consider the priest's actions as spiritual murder or, at least, the violation of conscience. Inasmuch as we see a conscience being violated we have accepted Luther's point of view. Yet there is another way of looking at the auto; one that operates within the hierarchical and ordered universe set out by St. Thomas Aquinas.

⁷ Martin Luther, "The Bondage of the Will" in *Erasmus-Luther: Discourse on Free Will*, trans. by Ernst F. Winter (New York: Continuum, 1999), 107.

⁸ *Ibid.*

The Auto de Fe

While the burning of heretics had been going on in Europe for centuries, the executions were, by and large, a private and informal affair. The development of the auto de fe signaled a shift in policy, demonstrating more visibly the Church's power "to bind and to loose." The product of Inquisitor General Fernando de Valdés' imagination and, quite likely, Berruguete's vision, the auto de fe was invented "as a way of imposing the presence of the Inquisition."⁹ Henry Kamen cites the discovery of Protestant heretics in Spain in 1558, "and the willingness of the crown to assist in their punishment," as having contributed to this magnificently staged production of the confessional state.¹⁰ The first of these productions occurred in May of 1559 in Valladolid. Kamen comments that the "presence and patronage of the royal court at the Valladolid autos of 1559 immediately gave the ceremony a prestige it had not previously possessed."¹¹ Kamen's presentation of the auto highlights its role in enhancing the Holy Office's institutional prestige. No longer did the inquisitors conduct all their affairs in secret prisons and clandestine chambers as had been the case in the past. Now their operations were central to the very activity of government.

From a Thomist perspective, however, the institution's prestige was never in question. Rather, this new auto only confirmed what Aquinas had argued in the thirteenth century: that in spiritual matters the state should bow to the church. In his discussion on kingship, Aquinas considers the separate jurisdictions of the spiritual and earthly

⁹ Henry Kamen, *The Spanish Inquisition: A Historical Revision* (New Haven: Yale University Press, 1998), 205. Kamen suggests that Valdés was inspired by Berruguete's c. 1490 painting.

¹⁰ Kamen, 205.

¹¹ Kamen, 205.

kingdoms. "So that spiritual and earthly things may be kept distinct, the ministry of this kingdom is entrusted not to earthly kings but to priests, and especially to the Highest Priest, the successor of Peter, the Vicar of Christ, the Roman Pontiff, to whom all kings over Christian peoples should be subject as to Christ himself."¹² The king might have sovereignty in matters of the state but all parties recognized that the state was only perfect inasmuch as it served the glory of God; a glory represented by the Pope as the Vicar of Christ.

The respective positions of the Church and the state were analogous to the respective positions of grace and force. The Church was able to dispense grace, to take away the sins that had accumulated over a lifetime, to restore the natural inclinations to their original goodness. The state took over when grace no longer worked, when the sinner refused the spiritual cures, refused to accept the blessings of the One Apostolic Church. When the Holy Office determined that the heretic was unrepentant and pertinacious, the inquisitors "relaxed" the lost soul to the "secular branch," a euphemism for burning. Protestants, such as John Locke, would later argue that the very presence of force corrupted any possibility of grace. As far as the Church was concerned, however, the hierarchy precluded any chance of corruption. Grace was on a higher level than force; each power had its proper proportion, or in Aristotle's words, its "due order."

The auto de fe, therefore, did much more than remind the good Catholics of Castile that they might, in Monty Python's words, "expect the Spanish Inquisition." Every piece of the performance, from the velvet canopy to the smell of burning flesh, revealed the right relationship between the Church and the crown and, by analogy, between grace and force. This proportionate relationship is reinforced in Berruguete's painting by the

¹² Aquinas, "On Kingship," in *St. Thomas Aquinas on Politics and Ethics*, ed. by Paul E. Sigmund (New York: W. W. Norton, 1988), 27-28.

crossed swords carried by the soldiers in the pit. The crossing of the two swords indicated the interdependence of the two powers of Church and state, their mutual relationship. Anyone who wasn't a Lutheran would have immediately recognized the symbol of the "two swords doctrine," which Daniel Levine describes as follows: "the secular power is separate from, but clearly subordinate to, the church: temporal power is obliged to serve and protect the Church and its exercise is subject to ecclesiastical judgment."¹³ A Lutheran, however, would not have recognized this arrangement. As J. N. Figgis explains, Luther destroyed "the metaphor of the two swords; henceforth there should be but one, wielded by a rightly advised and godly prince."¹⁴

At the top of Luther's hierarchy was not a grace-dispensing supernatural actor but a person with coercive powers. On a personal level, and this is the level on which liberalism focuses, grace became a private transaction between an individual and God. On a political level, however, this shift has some troubling consequences: the head of the Christian state was no longer a dispenser of grace but a wielder of force. In other words, within Luther's political hierarchy, coercion was higher than grace. This unpalatable implication, however, was somewhat disguised by the fungible character of the Lutheran society. The head may now be a purely coercive actor but *anyone* could become the head, a point that further infuriated the Thomists.

The Bit of Twisted Scripture Held in Luther's Teeth

The Dominican response to Lutheranism went well beyond the staging of autos de fe. In 1532, the Dominican Fray Francisco de Vitoria (1480 -1552) used the annual

¹³ Daniel H. Levine, *Religion and Politics in Latin America* (Princeton: Princeton University Press, 1981), 21.

¹⁴ Figgis, cited in Skinner, 15.

relection at the University of Salamanca, a review of an important issue delivered during the year's lectures, as an opportunity to confront the new heresy. By claiming that a man no longer needed a duly appointed priest to absolve his sins, the Protestants were destroying the organic fabric of society. According to Vitoria, these Protestant heretics and schismatics who attempted to "dissuade or inveigle away the hearts of simple men from due obedience to their princes and their priests" were creating a type of society that not only went against the "wisdom of the ages" but, even worse, they were offending the aesthetic of God:

[T]he mark of wisdom, as Aristotle puts it, [is] "to dispose all things in due order" (*Metaphysics* 982a 18 -19). So God, who as He is supremely wise is also supremely powerful, could if He wished dispense altogether with the hierarchy of rulers and subjects, prelates and inferiors, to govern and administer all things, without any detriment to His creatures. But in fact that would not have suited His wisdom and infinite providence: rather it suited Him to arrange that the earth should not present the ugly spectacle of a heap of things lying about by chance, but instead should be structured like a unified body or building, with its interconnected limbs or parts giving the whole a beauty worthy of its creator.¹⁵

In Vitoria's mind, a society in which each Christian had the powers of a priest, was "an ugly spectacle." Without the organic and natural ordering of different powers for different types of people, society would dissolve into "a heap of things lying about by chance." That some people, i.e. the Lutherans, accepted this random chaos as natural only spoke to the depth of their corruption. Even when, in a final effort, the Holy Office laid out the hierarchy in all its proportioned splendor, the corrupted Lutherans could not see the interconnection of limbs and parts but only a bunch of men on bleachers, some of whom carried books. They didn't recognize what the authorities had laid out before them - the "due order," "the hierarchy of rulers and subjects, prelates and inferiors," identified

¹⁵ Vitoria, "I Power of Church," 55.

by Aristotle and later given a Christian and Neo-Platonist gloss by Dionysius the Pseudo-Areopagite. According to Vitoria, the Protestant faith had corrupted their eyesight.

In order that his students at Salamanca might not suffer the same blindness as the Lutherans, Vitoria reviewed the ancient doctrine: Just as the lower spheres should be governed by the higher spheres, "per the Wisdom of Aristotle," and just as the lower angels should be governed by the higher angels, "per the wisdom of Dionysius the Pseudo-Areopagite," so "this same Wisdom... provided that His Church be governed by a hierarchy in which the various offices are distributed in order, so that some are the eyes, some the hands, others the feet, and others again the remaining limbs, in due proportion."¹⁶ After refuting several contrary theories, Vitoria emphatically concluded that *"there is in the Church some spiritual or ecclesiastical power, distinct by divine and natural law from civil and temporal power."* He defines this power as "the authority to rule the faithful in matters which concern religion, and to direct them towards life eternal," or more specifically, "the potential power to bind and loose, at the moment when the righteous are accepted into the kingdom and the unworthy excluded."¹⁷

One year later, in 1533, Vitoria returned to the topic of ecclesiastical power, this time calling his enemy by name. As a class, the proponents of the "heap" society were "modernists" (*neoterici*), a term coined by Cicero as a term of sarcasm to mean "avant garde" and which Vitoria had used in previous lectures with equal disrespect for nominalists.¹⁸ "Although every Catholic agrees that ecclesiastical power is vested in all Christians," argued Vitoria, and not in individual Christians, the "modernists have taken it upon themselves in their arrogance to contradict the Church's universally accepted

¹⁶ Vitoria, "I Power of the Church," 55-56.

¹⁷ Vitoria, "I Power of the Church," 57.

¹⁸ Anthony Pagden and Jeremy Lawrance, in Vitoria, *Political Writings*, note 20, p. 126.

opinion, contentiously asserting that all Christians are rightfully priests, and that there exist no ecclesiastical orders in the Church." Fools that they be, they do not "strive officiously to prove their point with arguments or texts" but "simply pluck some passage or other from Scripture, twist it to their purpose, and then, with the bit of heresy firmly between their teeth, go forth to spread dissent and faction."¹⁹ As in the previous year's reelection, the defense of the ecclesiastical powers is carried out as a defense of the corporate whole. This time, however, the authority is primarily scriptural. Rather than rely on the Wisdom of the Ages, as he had in the previous lecture, Vitoria grounds his entire argument in Paulist scripture.

First, Paul says in Rom. 12: 4 -6 that the whole Church is a sort of mystical body, composed of various organs and limbs: "for as we have many members in one body, and all members have not the same office, so we, being many, are one body in Christ, and every one members one of another, having then gifts differing according to the grace that is given to us."²⁰

Vitoria then moves on to the passage in Corinthians in which Paul shows the absurdity of a community whose members do not recognize their own special graces as necessary to the working of the whole. Quoting from 1 Cor. 12: 14-20,

If the foot shall say "Because I am not the hand, I am not of the body," is it therefore not of the body? If the whole body were an eye, where were the hearing? If the whole were hearing, where were the smelling? But now hath God set the members every one of them in the body, as it hath pleased him. And if they were all one member, where were the body? But now are they many members, yet but one body.²¹

The hierarchy of powers, the coordination of gifts, the making of many members into one, were not only beneficial to all involved but, more importantly, were pleasing to

¹⁹ Vitoria, *II Power of the Church*, " 126.

²⁰ Vitoria, *"II Power of the Church*, " 127.

²¹ *Ibid.*

God. By claiming that "even a boy, or a woman, or any Christian whatever can give absolution of sins,"²² Luther had destroyed the possibility of living one's life as part of a corporate whole. Vitoria was incensed:

If Luther thinks we are all eyes, where are the feet? ... Surely, if we listen to Luther, the feet will be able to say to the head, 'we have no need of you.' For this is the meaning of his teaching; the feet (that is, the plebs) have no need of the head (that is, the priest), because every man-jack of them is a priest!²³

The attack on Lutheranism was to a large extent an attack on the modern notion of individualism. As far as Vitoria was concerned, an individual's survival was predicated on the survival of the society *as a whole*. Following Aristotle, the Thomists understood that each person's perfection could only be attained within a social order. The epistemology of this social order, however, should not be confused with a totalitarian system. Aquinas' theory of individuation recognized that all universal truths were mediated by the particular senses and, at the same time, the individual imagination was constituted by the common things of the world.²⁴ The trick was learning to read those common things in the way God intended. The Dominicans read God's aesthetic in the world through scripture and reason; their Jesuit counterparts, on the other hand, took a far more imaginative approach.

²² Vitoria, "II Power of the Church," 126.

²³ Vitoria, "II Power of Church," 128.

²⁴ See Anthony Kenny, "Intentionality: Aquinas and Wittgenstein," *The Legacy of Wittgenstein* (Oxford: Oxford University Press, 1984), 61-76. See also Francisco Suárez, *Suárez on Individuation: Metaphysical Disputation V: Individual Unity and its Principle* (Milwaukee, WI: Marquette University Press, 1982).

The Jesuit Imagination

Although "not literally subservient" to the authority of Saint Thomas, as was the case with the Dominicans, the Jesuits were deeply attuned to Aquinas' ordered universe.²⁵ Like the Angelic Doctor, they believed that the natural capacities of mankind were inclined towards goodness. The Jesuits, however, brought a slightly different interpretation to Aquinas' writings. Whereas the Dominicans stressed the intellect above all other faculties, the Jesuits developed a practice that engaged all the faculties of the soul without any particular emphasis on one or the other.

The constituting document of Jesuit practices, the *Spiritual Exercises*, developed by the founder of the Society of Jesus, St. Ignatius Loyola (1491-1556), promotes a greater awareness of the heart and the imagination than the more rational methods used by the scholastics. The Rules for Discernment set forth in the *Exercises* call for the engagement of powerful emotions – grief, fear, horror, compunction, compassion, contentment, admiration, gratitude, wonder, joy, and love. As John O'Malley explains, "[t]he individual should feel bestirred 'by great feeling' – and at appropriate moments moved even to tears."²⁶ The goal of all of this emotional expression was to learn to discern God's will from that of the Devil. Members of Loyola's first band, such as Juan Alfonso de Polanco, were convinced that the heart provided a "better light" for distinguishing between good and evil than human reason.²⁷

²⁵ Carlos Noreña, "Suárez and the Jesuits," *American Catholic Philosophical Quarterly* (Summer 1991), 267-86, 271.

²⁶ John W. O'Malley, *The First Jesuits* (Cambridge, Mass: Harvard University Press, 1993), 41.

²⁷ Juan Alfonso de Polanco, quoted in O'Malley, 42.

Along with the business of learning to read the motions of the heart, the *Exercises* promote an active and disciplined imagination. In the first step of the *Exercise*, the disciple of Loyola is instructed in the business of "composition of place" (*composición de lugar*), in which the mind, meditating upon a corporeal substance, such as Jesus or Mary, creates a "certain imaginary vision (*secundum visionem quandam imaginariam*)" of a place, such as a mountain or a temple, within which Jesus and Mary can be found. By the same token, when the mind "speculates upon incorporeal things, such as sin, the composition of the place (*loci constructio*) will be of such a manner that through the imagination we may see our soul enclosed in this corruptible body, as in a prison, and the man himself exiled in this valley of tears in the middle of beasts."²⁸ Sin, in other words, would be better understood through the use of corporeal imagery than by name alone. As the editors of the *Historia de la Iglesia* explain:

There is in the "Exercises" a very perceptive psychology. Ignacio recognized that nothing would empower a man more than to engage all of his faculties at once. Not only should he call upon understanding and will, considered the most important faculties, but memory, imagination, and the senses as well.²⁹

Like Aquinas, Loyola believed in the generosity of God's plan, an inherently catholic plan that allowed for the salvation of *all* people. There was no "elect," no group

²⁸ Ignacio de Loyola, "Spiritual Exercises," cited in *Historia de la Iglesia, Trent* (Valencia: Edicep, 1976), 348: "[C]uando especulamos sobre una cosa incorpórea, por ejemplo sobre el pecado, la composición, del lugar (*loci constructio*) podrá ser de tal manera que por la imaginación veamos nuestra alma encerrada en este cuerpo corruptible como en una prisión y al hombre mismo desterrado en este valle de lágrimas en medio de las bestias."

²⁹ *Historia de la Iglesia*, XIX, 347: [H]ay en los "Ejercicios" una psicología muy penetrante. Ignacio no ignora que no se apodera uno del hombre más que dirigiéndose a todas sus facultades a la vez. Va a llamar no sólo al entendimiento y a la voluntad, que considera ser lo más importante, sino también a la memoria, a la imaginación y a los mismos sentidos.

of special few predestined for salvation. Instead, God had given each person sufficient means for their salvation.³⁰ And while some may argue that the Jesuits strayed from Aquinas' rational path, the saint himself never denied the validity of the other means. Early in the *Summa Theologiae*, Aquinas speaks to the necessity of the senses. On the question of "whether Holy Scriptures should use metaphors," Aquinas responds that "it is natural to man to attain to intellectual truths through sensible things, because *all our knowledge originates from sense*."³¹ Higher knowledge, i.e. spiritual knowledge, required the senses in tandem with the imagination. "Hence in Holy Scripture spiritual truths are fittingly taught under the *likeness* of material things."³²

This metaphorical acumen, i.e. the ability to see beyond what is actually there, may help to explain rule thirteen of the *Exercises* which famously describes the nature of obedience to the One True Faith: "We ought always to hold by the principle that the white that I see, I would believe to be black, if the Hierarchical Church were so to rule." This statement of faith sticks in the craw of many non-Jesuit observers. Seen from the perspective of freedom of thought, Loyola's dictate provides good grounds for Macaulay's complaint with Catholicism: "the complete subjection of reason to authority." Seen from the perspective of the *Regimini Militantis Ecclesiae*, the official title of the Society of Jesus, this subjection of things natural to a more supernatural chain of command makes good hierarchical sense. Higher truths, as Aquinas pointed out, operate in terms of likenesses. What appears as white may only be a likeness of something else,

³⁰ *Historia de la Iglesia*, XIX, 346.

³¹ St. Thomas Aquinas, *The Summa Theologiae*, pt 1, qu. 1, art. 9, in *Introduction to St. Thomas Aquinas* (New York: Modern Library College Editions, 1948), 16, *emphasis added*.

³² *Ibid.*, *emphasis added*.

something that the Hierarchical Church, through supernatural powers, will be better able to perceive. In other words, rule thirteen does not express the complete subjection of reason to authority but the complete subjection of the natural to the supernatural.

There is also an historical explanation for Loyola's color-blind obedience, one sensitive to the difficulties of the times. Given the enthusiastic nature of the *Spiritual Exercises*, Loyola's complete surrender to Church doctrine helped distinguish the Jesuits from the ranks of the equally enthusiastic and highly questionable *alumbrados*. Loyola was called before the Holy Office quite a number of times, once spending forty-two days in an inquisitorial prison in Toledo, and generally because his practices seemed dangerously close to illuminism. Although he was eventually cleared of all charges of heresy, the authorities warned him to temper his activities and move them more in line with the doctrine of the Church, a judgment Loyola welcomed.³³ According to his memoir, Loyola challenged his accusers, "whether this is true or not, determine it; if it is not true condemn it."³⁴ The early Jesuit was clearly interested in deepening the spiritual experience already laid out by the Church, not in forging a different pathway in the manner of Luther.

Loyola, like Vitoria, is operating under the assumption that corporate understanding is greater than individual perception. Luther might praise an individual's conscience over institutional authority, but Catholics remained firmly committed to the notion that truth was more likely to be found in a larger unit than in a mere person, whether or not that person was having a mystical experience. Even humanists, like Erasmus, favored "public authority of the Church" rather than "what this or that man

³³ O'Malley, 27.

³⁴ Loyola, cited in Marjorie O'Rourke Boyle, "Angel's Black and White: Loyola's Spiritual Discernment in Historical Perspective," *Theological Studies* 44 (1983), 241-257, 255.

produces concerning his own view."³⁵ The authority of a scholar or a mystic could only be recognized inasmuch as it contributed to the greater whole. If the individual's teaching did not conform to the greater whole, to the ecclesiastical power of all Christians, in Vitoria's words, then the Church had the right to condemn it.

Rather than excise the errant individual from the spiritual body of believers, however, the Jesuits generally took a more lenient stance towards spiritual misfits, perhaps because they themselves were often charged with having questionable spiritual influences. Although, as O'Malley points out, the Jesuits "could not contain their anger toward 'heresiarchs' like Luther, they tried their best to excuse more lowly heretics as persons misled."³⁶ Rather than give up on the heretic as beyond redemption, the Jesuits saw the heretic as a lost sheep, created in the image of God, and worthy of their ministry. Since the explicit goal of a Jesuit sermon was "to teach, to move, to please,"³⁷ the heretic offered the possibility of a great lesson, a great movement of the soul. This may explain why the early Jesuits were reluctant to prosecute heretics with the full power of the Holy Office, preferring "private reconciliation to a judicial procedure."³⁸

The Jesuit practice with regard to the imagination – the ability to see something incorporeal in terms of corporeality; to see something black for white – cultivated a flexibility that worked on both a practical and intellectual level. On a practical level, the Jesuits were famous for syncretism, for accommodating Church doctrine to local needs, whether it was nudity in Brazil or the scholarly needs of a convent. Having evangelized throughout the world, the members of the Society of Jesus knew first hand that the

³⁵ Erasmus, *Hyperaspistes*, LB 10, 1299D, cited in Boyle, 250.

³⁶ O'Malley, 76.

³⁷ O'Malley, 96.

³⁸ O'Malley, 311.

corpus mysticum would not always look the same. Members of the *Compañía* wrote to each other about the tapestry of nations they encountered; "so diverse in dress and behavior: some white and others black, some at peace and others at war, some weeping and others laughing, some healthy and others sick, some being born, others dying, and so forth."³⁹ The Jesuits realized that the unity described by Vitoria might look different in different parts of the world. What mattered is that all these different parts moved together towards God. Diversity, therefore, was not a sign of randomness or disorder, but the multiple variations of a glorious whole.

On an intellectual level, this flexibility allowed them to consider the benefits of both sides of the nominalist/intellectualist debate. The Jesuits were the first to "take seriously," in Richard Tuck's words, nominalist objections to Thomism.⁴⁰ The Jesuit Francisco Suárez resolved the centuries old battle between Thomists and nominalists by enhancing the affective nature of the will. According to Suárez, in a perfect world the intellect is a superior faculty as it guides the will. However, given our fallen condition, the will to love God may move us closer to the divine than actually knowing the reasons why. Indeed, as far as Suárez is concerned, explains John L. Treloar, "every act found in the sense appetites, such as love, desire, and hope, is also found in the will, except that it is found in a higher way because in the will these acts are spiritual as opposed to merely natural."⁴¹ Treloar argues that Suárez moved Thomist prudence aside for moral virtues.

³⁹ *Spiritual Exercises*, no. 106, cited in J. Matthew Ashley, "Ignacio Ellacuria and the Spiritual Exercises of Ignatius Loyola." *Theological Studies* 61 (March, 2000), 4 of 12.

⁴⁰ Richard Tuck, *Philosophy and Government 1572-1651* (Cambridge: Cambridge University Press, 1993), 140.

⁴¹ John L. Treloar, S.J. "Moral Virtue and the Demise of Prudence in the Thought of Francisco Suárez," *American Catholic Philosophical Quarterly* (1991), 387-405, 390.

Moral virtue, unlike intellectual virtue, recognizes the "relationship to the appetites and their tendency toward the good."⁴²

Moral virtue, unlike intellectual virtue, also allowed more members of society to participate. Richard Tuck suggests that the early Jesuits restored "some of the moral language of the late Middle Ages," particularly the notion of "people's moral *rights*."⁴³ The Jesuits did not require a scholastic education for salvation, although it helped. Affections, inclinations, appetites and senses, the natural condition of man was enough for salvation. Love, desire, and hope, were not to be erased or channeled by some intellectual schema, as the Dominicans might argue, but were to be fertilized by spiritual ends. All persons, even the unlettered, were capable of moral virtue through the very appetites that the more stoic Protestants were trying to erase.

The Jesuit imagination would also have profound implications for Aquinas' theory of natural law. According to Suárez, "in so far as [natural law] relates to its substance, it is one and the same among all men." Yet even though the substance of natural law was uniform, men's *understanding* of natural law might not be the same in all cultures: "in so far as concerns the knowledge of it, that law is not complete (so to speak) among all."⁴⁴ Custom and society might have a distinct effect on human comprehension of natural law but that didn't mean that the thing itself did not exist. Unlike his contemporary Montaigne, to notice that "the crossing of a River is made a crime" did not illicit any skepticism about the universality of natural law.⁴⁵ Nor did it serve as an excuse for separating oneself from society. Whereas Montaigne concluded that "a wise man ought

⁴² *Ibid.*

⁴³ Tuck, *Philosophy and Government*, 140, *emphasis in original*.

⁴⁴ Suárez, *De Legibus*, 2.8.5, 220.

⁴⁵ Michel de Montaigne, *Essays*, cited in Tuck, *Philosophy and Government*, 50.

inwardly to retire his mind from the common press, and hold the same liberty and power to judge freely of all things," Suárez described a capacity that could only occur in public life: *facultas moralis*. Maybe the understanding of law changed from one side of the Pyrenees to the other, but that didn't deny the benefit of fully participating in either of the two variations.

Suárez and the Power of Community Consent

Consent is often cited as the "foundation of a liberal democracy."⁴⁶ In pre-liberal times, consent was generally understood as more of an oath, a promise to obey the king. Locke dramatically altered the notion of consent by imposing the obligation as much on the government as on those being governed. As such, consent in the liberal tradition followed the analog of contract, of a mutual obligation. The Thomist tradition, on the other hand, developed its own understanding of consent, consistent with its Aristotelian roots. Rather than following the contract analog which conceived of consent as a meeting of the minds, the sixteenth century Spanish Thomists explained consent as a substantial change that occurred in the political body.

In his classic treatise on international Law, *De Legibus ac Deo Legislatore*, Suárez considers the source of political power and finds that it does not come from the divine rights of the king, as British absolutists were insisting, nor from the minds of reasonable individuals, as skeptics were suggesting, but from the process of forming a perfect society. According to Suárez, political power only "manifests itself in human nature" when "men gather together into one perfect community and are politically united." Following in Vitoria's framework, Suárez argued that political power "resides not in individual men separately considered, nor in the mass or multitude of them collected, as it

⁴⁶ *Oxford Companion to Philosophy*, c.v. "consent."

were, confusedly, in a disorderly manner, and without union of the members into one body."⁴⁷ It wasn't enough for a band of men to come together in the wilderness, as Luther insisted. Instead, the multitude had to organize itself into Christ's body. This meant that some of the members would be the feet and others would be the hands and one would be the head. Political power, in other words, depended on order and hierarchy, which, in turn, provided the basis for a moral unit, the *corpus mysticum*.⁴⁸ "Once this body has been constituted, however, the power in question exists in it, without delay and by the force of natural reason; and consequently, it is correctly supposed that it exists as a characteristic property resulting from such a mystical body."⁴⁹

Once the masses had formed themselves into a unified body, then, and only then, could the community transfer its political power to a king or parliament. For, as Suárez argued, political power "does not reside immutably therein, but may be taken from that community – by its own consent or through some other just means – and transferred to another [seat of authority]."⁵⁰ The transfer of power was not a complete alienation of power, as British absolutists would argue, as one could not alienate something that originated in God. Just as a person could not take away her own life, so a political body

⁴⁷ Francisco Suárez, *De Legibus ac Deo Legislatore*, 3.3.6 in *Selections From Three Works of Francisco Suárez* (Buffalo, NY: William S. Hein & Co., 1995), 379-380.

⁴⁸ In this analysis I diverge from John Finnis who concluded that Suárez's interpretation of Aquinas' *ius* resulted in a corruption of the latter and the beginning of a subjective understanding of law. See John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980), 206-207. See also Anthony J. Lisska, *Aquinas' Theory of Natural Law* (Oxford: Oxford University Press, 1996), 230-231. Rather, Suárez's commitment to a right-ordered world ensures that any discussion of right would assume an objective framework.

⁴⁹ Suárez, *De Legibus* 3.3.6, 380.

⁵⁰ Suárez, *De Legibus* 3.3.7, 380.

could not alienate its political life's power. Should the head fail in his mission to lead the body closer to God, the body retained the power to remove him, a point that will be taken up in more detail in Chapter 4. By the same token, Suárez did not subscribe to the radical theories of popular sovereignty that Bartolus, building on Ockham, had put forth.⁵¹ The powers of the king were not subject to the powers of the community.

For, once the power has been transferred to the king, he is through that power rendered superior even to the kingdom which bestowed it; since by this bestowal the kingdom has subjected itself and has deprived itself of its former liberty... Moreover, in accordance with the same reasoning, the king cannot be deprived of this power, since he has acquired a true ownership of it; unless perchance he lapses into tyranny, on which ground the kingdom may wage a just war against him.⁵²

Suárez's notion of government by double consent, in which a group of individuals consent to become a political community and then consent to be ruled, predates Locke's *Two Treatises on Government* by almost eighty years. Unlike Locke, who described consent as an individual and instrumental activity – Suárez describes something on the level of an Aristotelian substantial change. Through a process of metamorphosis, disconnected parts came to understand themselves as part of a larger whole. The mystical community had become a political community. Indeed, Suárez uses the terms interchangeably: "the political or mystical community, constituted through a special conjunction in the case of a group that is morally a unit."⁵³ Creating a political unit was to

⁵¹ See Quentin Skinner's discussion of this passage in *The Foundations of Modern Political Thought* (Cambridge: Cambridge University Press, 1978), Vol. 1, 183. Skinner puts more emphasis, perhaps, than warranted on Suárez's alienation of power. The phrase is *non est delegatio sed quasi alienatio*, a kind of alienation, not a complete alienation.

⁵² Suárez, *De Legibus*, 3.4.7, 387.

⁵³ Suárez, *De Legibus*, 1.6.18, 85.

create a moral unit, something that allowed the fallen human to move in higher circles by imagining incorporeal things, like society, in terms of their sensible individual lives.

Consistent with the two swords doctrine, coercion and mercy play complementary roles in the maintenance of the Suárezian perfect society. In a metaphysical disputation on the role of the state with unbelievers, Suárez describes two classes of people: those whose wills are moved "through persuasion, instruction or kindness" and those who must be held to their duty "through punishment or coercion."⁵⁴ In order to accommodate both types of learners, the perfect society needed both instruction and force and we need only remember Berruguete's painting to know what that looked like. Those who are "drawn to virtue and faith" were benefited by the persuasive words of the priest at the bottom of the stairs; those who must be "recalled from vice and unbelief" had the soldiers in the pit to help them hold their duty.⁵⁵

Suárez agreed with earlier Church doctrine when he declared that coercion "is not to be ascribed to any special power given by Christ." Given the nature of man's fallen condition, Suárez suggested "that the ordinary powers of the temporal prince would suffice."⁵⁶ Whereas the Lutherans would have seen the soldiers' participation in the auto as (1) the murder of a soul and (2) the hypocrisy of the Church, Suárez would have understood this show of force as proper to its position: low on the scale of things. The base quality of the soldier's efforts was proportionate to the baser instincts of those who required a bit of pressure to bring them around. The intent was not to exterminate, although that did happen, but to hold the irresolute to their duty.

⁵⁴ Francisco Suárez, *Disputation XVIII: On Means for the Conversion of Unbelievers*, in *Selections*, 739.

⁵⁵ Suárez, *Disputation XVIII*, 739.

⁵⁶ Suárez, *Disputation XVIII*, 753.

With the infusion of Jesuit common sense and practical passion, the hierarchical, organic, corporatist system, including the Holy Office, began to allow for greater diversity, even for different understandings of natural law. With the Jesuits involved, a wider range of options were employed in bringing the heretic around. The Dominican at the base of the scaffold employed reason. A Jesuit might be out there with his guitar. The Jesuits reminded their fellow Thomists that the purpose of any trial was to reconcile and the means to effect that goal might be emotional. The following chapter looks at a trial in Colonial Mexico with an eye to that influence.

CHAPTER IV

A WILLFUL TURNING: LEONOR DE CACERES AND THE MEXICAN INQUISITION¹

Not all inquisitorial proceeding ended in extermination. In the majority of cases, the accused was ordered to fulfill some ceremonial activity (pay a fine, receive a number of lashes, retire to a religious community, repeat a number of Hail Marys, attend mass barefoot and holding a candle, etc.) in order to be fully reconciled to the faith. The thinking behind reconciliation does not appear to have been clouded with blood lust nor a rabid devotion to the Catholic faith but a practice firmly grounded in Thomism. Not that the writings of St. Thomas Aquinas were the only doctrines for dealing with heretics. As mentioned in the first chapter, the Franciscans made a compelling case for the use of force and authority under the provisions of nominalist reasoning. The case of one young woman in Colonial Mexico, Leonor de Cáceres,² a member of the prominent Carvajal family, illustrates the tensions between the two competing doctrines of nominalism and Thomism, of extending mercy or using force.

The Family and the Times

The Carvajal family, well-known to historians of Colonial Mexico, achieved its enduring status largely through the records of the Mexican Holy Office. The governor, Luis de Carvajal, after becoming embroiled in a boundary dispute with the Viceroy of

¹ An earlier version of this essay, "Caceres and the Mexican Inquisition," appeared in *The Journal of the History of Ideas* (January 2001), 81-98.

² The proceso against Leonor de Cáceres, hereafter referred to as LC, is located at the Huntington Library, San Marino, California. Portions of this manuscript are reproduced by permission of the Huntington.

New Spain, was denounced as a Judaizer in 1589.³ He was eventually cleared of the crime of Judaizing, of performing Jewish rituals while pretending to be Catholic, but was sent to prison for one year for having concealed his Judaizing relatives from the authorities. He died while serving out his prison sentence. Many of the rest of his family, whom he brought over from Spain as part of the privileges of his office, were condemned as *judaizantes pertinaz*, persistent Judaizers. In the auto de fe of December 8, 1596, the governor's sister, Francisca Núñez de Carvajal, and four of her adult children were, in the language of the Holy Office, "relaxed to the secular arm for burning." Francisca's daughter, Mariana, was spared the stake in 1596 because she was deemed to have lost her senses. Once she regained them, she, too, was condemned as a persistent Judaizer and died in the auto de fe of March 25, 1601.

From all accounts, the Carvajal family was used by the Holy Office as a warning to the crypto-Jewish community of New Spain. Even Stephen Greenleaf, known for his balanced accounts on the Mexican Inquisition,⁴ describes the persecution of the Carvajals as a "Counter Reformation tact," concluding that "the Holy Office wanted to use the Carvajals as an example to the Jewish community of Mexico."⁵ Yet more was at issue here

³ For biographies of Luis de Carvajal, el Mozo, the Governor's nephew, see Martin A. Cohen, *The Martyr: The Story of a Secret Jew and the Mexican Inquisition in the Sixteenth Century*. (Philadelphia: Jewish Publication Society of America: 5733-1973; and Seymour B. Liebman, *The Enlightened: The Writings of Luis de Carvajal, el Mozo* (Miami, FL: University of Miami Press, 1967). Discussions of the Carvajal persecutions may also be found in Richard A. Greenleaf, *The Mexican Inquisition of the Sixteenth Century* (Albuquerque: University of New Mexico Press, 1969), 169ff.

⁴ In particular see his *Zumárraga and the Mexican Inquisition* (Washington, D.C.: Academy of American Franciscan History, 1961), 22-23.

⁵ Greenleaf, *Mexican Inquisition*, 171; and Richard E. Greenleaf, *Inquisición y sociedad en el Mexico colonial* (Madrid: Ediciones José Porrúa Turanzas, S.A., 1985), 3: "El Santo Oficio quiso utilizar a los Carvajal como ejemplo para la comunidad judía de México."

than just a display of the naked power. The questions the inquisitors posed and the rhetoric they used suggest something beyond flexing a coercive muscle in front of the crypto-Jewish population of Colonial Mexico.

Not all members of the Carvajal family perished in the flames of Counter Reformation intolerance. One of Francisca's sons, a Dominican monk, was able to maintain his commitment to his order even after being convicted of concealing his heretic relatives from the authorities. A son-in-law, Antonio Diaz de Cáceres, was reconciled after paying what biographer Martin A. Cohen considered an "unusually light" penalty: a public *abjure de vehementia*, and a fine of a thousand Castilian ducats. Cohen explains this unusual pardon in terms of political intrigue. "Because he was a man of esteem and had served the king on several occasions," wrote Cohen, Antonio was spared the lash.⁶

The case of Francisca's granddaughter (and Antonio's daughter), Leonor de Cáceres, highlights other inquisitorial motivations than allowed for in a purely political or instrumental analysis. A child of nine at the time of the first auto de fe, Leonor was reconciled along with her father in 1601. Rather than a "Counter Reformation tact," her trial reflects some of the Catholic reforms of the sixteenth century, a time when Thomist natural law arguments for education and evangelization were on the ascendant.

These reforms of the sixteenth and early-seventeenth centuries have been largely over-looked by English-speaking scholars. Even the term employed by academic historians, Counter Reformation, perpetuates the old myth. Counter Reformation underscores intolerance and obscures the radical reforms of the times (for which reason historian John O'Malley offers the more neutral term, Early Modern Catholicism).⁷ In actuality, sixteenth-century Catholicism was engaged in both unification and universality,

⁶ Cohen, 264.

⁷ John W. O'Malley, *Trent and All That* (Cambridge: Harvard University Press, 2000), 29.

in both strengthening the powers of the Vatican and encouraging the educational experiments of the Jesuits.⁸ The sixteenth century may be written in terms of Spanish imperialism – as Anthony Pagden puts it, "one sustained attempt to concentrate power in the hands of a single man"⁹ – but it was also a time when Spanish Jesuits, such as Juan de Mariana, made democratic arguments for the deposing of Protestant tyrants (prompting one Suarezian scholar to liken the "Jesuit thinkers in the political climate of the Counter-Reformation" as representing "the radical left wing of the time."¹⁰).

That the Inquisition was involved in shoring up the centralized powers of the monarch is accepted without question. For instance, Governor Carvajal's initial denunciation is generally explained in terms of political rivalry. Yet political intrigue does not in itself explain his subsequent reconciliation.¹¹ In order to understand the more merciful side of the Carvajal family's encounter with the Holy Office, we need only consider the authority of the Dominicans in the Mexican Inquisition after 1571.

The writings of Vitoria, Suárez, and other members of the Salamanca School constituted nothing less than a new, albeit fleeting, social order.¹² Rather than proposing a "counter-reform" measure, i.e. one built on absolute authority, these Spanish Thomists

⁸ See John W. O'Malley, *The First Jesuits* (Cambridge: Harvard University Press, 1996).

⁹ Anthony Pagden, *Spanish Imperialism and the Political Imagination* (New Haven: Yale University Press, 1990), 3.

¹⁰ Reijo Wilenius, *The Social and Political Theory of Francisco Suárez* (Helsinki: Societas Philosophica Fennica, 1963), 80.

¹¹ Liebman, 30.

¹² See Luciano Pereña, *La Escuela de Salamanca: proceso a la Conquista de America* (Salamanca: Ediciones de la Caja de Ahorros y M. de P. de Salamanca, 1986); Bernice Hamilton, *Political Thought in Sixteenth-Century Spain* (Oxford: Clarendon Press, 1963); James Brown Scott, *The Catholic Conception of International Law* (Washington, DC: Georgetown University Press, 1934); Brian Tierney, *The Idea of Natural Rights* (Atlanta: Scholars Press, 1995).

argued for a form of authority predicated on a political power that remained with the people. In as much as the Dominican-led Holy Office accepted these natural law arguments against Lutheranism and Calvinism it accepted the premise of what Suárez called, "innate moral powers."¹³

The Protestant heresies were not the only contributing factors to the natural law debate. According to the Dominican Vitoria, those communities, such as the Caribbean tribes, whose civil society was found to be lacking were not, therefore, to be considered inhuman and fit only for slavery, as Juan Ginés de Sepúlveda argued, but rather in need of a better education.¹⁴ Indeed, the moral power that Suárez identified as the basis of popular sovereignty was a power predicated on spiritual health. The Inquisition, therefore, might be seen as the vehicle for building a citizenry of faith, capable of participating in the modern effort of consent. While the Jesuits and Dominicans may have differed in their interpretations of Aquinas' understanding of nature and grace, with the Jesuits focusing more on practice than the doctrine-minded Dominicans, both religious associations operated from the position that all men were capable of being educated towards a commonly-recognizable good.

An emerging interest in education can be seen with regards to the treatment of heretics. Aquinas, following St. Paul, had argued for the death of the heretic who refused to accept the One True Faith "after a first and second admonition."¹⁵ Suárez continued this doctrine but with a slightly different twist. The unrepentant sinner, wrote Suárez,

¹³ Francisco Suárez, *De Legibus*, 1.2.5 in *Selections from Three Works of Francisco Suárez* (Oxford: Clarendon Press, 1944), 30-31.

¹⁴ Pagden, 20.

¹⁵ St. Thomas Aquinas, *The Summa of Theologiae*, II-II, Qu. 11, 3, edited by Timothy McDermott (Allen, Texas: Christian Classics, 1989).

would rightly be subject to *poena mortis* but only *post sufficientem instructionem, et admonitionem Ecclesiae*.¹⁶ For the Jesuits, *sufficientem instructionem* involved accomodationist practices and "inspiring an inner relish for spiritual things."¹⁷ For the Dominicans, sufficient instruction involved arguments that honored the natural capacities of the human mind.

This is not to argue that in the Catholic reforms of the sixteenth century, all the old methods were displaced. Despite the long-held understanding that fear displaced the workings of the will, torture was still considered a respectable tool of instruction. The drawings included in Seymour B. Liebman's account of the Carvajal persecutions show Mariana being garroted as the flames lick the hem of her skirts; one of the illustrations in Cohen's account identifies a half-naked woman on the rack as her sister, Isabel. Members of the Carvajal family were tortured per the customs of the day – for one hour at a time, using methods that did not spill blood – in order to exact a truth that only pain was thought to release.

As Edward Peters has pointed out in his historical analysis of the use of torture, these ordeals were regulated depending on the status of the defendant and the nature of the crime.¹⁸ According to medieval Spanish law the category of persons who could not be tortured was fairly broad and included pregnant women, jurists, gentlemen, and children under the age of fourteen. The explanation for the exclusion of the wise and the noble was "because of the honor of knowledge or of nobility that they have in themselves."¹⁹ If accused of heresy, however, no claims to an internal honor could shield the elite from

¹⁶ Suárez, *Opera Omnia, Editio Nova*, XII, tr.1, cited in Wilenius, 69.

¹⁷ O'Malley, *First Jesuits*, 78.

¹⁸ Edward Peters, *Torture* (Philadelphia: University of Pennsylvania, 1996).

¹⁹ *Siete Partidas*, VII, 30, 1-4: "por honra de ciencia o de nobleza que tienen en sí."

torture. Both nobleman and jurist were subject to the "torments" of the Holy Office, a position that carried over into the modern era. Catholic reforms did not question the usefulness of torture in extracting a hidden truth. What was questioned and developed, at least in the Thomist tradition, was the human capacity to learn.

Tensions within the Colonial Holy Office

By 1601, when Leonor was brought before the Mexican Inquisition on charges of Judaizing, the ecclesiastical tribunal was a well-regulated, Dominican-led institution. Established in New Spain in 1571, the Holy Office replaced the haphazard, informal, and often abusive prosecutions performed by parish priests and religious orders with the highly-regulated, centralized machinery developed in Castile.²⁰ According to Greenleaf, "petitions flooded into Spain asking for the establishment of a Holy Office. ... Clerical abuses of power were the most prevalent complaint."²¹ An example of one such abuse occurred in 1562 when members of the Franciscan order questioned the faith of a tribe of Yucatecan Indians so vehemently that one hundred and fifty died "either during or as a direct result of the interrogations."²² In his detailed analysis of the role of nominalism in the Mexican campaigns against idolatry, Francisco Cervantes reports that, "at least thirteen committed suicide rather than face the inquisitors. Eighteen disappeared; and many were crippled for life, their shoulder muscles irreparably torn, their hands paralysed 'like hooks.'"²³

²⁰ See Greenleaf, *Mexican Inquisition*.

²¹ Greenleaf, *Zumarraga*, 49 n. 51.

²² Francisco Cervantes, *The Devil in the New World: The Impact of Diabolism in New Spain* (New Haven: Yale University Press, 1994), 16.

²³ Cervantes, 16.

The wrath of the Franciscans may seem quite out of step with the gentle nature of their founder, St. Francis of Assisi, yet it conforms to a problem inherent in nominalist pedagogy which, according to Cervantes, "tended to become more a matter of acquiescence based on faith, authority and tradition than a matter of assent based on reason and argument."²⁴ We can see the nominalist emphasis on authority over reason with the Franciscan bishop of Michoacán, Vasco de Quiroga, whom Pagden describes as "a fierce opponent of Las Casas and a consistent apologist for the *encomienda*."²⁵ Quiroga used utopian rhetoric to organize the Indians into village hospitals under the watchful eye of fellow Franciscans. Charity was extended not to enhance the rational capacities of their flock but because their wards were considered naturally irrational and therefore in need of a greater authority.

With the arrival of the Dominicans, the campaign against heresies shifted.²⁶ The Dominicans' concerns about the Indian's capacity to understand the depths of Christianity curtailed inquisitorial activity with regard to that population. The difficulties encountered in holding converted Toltecs or Chichimecs to the demands of the faith had led to a policy in which the Indians remained, according to Lewis Hanke, "generally speaking, untouched by the Inquisition on account of their *rudeza e incapacidad*."²⁷ Questions about the limited capacity of the Indian's mind, in other words, protected them from the "protection" of the Holy Office. Protestant sailors, two-timing *Conquistadores*,

²⁴Cervantes, 16.

²⁵ Pagden, 25.

²⁶ For information on the various crimes prosecuted by the Mexican Holy Office, see José Toribio Medina, *Historia del Tribunal del Santo Oficio de la Inquisición en México* (Mexico, D.F.: Miguel Ángel Porrúa, 1998).

²⁷ Louis Hanke, *The Spanish Struggle for Justice in the Conquest of America* (Boston: Little, Brown, 1965), 41.

and philandering priests, on the other hand, were assumed to have a firm enough grip on Christianity to risk having it "perfected" by the Holy Office. To those whose capacity to reason was clear, the Holy Office offered "protection" from what Lewis Hanke referred to as "the disintegrating spirit of heresy."²⁸

Although the Inquisition's reputation might suggest that nothing gave the officers of the Holy Office more pleasure than rounding up the apostates and putting them to the flame, excessive measures were not consistent with the policies of a reforming Catholicism. Historian Henry Kamen has unearthed substantial evidence of ecclesiastical protests against the procedures employed by the Holy Office in Spain. Although the Jesuit Juan de Mariana was willing to concede that, when it came to heresy, desperate times required desperate measures, he nonetheless pushed for kinder methods. Citing the Royal Secretary Hernando del Pulgar, "a person of acute and elegant genius," Mariana argued that the inquisitors "will not produce such good Christians with their fire as [exemplary Christian bishops] did with water."²⁹ Mariana and other sixteenth-century theologians argued for a reconciliation process that conformed to a universal natural law, a law that recognized all rational people as capable of recognizing the Christian God. There was, however, one group of rational people whose capacity to recognize a Christian God was uncertain: the Jews.

Whereas Jesuits and Dominicans from the Salamanca School might argue that the indigenous people of the New World were proto-Christians, i.e. that the pre-Columbian civilizations "had providentially been prepared for Christianity," the Jews were

²⁸ Hanke, 41.

²⁹ Kamen, 69.

understood to have "hardened their hearts" against Christianity.³⁰ It wasn't a case of being predisposed to Christianity as Bartolomé de Las Casas described the New World Indians, but a case of antipathy after the fact. After arguing that "Jews are by no means to be compelled to believe" since "belief is a matter of will, but fear considerably diminishes the freedom of will" Vitoria, citing the thirteenth-century jurist Gratian, suggests something almost smacking of nominalism or, at least, predestination: "Concerning the Jews, the holy council laid down that no one should use force to compel belief, since God is merciful to those He wishes, and hardens the heart of those He wishes."³¹ Had the Gratian predestination argument held the upper hand, none of the Carvajals should have been pardoned, yet we can see how the Dominican shifted the emphasis of Gratian's decree. "There is no doubt that this opinion," commented Vitoria, "... means that threats and terror should not be used to bring the Jews to the faith." Rather than accept the diagnosis of the father of canon law, i.e. that God had hardened the Jew's heart, Vitoria focused on Christian methods of persuasion.

The Church in the New World was continuously struggling between presenting itself as a merciful institution and as a forceful instrument of salvation.³² Some of the merciful rhetoric served a larger purpose. Natural law arguments in defense of the New World inhabitants served a larger international purpose which Pagden describes in instrumental terms – "the refutation of Lutheran and later Calvinist theories of

³⁰ Sabine MacCormack, "'The Heart has its Reasons': Predicaments of Missionary Christianity in Early Colonial Peru," *Hispanic American Historical Review*, 65 (1985), 443-466, 450; for information on the Salamanca School, see Luciano Pereña, *La Escuela de Salamanca: Proceso a la Conquista de America* (Salamanca: Ediciones de la Caja de Ahorros M. de P. de Salamanca, 1986).

³¹ Francisco de Vitoria, *Political Writings* (Cambridge: Cambridge University Press, 1999), 272.

³² See MacCormack, "The Heart has its Reasons."

sovereignty"³³ – but which had constitutive effects. The arguments made against the divine rights of kings informed a mentality that favored the natural civic powers of the people, a mentality that spilled over to the *converso* population. From an instrumental perspective, the Holy Office couldn't afford to condemn every *converso*, as that would have lent credibility to the Lutheran error, justification of faith by grace alone. Extending mercy by reincorporating the repentant back into the faith would support the catholic quality of the Roman Catholic Church. Yet there was more going on here than an instrumental analysis would reveal, more than just posturing in front of Protestant rivals. Before Luther even put a nail through his ninety-five theses, St. Thomas Aquinas had been concerned about the scandal that force would bring to the faith.

In speaking about the "children of Jews and Other Unbelievers," Aquinas counseled against converting a child "before he has the use of reason.." which Aquinas defines elsewhere as the age of puberty. Once he does, "he can be induced to accept the faith not by force but by persuasion."³⁴ Reconciliation, on the other hand, might involve force.³⁵ Once the spirit was solid in its foundation, i.e. had professed the faith, it might be subjected to more brutal medicine. However, because the conversion process was understood by many missionaries to be a lengthy process, not one moment of epiphany,³⁶ deciding when a person had moved out of the fragile conversion process was a difficult

³³ Pagden, 18.

³⁴ Aquinas, *Summa of Theologiae* II-II, Qu. 10, pt. 12.

³⁵ Aquinas *Summa of Theologiae* II-II, Qu. 11 and 12.

³⁶ For a discussion of thirteenth century ideas on the conversion process, see Karl F. Morrison, *Understanding Conversion* (Charlottesville, Va.: University of Virginia Press, 1988).

matter. In order to use force, they must ascertain that the defendant had actually "professed the faith."

It is notable, given the concerns voiced for Indians' capacity to reason, that a similar argument was not made against the prosecution of women. In 1596, many of Leonor's female relatives perished in the fires of an auto de fe. They were not spared the harshest penalty because of any natural *incapacidad*, a position consistent with early modern Catholic social thought. Women were included in Suárez's understanding of majority when considering the observance of customary laws. Although some jurists wished to exclude all women, as well as men under the age of twenty-five, from civil society, Suárez stated in no uncertain terms that "I cannot find any basis in law or any justification in reason for the exclusion of the last two groups."³⁷ Women's equal accountability was also reflected in the provisions for torture under the *Siete Partidas*: only pregnant women were exempted from torture "for the reason that the creature she has in her belly does not merit anything bad."³⁸ Being a woman, unlike being an Indian, was, in itself, no excuse for committing crimes against the faith. Only if their reason were impaired were they pardoned for their heresies, as was the case with Leonor's aunt, Mariana, in 1596.

As far as the Colonial Church was concerned, the Carvajal women had committed serious crimes against the faith. They admitted to willfully taking the host in their mouths while praying to Moses and spitting at statues of Christian saints. According to St.

³⁷ Suárez, *De Legibus*, VII, ix, 14. See Wilenius, 47 and Scott, 227: "Suárez proclaims himself as feminist in a day when feminism was hardly a dream, let alone a hope."

³⁸ *Siete Partidas*, VII, 30, 1-4: "por razón de la criatura que tiene en el vientre, que no merece mal."

Thomas, these heresies were of a socially dangerous nature, analogous to counterfeiting.³⁹ The proceedings against young Leonor, however, raised the issue of accountability on the part of a child. Although she had just reached the age of reason by the time of her trial, it was her childhood per se that was under examination. According to Aquinas, the child of a heretic, "before he has the use of reason," is under the care of his parents "as a kind of spiritual womb."⁴⁰ For this reason, Aquinas argued against forcing a child to convert by taking her away from her infidel parents as that was against natural law. Aquinas's reasoning, however, was not always followed by the Spanish inquisition, a fact that Thomists did not ignore. In his critique of the Holy Office, the Jesuit Mariana wrote that what was most disturbing in the eyes of the Christian population "was that children paid for the crimes of their parents."⁴¹

Given the contemporary complaints against the Holy Office, it was not only Leonor who was on trial but the institution itself. The Dominicans in charge of the machinery of ecclesiastical justice needed to distinguish themselves from the prior clerical abuses in the New World and the method they chose was heavily influenced by natural law jurisprudence. The Dominican *auto de fe*, therefore, needed rational actors who willingly turned towards the Church, not through fear or coercion but as a matter of natural reason. The earlier *auto* of 1596 was not particularly successful in this regard as most of Leonor's relatives chose death over reconciliation. With the trial of young Leonor, the New World Holy Office was in a position to prove itself more Christian than its predecessors and even, perhaps, its European parent.

³⁹ St. Thomas Aquinas, *The Summa of Theologiae*, II-II, Qu. II, 3.

⁴⁰ Aquinas, *Summa of Theologiae*, II-II, Qu. IO, pt. 12.

⁴¹ Cited in Kamen, 67.

Family Life in the Carvajal Household

Martin Cohen characterizes the crypto-Jewish religious practices of Leonor's extended family as "artfully improvised liturgy that bore only occasional resemblance to that of traditional Judaism."⁴² The services were conducted in Latin, with only a scattering of Hebrew words. Often quasi-Jewish practices became infused with Catholic meaning, as in the case of taking the unleavened bread of the Passover service in much the same way as a suppliant took the Eucharist. In the proceeding against Isabel de Carvajal, an aunt of Leonor, one witness confessed that the family celebrated the *Pascua del Cordero*, the Jewish Passover by eating unleavened tortillas.⁴³ As the assembled ate the proscribed food, they spoke of the law of Moses "as the good law in which men would be saved and that the Christians were being misled" (*que los cristianos andaban errados*).⁴⁴ "Like their Catholic neighbors," writes Cohen, "the New Christian Judaizers trusted in resurrection, retribution, and revelation; unlike their Jewish co-religionists, they had no idea of Oral Law, mitzvah, halakhah, chain of tradition, or other concepts integral to rabbinic Judaism."⁴⁵ Seymour Liebman describes Luis the Younger's religious zeal in terms of the emotionalism of "early Christian martyrs and mystics. He did not hold to the current, more prevalent attitude of Judaism which makes this faith a 'this world' religion."⁴⁶

⁴² Cohen, 135.

⁴³ Proceso contra Isabel de Carvajal, 1595, Bancroft Library, University of California, Berkeley, California; 205b. References to this manuscript will hereafter be noted as IC: "They all ate tortilla without leavening and chicken."

⁴⁴ IC, 206b: "was the good law in which men would be saved and that the Christians were mistaken in their beliefs."

⁴⁵ Cohen, 100.

⁴⁶ Liebman, 41.

Although on unsure ground with respect to rabbinic Judaism, the Judaizing members of the Carvajal family were very certain as to the evils of Catholicism. Some of their anti-Catholic efforts were private matters – spitting at saints or turning the household statues to face the wall; praying to Moses while taking the Eucharist – and some of their efforts were more of a proselytizing nature. Isabel attempted to convert her uncle, the Governor, back to Judaism by asking him to read the hand of God in his current political and economic troubles. "Because you are not observing the Law of Moses, nothing is going your way. You have no material wealth in this world, and you will have no salvation in the world to come. If you believe your religion and die in it, you will go straight to hell."⁴⁷

Yet not all members of the Carvajal family were dissatisfied with Catholicism and it appears that those who were faithful were able to convince the inquisitors of the veracity of their faith. Leonor's father, Antonio, was ultimately reconciled to the faith and her uncle, Gaspar, was able to remain in the Dominican Order. These acts of reconciliation suggest that the relative weight of Thomistic reasoning and of racially-based bigotry expressed by the *limpieza de sangre* statutes⁴⁸ had shifted somewhat by the sixteenth century, at least in the minds of the Dominican inquisitors. According to Thomist natural law, faith was not a condition of blood but a matter of will. *Limpieza* statutes, passed in the fifteenth century, suggested that the soul of a person with Jewish ancestry could not be trusted to distinguish right from wrong, echoing the predestination argument posited by Gratian. St. Thomas, on the other hand, had argued that all souls, as

⁴⁷ Cohen, 82.

⁴⁸ See R. N. Swanson, *Religion and Devotion in Europe, c. 1215 - c. 1515* (Cambridge: Cambridge University Press, 1995), 290-291.

long as they are healthy, have a "natural knowledge"⁴⁹ of the good. Although *limpieza* statutes were in effect during the Conquest, they were not regularly enforced, as evidenced by the ease with which the Governor brought many of his crypto-Jewish relatives to Mexico.

It was not just xenophobic Old Christians who were concerned about the effects of blood on one's will. Both Leonor's parents saw her as predetermined by her blood, her *mala casta*. Her father expressed his frustration at Leonor's attachment to her Judaizing mother in terms of "bad blood." One story that cycled through the witnesses concerned a day in which Antonio, fed up with the judaizing in his home, took Leonor out of the house with the intent of finding her another home. Confused as to why she was being banished from her mother, the child began crying in the street. Antonio shouted, "Be quiet you piece of bad blood!" (*Calla buena pieza de mala casta*). Leonor continued crying and her father, frustrated, retraced his steps. Calling his wife a "bad woman" (*mala hembra*), he left Leonor at the door and went about his business.⁵⁰

Not only did Antonio and his wife, Catalina, argue incessantly about Leonor's upbringing, but Catalina was censured by her own mother, Francisca. Leonor told the inquisitors that her grandmother would often intervene on Leonor's behalf, scolding Catalina for making the child fast so often and for beating her when she failed to recite her prayers properly.⁵¹ Although the standard practice in crypto-Jewish Iberia had been to keep the children ignorant of their Jewish heritage until they reached maturity, Catalina

⁴⁹ Aquinas, *Summa of Theologiae* I 84,3; cited in Anthony Kenny, *Aquinas On Mind* (New York: Routledge, 1993), 91.

⁵⁰ LC, Chapter 7.

⁵¹ LC, Response to Mariana's testimony, Chapter 2, February 25, 1601.

insisted that her young daughter be included in the Mosaic rituals.⁵² Leonor's aunts, Mariana and Ana, told the inquisitors of a time when Leonor was a baby and Catalina denied her the breast on a fast day. They confirmed that Leonor was tied to a chair and whipped until she memorized the prayers correctly.⁵³ Leonor herself remembered a time when her mother became so exasperated with her that she called her a "dog of bad blood" (*perra de mala casta*) and then forced into her mouth a burning hot egg with ground pepper; punishment for saying the word, "Jesus."⁵⁴

The inquisitors were very interested in evidence of the child's punishment for her Christian leanings. Was the child *naturally* drawn to Jesus in accordance with Thomistic principles? Did this not show a being capable of perceiving on her own the merits of Catholicism? When asked how she came to know this word, she told them she had learned about Jesus from the maids in her mother's house and that most of her Christian education came from her father who had taught her the Ave Maria, the Credo, and other Christian prayers.

Because Antonio was himself a prisoner of the Holy Office during the time of Leonor's trial his teachings were regarded with suspicion. Were his lessons given in pure faith? Or was he merely trying to protect himself and his family from the probing of the Holy Office? Determining whether a person was merely complying with the letter of the law, a charge St. Paul leveled at the Jews, or with the law's spirit was an essential part of the inquisitor's task. Torture was one method of fulfilling that task and Antonio

⁵² René Levine Melammed, "Women in (Post-1492) Spanish Crypto-Jewish Society," *Judaism* 41 (Spring 92), 156-168.

⁵³ LC, Mariana's Testimony, June 15, 1600; and Ana's Testimony, October 7, 1600 and January 2, 1601.

⁵⁴ LC, Response of Leonor de Cáceres to second witness, Chapter 1, Feb. 25, 1601.

withstood every sort of torture available.⁵⁵ By surviving these grisly methods, Antonio proved himself a good Christian. Cohen remarks that normally the inquisitors would have "declared him an impenitent and condemned him to relaxation to the secular arm," yet that argument does not recognize some of the reforms of the sixteenth century. Had the inquisitors been guided purely by *limpieza* reasoning then Cohen's argument would be valid. Instead, we might understand Antonio's reconciliation as the application of natural law.

The Education of Leonor de Cáceres

It was not unusual for members of the household to testify against each other, as much of the activity in question took place within the home. In Leonor's divided household, many of the few remaining relatives were hostile witnesses. Both of her aunts, Mariana and Ana, provided information to the inquisitors about Leonor's Judaizing, emphasizing the heretical aspect to her upbringing. The one member of Leonor's household who might have provided favorable testimony, her father, was also a prisoner of the Holy Office. Nor was she benefited by her second informal Christian tutor, the Black slave, Anna de los Reyes, who worked in the Catholic home where Leonor lived after her mother's arrest in 1595.

Leonor initially refers to Anna as a "blessed Negress" (*negra beata*) for it was she who warned Leonor that the Jewish prayers she had learned as a child would create serious troubles for her. After learning the fifteen mysteries of the rosary, she mentioned to Anna that she had learned different prayers in her mother's house. When she began to recite them, the slave, who was fifty-six at the time of Leonor's trial, cried out, "Ay, child! Don't tell me these things for hearing them makes my flesh tremble." Anna tells the

⁵⁵ Cohen, 263-264.

inquisitors that Leonor was confused by her response. "Isn't this good?" she asked naively. Anna responded vehemently, "It is so bad that if the Holy Office knew about it they would burn you alive" (*te quemaran en vivas llamas*). Anna then reports that she told Leonor to confess all of this to her mistress, Ximona Espindola, or to Ximona's sister, doña María. Leonor responded that she was too ashamed to do so. "What is more shaming," retorted Anna, "to be burned alive (*en cuerpos vivos*) or to tell the *Señoras* what you just told me?"⁵⁶

This interchange was of great interest to the inquisitors as the threat of burning reduced Leonor's credibility. In an earlier audience, Leonor had explained, "I believed the law of Moses was the good law until I learned differently from Anna de los Reyes."⁵⁷ But what did Anna teach her? That Jesus was the true Messiah or that she ought to comply with the Holy Office if she wished to escape the fate of her relatives? In a subsequent questioning, Leonor told the Inquisitor don Alonso de Peralta that she "separated herself" from the law of Moses because of Anna's warning that "it wasn't good and that the Holy Office would punish her" for what her mother had taught her. In one of his interminable questions, Peralta focused on the child's capacity to discern the truth. "How is it that having been taught with such care by your mother and others to the extent that you were unable to recognize the lessons of your father in the law of our savior Jesus Christ, but only followed the words and beliefs of your mother, and taking for good the law of Moses and thinking to save yourself in it from the time of five years old until one year after you were brought to the house of Agustín de Espindola, being the age of ten years old, that you would have wanted to separate yourself from this belief without

⁵⁶ LC, Testimony of Anna de los Reyes, Feb. 19, 1601.

⁵⁷ LC, Audience of Leonor de Cáceres, December 14, 1600.

fundamentals, doctrine, nor any lessons in our evangelical law except for what Anna de los Reyes told you?"⁵⁸

Perhaps the tone of the inquisitor made his purpose clear. In any event, Leonor quickly realized that she could not base her faith on the words of a Black slave whose lessons, understandably, were tinged with coercion. "In reality, " responded Leonor astutely, "the truth is that I had already separated from that belief by the time that dark (*morena*) Anna de los Reyes talked to me. I was moved to do so because I had heard some sermons in which they discussed and taught the law of our savior Jesus Christ." She also referred to some lessons received from a doña Simona who told her that the law of Jesus was the good law in which men would be saved and who taught her prayers in order to save her soul. Leonor also stated that she would not follow her parents and relatives because she saw the bad that had come to them (*lo mal que avian parado*). "For all of this I was persuaded that the law of our redeemer and savior is the good law in which one is saved, even someone in error as I had been."⁵⁹ The inquisitor was still suspicious. If she had truly accepted Jesus why hadn't she come to the Holy Office and told them of her heretical upbringing? Unfortunately, the page which holds her response is missing from the folio.

The above interchange illustrates the dilemma faced by someone wishing for reconciliation. Somehow, Leonor had to prove that she was not conforming through compliance but through spiritual passion, that her faith was more than skin deep, that, contrary to Gratian sentiments, it was not controlled by blood. Her father was able to convince the inquisitors of the purity of his faith after undergoing severe torture. Fortunately, Leonor was able to convince her examiners by demonstrating her familiarity

⁵⁸ LC, Audience of Leonor de Cáceres, February 16, 1601.

⁵⁹ *Ibid.*

with Christian doctrine. The inquisitors remarked on how well she delivered the Pater Noster, Ave María, Credo, Salve Regina and the Ten Commandments.⁶⁰ Her recitation indicated a spirit in touch with God's grace. Under Thomistic principles, her performance suggested a nature capable of recognizing the goodness of God.

For her next round of questioning, Leonor had the counsel of a guardian. By this time, the full extent of the accusations were known. The fiscal inquisitor, doctor Martos de Bohorques, had filed ten counts against her: (1) that she enjoyed the privileges and benefits of a Christian and yet followed the dead law of Moses; (2) that with persistent will and error in understanding she continued waiting for the Mosaic messiah; (3) that she mocked Jesus (*por cosa de burla*), confessed directly to God, only confessed to the priests "in compliance" (*por cumplimiento*), did not believe that the blessed host contained the real body of Christ, and participated in gatherings in which the Saints were spat at; (4) that she observed all the rites and ceremonies of the dead law of Moses and held Saturday as the holy day in which God rested after the work of creating the world; (5) that in honor of the Jewish Sabbath, she put on clean shirts on Friday evenings and clean sheets on the beds, and participated in rituals that honored the Jewish law and that praised it for being the salvation of mankind; (6) that she celebrated Yom Kippur; (7) that she followed Kosher dietary restrictions; (8) that she celebrated Passover; (9) that she refused to confess these heresies to her confessors because she was ashamed, and, in particular, that she did not confess the many times in which she took the sacrament in form only (*por cumplimiento*) and not as an expression of faith (*por no ser sentida*); and (10) that she refused to speak the entire truth to the inquisitors although repeatedly advised to do so, and kept quiet about the accomplices and guilty parties involved in

⁶⁰ *Ibid.*

maintaining the law of Moses. Leonor de Cáceres, he concluded, was "a heretic, a Judaizer, and an apostate and should be relaxed to the secular arm in order to publicly castigate her and to make her punishment a lesson to others."⁶¹

Although the fourteen-year-old may have trembled to hear this, her guardian, himself an employee of the Holy Office, understood the pattern of the proceedings. The first sentencing was always extremely harsh, with the hope that the defendant would be shocked into giving more information; not out of force or compliance, but because the shock of the judgment, like the shock of seeing the instruments of torture, would dislodge any internal obstacles to the truth. Whether fear honed in her reasoning powers or not is hard to conclude; yet having heard the counts, Leonor with the help of her guardian came up with the most compelling argument in her favor. Pointing to Count 9, which included allegations that she had adhered to Mosaic law throughout her childhood, she offered a more rational explanation for her abandonment of Judaism. "If the law that her mother, grandmother, and aunts had followed was good," she told the inquisitors, "God would have favored them and liberated them from their trials of the flesh."⁶² Next she referred to the wisdom she discovered in a book, the *Flos Sanctorum*,⁶³ that she read many times and that convinced her to convert to Christianity. For the first time, Leonor presented reason, not fear, as the principal motivation in her turning towards Catholicism.⁶⁴

Two days later, she was asked to explain herself again. She reminded the inquisitors that she was a young girl, still at her mother's breast when she was

⁶¹ LC, Audience of Martos de Bohorques, February 21, 1601.

⁶² LC, Response to criminal charges, Chap. 9.

⁶³ Mentioned as well in Cohen, 68: "The Saints Anthology" by Alfonso de Villegas and brought over on the boat from Spain.

⁶⁴ LC, Response to criminal charges, February 21, 1601.

indoctrinated in the law of Moses. "It wasn't until the Holy Office began its denouncements that I came to realize my errors. I didn't confess to my confessors out of shame, fear, and ignorance." She strategically pointed out that when she believed in the law of Moses she was at an age legally incapable of fraud (*fue en edad que conforme a derecho estar no enteramente capaz de dolo*). "Now that I am of more years and being more advised, I am deeply repentant (*muy de corazon arrepentida*)." In a final coup de grace, Leonor explained that she abandoned the Jewish faith by the "grace of God," by the "things" she had heard in sermons, from Christian people, and from books.⁶⁵ No longer acting out of fear, Leonor was positioning herself in line with Thomistic doctrine: understanding God through reason and because her nature recognized Him as good.

On February 25, the inquisitors handed her the testimony of her remaining aunts, Mariana and Ana, as well as that of a family friend, Diego Diez Nieto. Since much of this testimony concerned events in her childhood, Leonor was able to embellish on her helpless position as a child among heretics.⁶⁶ Both of the aunts referred to instances in which Catalina beat her child. Leonor added to these recollections a quarrel between her mother and grandmother in which Francisea told Catalina not to be so harsh with the child. It was after hearing Ana's testimony that Leonor revealed that her mother had burnt her mouth with a hot egg. If force reduced the validity of faith, then Leonor took great pains to show how much force was involved in her Jewish upbringing. She countered the testimony of Diego Diaz Nieto, who remembered Catalina bragging about Leonor's proficiency at memorizing the psalms, with a memory of a time when Catalina complained to Francisea that "she was with much pain because Leonor did not take very

⁶⁵ LC, Audience of Leonor de Cáceres, February 23, 1601.

⁶⁶ For a comparison see Richard L. Kagan's treatment of a young Spanish woman by the Madrid Holy Office, *Lucrecia's Dreams* (Berkeley: University of California Press, 1990).

well the prayers of the law of Moses and so she was forced to be severe."⁶⁷ For every story that described her as the model Judaizer, Leonor had a counter-story that emphasized her natural reluctance at accepting the Jewish faith.

Not everything Leonor said worked in her favor. She remembered a time when her parents argued because Antonio wanted to join a procession without his sword. "He said that he wouldn't carry a sword because, seeing as how his wife was a prisoner of the Holy Office [under house arrest], he didn't want the Christians to think he wanted to kill them because he was following the law of Moses like his wife."⁶⁸ If Leonor had wanted to position her father as truly Christian, and therefore a reliable teacher of the One True Faith, then reporting that he worried what the neighbors thought was not helpful evidence. His external actions, walking unarmed in a Christian procession, may have conformed to a Tridentine doctrine of justification of faith through works; yet, if that procession were done in compliance and not in faith, then her father's participation in the event was doubly damnable. On the other hand, describing the fights between her parents countered a possible *limpieza* claim against her. If both parents had been crypto-Jews, then her blood might be doubly damned.

The Reconciliation

The Vote came on March 7, 1601, the day of St. Thomas Aquinas, and it appears the saint's reasoning guided the inquisitors' hands. Instead of the persistent Judaizer and apostate whom Bohorques had described, the Inquisitors don Alonso de Peralta, Gutierre Bernardo de Cuivos, and Doctor don Juan de Cervantes spoke to a person capable of complete conversion. They called for Leonor to publicly recant her sins and to be

⁶⁷ LC, Response to Diego's Testimony, February 25, 1601.

⁶⁸ LC, Response to Ana's Testimony, February 25, 1601.

reconciled to the faith. In order that "she may be instructed in the matters of our Catholic faith," the inquisitors ordered her placed in a good Catholic home. Education, not extermination, was the merciful response to the child's heresies.⁶⁹

In the final telling of Leonor's story, the inquisitors outlined the depth of Leonor's misconduct. Although baptized and confirmed in the Catholic faith, she participated in Mosaic rituals. Although regularly taking communion at mass, she fasted during Yom Kippur. These actions, in and of themselves, were not as grave as her errors of understanding, which, in turn, were not as serious as moments where she expressed her will. Believing that she would be saved through the law of Moses was an error of understanding. Waiting for the Jewish Messiah demonstrated an "obstinacy of will" (*pertinacia de la voluntad*). That she went to confession but did not confess to the ongoing crimes in her house also pointed to an obstinate will. The fiscal inquisitor was correct to recommend a death sentence as her crimes were not just superficial actions, which would have made her participation on the level of compliance, but reached to the depths of her soul. Nonetheless, the inquisitors pardoned her errors because of her status as a child. "From her mother's breasts, she has been indoctrinated in the law of Moses, such that, had she not been denounced before the Holy Office, she would have proceeded to follow this law in ignorance."⁷⁰ They agreed with Leonor's final defense that at the time of these acts she was too young to be deceitful, she did not have *la capaz de dolo*. In other words, the inquisitors found that Leonor's crimes against the faith had taken place before she had free will. Aquinas had argued that "when children start to use their own

⁶⁹ LC, Voto, March 7, 1601.

⁷⁰ *Ibid.*

free will [i.e. at puberty] they begin to belong to themselves, and then can be brought to believe."⁷¹ To hold children accountable before that time, was contrary to "natural justice."

In the sentence, the inquisitors began by considering their powers. They reminded their audience that, under law, they had the right to excommunicate anyone found guilty of heresy and apostasy. Yet theirs was not purely a coercive power but a merciful power: "[C]onsidering that God does not want the death of the sinner but her conversion with pure heart and unfeigned faith to our sacred Catholicism, and that she has confessed in entirety and not hidden anything from us, and wanting to use mercy with her, we should advise and do advise reconciliation." In a corporatist performative utterance, the inquisitors "unite[d] her and reincorporate[d] her into the guild (*gremio*) and union of the sacred mother Catholic church."⁷²

As part of the auto, Leonor read her Abjuration, the text of which is included in her *proceso*. "I come before you, apostolic inquisitors, who are against heresy, depravity, and apostasy in the City of Mexico and provinces of New Spain." Touching a crucifix, she acknowledged that the Holy Office's legitimacy came directly from Christ. She promised to comply with any future requests and penalties of the Holy Office. Should she relapse into judaizing, she would expect to receive the full penalty of the law. Her public movement towards the Church was choreographed as the willful and rational recognition of the divinity of Christ. Leonor had proven to the multitude that the Dominican-led Holy Office was indeed the proper instrument of God's mercy; a mercy also extended to her father.

If the primary purpose of this trial had been to send a strong message to the crypto-Jewish population of Mexico, then Leonor would have been sent to the stake. But

⁷¹ St. Thomas Aquinas, ST II-II, Qu. 10, Art. 12.

⁷² *Christinom Invocato*, March 7, 1601.

she wasn't. Instead, the inquisitors followed natural law reasoning. The crimes of her childhood were absolved because she was, in Aquinas words' still a part of her mother's "spiritual womb." The public reconciliation of a young crypto-Jew offered a way for the Inquisition to remind the colonial society of its fierce pastoral concerns without falling into the scandal of force. The language of this auto de fe expressed the place of reason and nature within the process of conversion. If all the judaizing heretics were burnt at the stake, then fear of immolation would be the driving force of conversion. For Leonor to demonstrate, publicly and rationally, the blessings bestowed upon her by the almighty Church spoke both to the Catholic imagination of the watching crowd – who understood the effects of receiving the sacrament with a pure heart – and to the powers of the Holy Office which, through God's grace, was able to change a heretic into a member of the *corpus mysticum*.

Authority, faith, and tradition made for powerful spectacles but alone they did not create a solid polity. Working with human nature, on the other hand, not only made it possible for Catholicism to present itself to the world as a better brand of justice but also created a world in which people could become better through *sufficientem instructionem*

CHAPTER V

SUBSTANTIAL CHANGE

*God put the seminal reasons of things into the
elements and other created causes.
St. Augustine, De Trinitate 3, 7-9*

Having faithfully performed the rituals of the auto de fe, the substance of Leonor's soul had changed. Having performed her penance and having fully confessed her sins, she was purged of disease and could now trust her judgment in spiritual matters. Her reconciliation had not altered her thoughts, rather it had corrected her way of thinking. A better metaphor for this process might be realignment. Just as a chiropractor snaps the spine back into place, so the inquisitors restored Leonor's soul to its natural harmony. Her nature was back on track. Her tongue could now reliably taste sweetness.

Reconciliation was predicated on two assumptions: that the substance of the sinner could be changed and that the agent of that change was supernatural. Sanctifying grace, the highest form of grace in Aquinas' spiritual hierarchy, was the necessary ingredient that moved a penitent from sin to virtue. Reason and will could only go so far. In order to be reconciled to the one true faith, the sinner's substance needed to accept an infusion of external grace. Confession prepared the substance of the self for the infusion of grace. In the early modern era, the Inquisition authorized the infusion.

Seminal Reason in Things

Confession, reconciliation, abjuration, all these mechanics of the *corpus mysticum*, were predicated on an understanding of, in James Tully's words, the self as located in substance. We can see what that looked like in the prototype of the confession,

Augustine's work by the same title. According to the Bishop of Hippo, the very substance of man, which included both the body and mind, was sprinkled with "seminal reasons." In order to find the truth, one needed only look for these divine principles already contained within. Education, then, entailed a process of recollection, of finding something that we already knew. For Plato, this entailed the process of recollection through reason as explained in *Meno*. For a Catholic, this entailed recollection through confession.

Much of Augustine's *Confessions* is a critique of a purely philosophical understanding of God. Referring to neo-Platonist texts, Augustine commented on the absence of spiritual powers. "Those pages do not contain the face of this devotion, tears of confession, your sacrifice, a troubled spirit (Ps. 50: 19), a contrite and humble spirit the salvation of your people, the espoused city (Rev. 21: 5), the guarantee of your Holy Spirit (2 Cor. 5: 5), the cup of our redemption."¹ Although Platonism freed Augustine from the superstitious beliefs of the Manichees, it could not bring him to God. The ascent to wisdom that Socrates articulated through reason could not bring one to pure happiness without a complete surrender of the will. What Plato offered was a presumption of truth: confession offered the real thing:

I would learn to discern and distinguish the difference between presumption and confession, between those who see what the goal is but not how to get there and those who see the way which leads to the home of bliss, not merely as an end to be perceived but as a realm to live in.²

Confession was not the end of the road but the beginning of a new way of being.

"It is good to make confession to you, Lord, and to say 'Have mercy on me; heal my soul,

¹ St. Augustine, *Confessions* translated by Henry Chadwick (Oxford: Oxford University Press, 1991), VII, xxi, 131.

² St. Augustine, *Confessions*, VII, xx, 130.

for I have sinned against you' (Ps. 40:5; 91:2)."³ The confession revealed Augustine's role in his unhappiness, his responsibility in the theft of a pear, his desire for sex without family responsibilities. By holding himself accountable for his actions, he opened himself up to the possibility of grace, a grace that was predicated on the submission of the will.

Augustine warns those who would avoid the humbling act of confession: "I was not brought down to that hell of error where no one confesses to you (Ps. 6:60), because people suppose that evil is something that you suffer rather than an act by humanity."⁴ This emphasis on agency is a crucial aspect of the confession. Indeed, the act of confession assumes a world where action matters, where humans are both moved and movers, a point emphasized by St. Thomas some one thousand years later: "Things which are in the soul by their essence are known through experimental knowledge," wrote St. Thomas, "in so far as through his acts man has experience of his inward principles."⁵

Augustine's confession, then, is an action that brings him experience of his inward principles. In wondering how to seek for God, he considers the powers of memory; how the mind can remember and also forget and how that explains the sensation of recognizing the truth. He reflects on his experience of being a student of philosophy, learning axioms. "For when I learnt them I did not believe what someone else was telling me, but within myself I recognized them and assented to their truth."⁶ The experience of recognition indicates that the truth is already known: "The answer must be that [these truths] were already in the memory, but so remote and pushed into the background, as if in most secret

³ St. Augustine, *Confessions*, IV: iii, 54.

⁴ St. Augustine, *Confessions*, VII, iii, 114.

⁵ St. Thomas Aquinas, *Summa Theologiae* I-II, Q. 112, Art. 5 in *Introduction to St. Thomas Aquinas* (New York: Random House, 1948), 680.

⁶ St. Augustine, *Confessions*, X, x, 189.

caverns, that unless they were dug out by someone drawing attention to them, perhaps I could not have thought of them."⁷ To remember, then, is to explore the caverns of the mind, to recollect the truths. These truths, however, are of a slippery nature. "Yet if for quite short periods of time I cease to recollect them, then again they sink below the surface and slip away into remote recesses, so that they have to be thought out as if they were quite new, drawn again from the same store."⁸

Confession is a thinking out of what is buried deep beneath the surface; not just truth but also happiness. "My question is whether the happy life is in the memory. For we would not love it if we did not know what it is."⁹ The question is rhetorical and didactic. It is only by becoming a question to ourselves that we take up the head lamp and go looking for what we always knew. For happiness, according to Augustine, is known to everyone, regardless of what language they speak. "If they could be asked if they want to be happy, without hesitation [the Greeks and Romans] would answer with one voice that they so wish."¹⁰ The realm of happiness, it turns out, transcends individuality and even language. It is held in the subsoil beneath nations, universal to the human condition.

What makes the "secret caverns" metaphor so striking is the relationship it presumes between soul and self. The soul contains more than the self at first recognizes. There must be an active exploration of one's actions and mental capacities in order to reveal something that was always known. Yet this activity of introspection cannot be completed by the self alone, a point central to Catholic doctrine. According to Aquinas, "man cannot be restored by himself, but requires the light of grace to be poured upon him

⁷ *Ibid.*

⁸ St. Augustine, *Confessions*, X, xi, 189.

⁹ St. Augustine, *Confessions* X, xx, 197.

¹⁰ *Ibid.*

anew, as if the soul were infused into a dead body for its resurrection."¹¹ The language suggests an ethereal infusion. Medievals generally understood this phenomenon in terms of corporeal imagery as illustrated by the following mosaic (Figure 5.1) of the creation of Adam found in the Church of San Marco in Venice. As the details of the mosaic suggest, the soul is constituted, not by the actual organs of senses (which would require matter), but by the powers associated with those organs, i.e. sense-perception. The "homunculos" shown in the Venitian mosaic has all the senses of the human being without the business of matter. To be infused with grace, therefore, was to have one's senses animated.



Figure 5.1 Mosaic of the creation of Adam¹²

These divine infusions not only animated the senses they also animated the intellect and the will, which Aquinas referred to as "the interior senses." Because these interior senses could always be "bent to one side or another," humans needed the continuous perfection

¹¹ Aquinas, *Summa Theologiae* I-II, Qu. 109, art. 7, in *Introduction to St. Thomas Aquinas*, 665.

¹² Mosaic of the creation of Adam, San Marco, Venice. Source: *The Oxford History of Western Philosophy*, edited by Anthony Kenny (Oxford: Oxford University Press, 1994), 122.

of grace. "We must come at length to this," Aquinas concluded, "man's free choice is moved by an extrinsic principle, which is above the human mind, namely God."¹³ That extrinsic principle is grace, which is delivered to us through the intellect. "The intelligible Sun, Who is God, shines within us. Hence the natural light bestowed upon the soul is God's illumination, whereby we are illumined to see what pertains to natural knowledge..."¹⁴ The mind was not a mere container of ideas but a substance seeded with natural knowledge which only required the infusion of supernatural light to follow its natural course. What is important to our discussion is that intelligence and grace might have supernatural sources, but the experience of those powers was natural.

Going Underground

Both Augustine and Aquinas describe a highly personal and interior activity. As discussed in chapter two, that activity only made sense if it conformed with the public authority, i.e. the Church. Yet the Church wasn't the only representative of a greater corporate whole. The emphasis on nature, on natural law, gave the land itself a higher authority. Spanish subjects, displeased with the policies of their kings, often went underground in order to find the seminal truths hidden in the subsoil of the peninsula. Just as the confessor explored the caverns of her soul for the seminal truth so the Spaniard might explore the caverns of his country for natural justice. In both cases, the process assumed that nature was superior to the confused justifications of the will. In the early modern era, the Jesuit emphasis on reading the divine word in the concrete, or imagining

¹³ St. Thomas Aquinas, ST I-II Qu. 109, Art. 2, *Introduction to St. Thomas*, 655.

¹⁴ St. Thomas Aquinas, ST I-II, Qu. 109, Art. 1 in *Introduction to St. Thomas*, 654.

the incorporeal in the corporeal, may have added to the legitimacy of these speluncar dissidents.

The cave has held a privileged place in Spanish national identity ever since the beginning of the Reconquista. When the Moors flooded the Iberian peninsula across the Straits of Gibraltar in the early part of the eighth-century, the Christian Visigothic kings, unorganized, ineffectual, and, as legend has it, purely interested in protecting their own skins, did little to stop the Islamic interlopers. Only the truly devout, such as Pelayo and his supporters, refused to give up the fight. Taking refuge in the caves of the Cantabrian mountains, they transformed themselves into a Catholic fighting machine that, bit by bit, reclaimed the peninsula.

Sixteenth-century prophets, who saw Spain at risk from yet another infidel penetration, this time from across the Northern Atlantic, continued the Pelayo tradition. Just as the Visigothic kings were dissolute, self-centered, and ineffectual so, claimed the street prophets of Madrid, was Philip II. Miguel de Piedrola Beamonte, known as the Soldier-Prophet, took to the streets of Madrid in 1578, declaring himself to be in the tradition of the biblical prophets Elijah and Malachi.¹⁵ Like other millennial prophets around Europe, Piedrola, believed that the apocalypse would begin in 1588. In preparation for this fearsome event, Piedrola and his supporters prepared a cave, called Espelunça, from whence the faithful would launch a second Reconquista. "Like a later-day Pelayo," writes historian Richard L. Kagan, Piedrola promised to "organize Spain's deliverance from her enemies and establish a new Spain. . . ."¹⁶

¹⁵ See Richard L. Kagan, *Lucrecia's Dreams* (Berkeley: University of California Press, 1990), 95 - 101.

¹⁶ Kagan, 96.

Some twenty years after Piedrola's trial, another street prophet, the twenty-one year old Lucrecia de León, was brought before the Inquisition on charges of having seditious dreams that "attempted to dishonor the King Our Majesty and his ministers and government."¹⁷ As in the case of Piedrola and Pelayo, Lucrecia's dreams included a cave as part of the rebirth of Spain. In the envisioned apocalypse, Spain's spiritual capital, Toledo, would be spared destruction – "thanks to the timely intervention of an army concealed in caves along the Tagus River"¹⁸ – while the corrupt political capital, Madrid, would fall. Although her dreams were clearly of a seditious nature, it appears that Thomist principles informed some of the inquisitors' judgment. Kagan's research suggests that some of the inquisitors understood Lucrecia's dreams as conforming to a higher law. She had, after all, dreamt of the loss of the Armada six months prior to the event. Rather than punish her for plotting the downfall of the king, she received the Inquisition's most lenient sentence, *abjuración de levi*.¹⁹

Along with nationalist myths and natural law, the very architecture of Spanish worship reinforced the understanding of nature as infused with divine wisdom. Besides the hundreds of shrines and hermitages tucked into remote corners of Spain, many a formal church or monastery was built around the entrance of a particular cave, incorporating the natural crypt into the architectural plan of the nave. The Ermita de la Virgen de la Peña, shown below (Figure 5.2), carved out of a hillside just outside of Burgos, illustrates the fused relationship between the natural and supernatural worlds. A twelfth-century Romanesque virgin is venerated inside the earth's surface. The simple exterior, a product of man's artifice, merely signals the more sacred and more natural site.

¹⁷ Kagan, 146.

¹⁸ Kagan, 78.

¹⁹ Kagan, 154.



Figure 5.2 Ermita de la Virgen de la Peña²⁰

The supremacy of natural law over human law, substance over reasons, constrained the activities of Catholic elites. The promulgator of a mere human law knew that he might be overruled on the grounds of a more natural perspective as evidenced by Philip II's concerns about Piedrola and Lucrecia. Philip II was able to maintain his legitimacy over the street-prophets through the ministrations of the Holy Office, the agents of divine law. Protestant kings, who both were denied and, in turn, denigrated the imprimaturs of divine law, were in even greater jeopardy of having their authority overruled. What is interesting for purposes of our discussion is how the Protestant monarchs found other means for establishing their legitimacy and how the understanding of the location of the self shifted in that effort.

²⁰ Ermita de la Virgen de la Peña. Source of photograph: Millán Bravo Lozano, *A Practical Guide for Pilgrims: The Road to Santiago* (Sahagún: Centro Estudios Camino Santiago, 1996), 114.

The Political Oath

It wasn't just Spanish kings who feared that a more natural form of justice might usurp their power. Protestant kings, wandering off the tether from Rome, were increasingly made aware by their unhappy Catholic subjects that natural law permitted regicide should the king fail to preserve society's health. The response from the British monarchs was both brutal and inquisitorial. Henry VIII created an inquisitorial commission under Cromwell to eradicate any papists, the most famous eradication being that of Sir Thomas More.²¹ What is somewhat confusing during this period is that the English carried out the very policies that made them revile Spain all the while claiming to be different. Like the various characters in Robert Bolt's dramatization of the trial of Sir Thomas More, *A Man for All Seasons*, one was supposed to take comfort in the fact that "After all, we're not in Spain."

With the ascent of Elizabeth, both Catholics and Puritans became suspect members of the state. Members of Parliament, many of whom were Puritans, were hauled before the High Commission and asked to take the oath. Objections to this invasive policy came in the form of comparisons to Spain. After reading the articles to which Puritans were sworn to answer under the oath *ex officio*, the Lord Treasurer, Lord William Cecil Burghley, complained to the Archbishop of Canterbury that "I think the Inquisitors of Spain use not so many questions to comprehend and to trap their preyes."²² Robert Beale, a member of the House of Commons, complained that the oath *ex officio* was a product of the "Inquisition in Spayne and Rome."²³

²¹ See Leonard W. Levy, "The Oath Ex Officio" in *Origins of the Fifth Amendment: the Right Against Self-incrimination* (Chicago: Ivan R. Dee, 1968), 43-82.

²² Cited in Levy, 136.

²³ Cited in Levy, 146.

Robert Beale exemplifies the Puritan response to the business of taking the oath. In condemning the High Commission, he claimed that princes and magistrates had no authority to make laws "in things indifferent, to bynde men to the observation thereof."²⁴ The part of men being bound was the conscience and to prescribe rules for men's consciences in things indifferent was, in Beale's words, "a doctrine fit for Antichriste." (That Beale himself was, in Levy's words, an "arch-persecutor of Catholics" suggests that the only consciences which merited this protection were Puritanical in operation.) According to Beale, "the Lord hath reserved the conscience of man to be settled by him self in his good time, as he thinketh meete in these indifferent things."²⁵

Beale's rhetoric illustrates an individualism that may have conformed to Luther but not to the public authority and corporate sensibility operating in the South. The rhetoric of the conscience presumed a mind capable of figuring things out on its own. Inquisitors, operating in the South, continued to subscribe to the Thomist idea that the mind might not always be in touch with seminal truths. "Heretics," wrote Aquinas, "intend to assent to Christ but make a wrong choice of what to assent to, choosing what their own mind proposes rather than what Christ handed down."²⁶ As far as the inquisitors were concerned, the cure to a mind out of whack was confession and reconciliation. As far as the Puritans were concerned, the mind was "settled by God him self." A mind out of whack, however, did not merit any cure as that was a mind without conscience, i.e. Catholic.

²⁴ Levy, *Origins of the Fifth*, 140.

²⁵ Levy, *Origins of the Fifth*, 141.

²⁶ St. Thomas Aquinas, *Summa Theologiae* II-II, Qu. 11, trans. by Timothy McDermott (Allen, Texas: Christian Classics 1989), 342.

The Defense of the Catholic Faith

With the ascent of James I to the British throne, an effort was made to reconcile some of the political differences between the Catholic South and the British Isles. In 1604, James I signed a treaty with Philip III agreeing to "a peace that may last forever" and an end to hostilities.²⁷ It proclaimed a liberty of commerce and the opening up of trade routes throughout Europe. Rather than adopt the belligerent and costly policies of his zealous father, Philip III took a more pragmatic approach. However, Philip III's pacifist policies did not go over well in Spain. The national conscience was, according to Luciano Pereña, "agitated." Spain, it turned out, was equally repulsed by the idea of being like England. The intelligentsia invoked "the defense of the faith and the imperial tradition of Spain." After being petitioned by the Madrid *Cortes*, the Pope published his disapproval of the treaty.²⁸

By 1605, James had his own reasons for giving up on a policy of peace. After the Gunpowder Plot was exposed, in which a group of "Catholic gentlemen" were discovered to be plotting to blow up both James and his Parliament, James responded with both force and, more importantly to our discussion, the demand for another oath.²⁹ The oath to be administered to recusants, promulgated in 1606, required each Catholic to "truly and sincerely acknowledge, profess, testify and declare in my conscience" that James was the

²⁷ Luciano Pereña, "Posición oficial de España," in *Francisco Suárez: De Juramento Fidelitatis, Estudio Preliminar Conciencia y Política*. (Madrid: Consejo Superior de Investigaciones Científicas, 1979), 61.

²⁸ Pereña, "Posición oficial," 68.

²⁹ Johann P. Sommerville, "Introduction" in King James VI and I, *Political Writings* (Cambridge: Cambridge University Press, 1994), xvi.

"lawful and rightful king of this realm..."³⁰ If that were the extent of the oath, then there was no violation of natural and divine laws as political obedience to a non-Catholic king was encouraged by Church doctrine. "Since the law of grace does not abrogate human law based on reason," wrote Aquinas, "being believers does not as such exempt us from the already established authority of disbelievers."³¹ However, the extent of the oath went beyond obedience to a temporal power to abjuring the powers of the Church. The third part of the oath contained, from a Catholic's point of view, an impossible speech act:

I do further swear that I do from my heart abhor, detest and abjure, as impious and heretical, this damnable doctrine and position, that princes which be excommunicated or deprived by the Pope may be deposed or murdered by their subjects or any other whatsoever: and I do believe and in my conscience am resolved that neither the Pope nor any person whatsoever hath power to absolve me of this oath or any part thereof....³²

By placing the individual conscience above the Pope, the British king had gone too far. The Spanish intelligentsia's agitation was confirmed: one could not broker bargains with heretics. Even the temporal lure of trade routes could not sweeten the bitter reality that the king was asking his Catholic subjects to abjure the apostolic powers of Rome. The response, however, was not military (as the Irish and Scottish Catholics might have wished) but deeply philosophical. The first response was from Cardinal Bellarmine who wrote, in 1607, to the English Catholic priest, George Blackwell, remonstrating with him for having taken the oath. Bellarmine's published letter may have been publicly burned but its ideas, as well as two Papal *breves*, prompted James to write and anonymously

³⁰ James I, "An Act for the bettered discovering and repressing Popish Recusants. To be administered to any recusant under penalty of *praemunire*." in Bernice Hamilton, *Political Thought in Sixteenth Century Spain* (Oxford: Oxford University Press, 1963), 67-68.

³¹ Aquinas, *Summa Theologiae*, II, Qu. 10, trans. by McDermott, 341.

³² James I, "An Act" in Hamilton, 67-68.

publish, in 1608, *Triplici nodo, triplex cuneus. Or An Apologie for the Oath of Allegiance*. Claiming that desperate times required desperate measures, James hoped to extricate himself from the Vatiean threat on his political authority.

In arguing for the oath before Parliament, James had declared that "according to natural law it is exceedingly just that the subjects may be obligated by strong ties of love for their king and their country to take an oath, even though no positive law may exist that requires this and orders it with such coereive penalties."³³ In *Triplici nodo*, James makes it clear that all he wanted was his people's "naturall allegiance," and to determine who had "retained in their hearts the print of their naturall duetie to their Soueraigne," and who was "being carried away with the like fanatiacall zeale that the Powder-Traitors." Those people who refused to take the oath on the grounds of "diuersitie of religion" were just making a "pretext for all kinde of treasons, and rebellions against their Soueraigne."³⁴

Unfortunately, James goes on, the Pope has been bedevilled by the fanatics' pretense:

The diuel could not have deuised a more malieious triek for interrupting this so calme and clement a course, then fell out by the sending hither, and publishing *A Breue* of the Popes, countermanding all them of his profession to take this Oath; Thereby sowing new seeds of ielousie betweene me and my Popish subiects.³⁵

From a Thomist perspective, the oath was a grave disruption of the hierarchy of laws. By placing natural law above divine law, James had committed a grievous intellectual error and was now an even more likely candidate for regicide. Although Aquinas had argued that the believer still owed the disbelieving sovereign her obedience,

³³ Luciano Pereña, "Proceso de politización Europea," in *Francisco Suárez: De Juramento Fidelitatis, Conciencia y Política*, 19.

³⁴ James I and VI, "Triplici Nodo," in *Political Writings*, 86.

³⁵ *Ibid.*

he added that the Church "does have God's authority to take authority away from disbelievers, since their disbelief makes them unworthy to exercise power over believers."³⁶ Sometimes, wrote Aquinas, the Church exercises its authority, "sometimes not." In this case, the Thomists were ready to exercise.

In 1613, Suárez presented the official Catholic position against James's oath. This heavily-documented treatise, *Difensio Fidei Catholicae, et Apostolicae, adversus Anglicanae Sectae Errores*, laid out the limits on temporal powers and the supremacy of divine and natural law over the actions of kings. When it comes to civil authority, wrote Suárez, the king's power is supreme. Indeed, argued Suárez, it is in the Church's best interest to have no direct dealings with temporal matters as that would "have proved to be a grave impediment."³⁷ To be in charge of both spiritual and temporal matters was, in Suárez's mind, "excessive, practically speaking, for human strength and human capacity, and is entirely contrary to reason and custom."³⁸

Having laid out the the limits of the Church with respect to temporal matters, Suárez then demonstrated how the Pope's jurisdiction differs from that of the king; a retelling of the two swords doctrine with an emphasis on the indirect powers of the Church. One of those indirect powers was the power to coerce. Using much the same scriptural authority as was used to legitimate the Holy Office (the power to bind and loose, for instance), Suárez reasoned that the Church's coercive power even extends to heads of state for they, too, "might easily scorn the spiritual penalties and do grave injury

³⁶ Aquinas, *Summa Theologiae*, II-II, Qu. 10, McDermott translation, 341.

³⁷ Suárez, *A Defense of the Catholic and Apostolic Faith* 3.5.18 in *Selections from Three Works of Francisco Suárez*, trans. by Gwladys L. Williams, Ammi Brown, and John Waldron, with certain revisions by Henry Davis, S.J. (Buffalo, NY: William S. Hein, 1995), 679.

³⁸ Suárez, *A Defense*, 3.5.21, 682.

to themselves and to others."³⁹ Indeed, the Pope was obligated to use his coercive powers against kings, "even to the point of deposing them from their thrones, if there be a valid cause."⁴⁰

Finally, Suárez honed in on the gravity of the injury caused by James's oath. Referring to the abjuration contained in the third part of the oath, Suárez wrote that "three points must be taken into consideration:

first, the doctrine [of regicide] itself; secondly, the right by which this [portion of the] oath is exacted of the subjects; and thirdly the extent of the inconsistency between the words in question and those in which the king promises to show that the said oath exacts nothing beyond due civil obedience.⁴¹

Rather than completely dismiss regicide as against natural law, as James desperately wished, Suárez delineated with judicial precision the grounds upon which a tyrant may be lawfully slain. Kings may be killed on grounds of vengeance and just punishment for having injured their subjects' spiritual health and for having threatened the health of society. Citing Gregory, Suárez insisted that "Princely transgressions are graver than those of other persons, and therefore, the punishments inflicted upon princes by their pastors should be likewise more grave."⁴² Yet even if those reasons should disappear the Church has the obligation to save Christian subjects from a heretical ruler, "on the ground that they are in evident peril of moral destruction." The source of this statement is

³⁹ Suárez, *A Defense*, 3.23.19, 698.

⁴⁰ Suárez, *A Defense*, 3.23. 685.

⁴¹ Suárez, *A Defense* 3.5.1, 705.

⁴² Suárez, *A Defense* 3.23.20, 700.

the above-referenced passage from Aquinas on the rights of believers under disbelieving sovereigns.⁴³

Having set forth the conditions for tyrannicide, Suárez then proceeded to examine the king's right in exacting this particular oath. "By what authority," asked Suárez, "does the King of England compel his subjects to swear that a certain proposition is heretical, when it has not been so condemned by the Catholic Church?"⁴⁴ In a rare show of sarcasm, Suárez mused that "it is very strange that [James] should repeatedly disparage the papal power of defining points of faith, while he himself dares to arrogate this same power to himself; for though he does not make this claim in so many words, he professes to do so by his acts."⁴⁵ By asking his Catholic subjects to "abjure, as impious and heretical" the doctrine of regicide, James had crossed over the line from a legitimate temporal concern to dabbling in the affairs of the spirit. Indeed, wrote Suárez, "the king is guilty of further inconsistency, inasmuch as he boasts in another passage of this *Apologie for the Oath of Allegiance* that he himself does not, after the fashion of the Popes, fabricate new articles of faith."⁴⁶ Suárez concluded that,

the profession of the said oath of allegiance ... is tantamount to an acknowledgement of the royal authority and power both to condemn propositions as heretical at the king's own pleasure, and to lay down rules for the faithful, on his own authority, as to what they should believe as proper to the faith and what they should denounce as heretical.⁴⁷

For the king to exact such an oath "is an abuse and usurpation of spiritual power." For

⁴³ Suárez, *A Defense* 3.23.22, 701.

⁴⁴ Suárez, *A Defense* 6.4.20, 722-723.

⁴⁵ *Ibid.*, 723.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

those who take the oath, it "is virtually equivalent to a profession of false faith."⁴⁸ James's error was two-fold: he had encroached upon the spiritual sphere of the Church all the while claiming to follow natural law.

Since Henry VIII, the English monarchs were struggling for legitimacy. Without the imprimaturs of the Pope, Henry, Elizabeth, and now James, needed to find some anchor outside their word to enhance their authority, to put them in right relationship not just with their subjects but with God. Conscience was a useful term in this matter, as it bypassed the powers of the Pope. Yet the private nature of conscience brought its own dilemma. An oath might make public and certain what was essentially private and uncertain. However, in forcing his subjects to call heretical what the Roman Catholic Church had found to be just – i.e. the right of Catholic subjects to inflict a just punishment on their tyrannical ruler – King James was looking less like a political actor and more like a dispenser of divine law. Although James's apologies suggest that he wanted nothing more than to conform to natural law and leave the Church out of his affairs, the terms of the oath revealed him as a shadow pope, dispensing divine decrees.

Suárez's treatise explained why Spain was nothing like England. The Thomist hierarchy was still in place in Spanish politics, the Church still held an indirect power over the king. What does not come up in this particular defense, but was a central feature of the Suárez treatise *De Legibus*, was the communal source of the king's authority, the *facultas moralis*. That power, discussed in greater detail in Chapter 2, like the power of mercy after a confession, had a transformative effect on the substance of the community, changing it from an aggregate of individuals to a unified whole, the perfect society. When

England distanced itself from the Roman Catholic Church, it also distanced itself from

⁴⁸ *Ibid*, 724.

that possibility.

Thomas Hobbes and the Kingdom of Darkness

There were good reasons for Thomas Hobbes (1588-1679) to characterize the Catholic Church as the "Kingdom of Darkness" and to describe its religion as "Spiritual Darkness from Misinterpretation of Scripture."⁴⁹ Political authority was a thing of the past in Hobbes's England as Protestants and Catholics, Presbyters and Puritans reduced civil society to what Hobbes called a state of nature. Inasmuch as Suárez and other Thomists undermined the authority of the monarch, they had contributed, in Hobbes's mind, to the civil wars, the dissolution of the monarchy, and the condition of chaos. It is perhaps for this reason that Hobbes, more than his predecessors, widened the focus of his attack on the Church beyond the sacramental powers, such as the dispensing of indulgences and the remission of sins, to include Aristotle's metaphysics and the "school men's" philosophy.

Early on in the *Leviathan*, Hobbes speaks of "evil men, under pretext that God can do anything," who cultivate "superstitious fear of spirits." Not only do the schools turn a blind eye to this predatory behavior, they actually are involved in "nourishing such doctrine." Some of the nourishment Hobbes complains of is the Thomist understanding that nature is infused by grace. Hobbes is troubled that the schools teach "that good thoughts are blown (inspired) into a man by God, and evil thoughts by the Devil, or that good thoughts are poured (infused) into a man by God, and evil ones by the Devil."⁵⁰ In his discussion on speech, he declares that "the words *in-poured virtue, in-blown virtue*, are

⁴⁹ Thomas Hobbes, *The Leviathan*, edited by E. Curley (Indianapolis: Hackett Publishing, 1994), 4.44.

⁵⁰ Hobbes, *Leviathan*, 1.2.8-9.

as absurd and senseless and insignificant as a *round quadrangle*."⁵¹ Reason, for Hobbes, is "but *reckoning* (that is, adding and subtracting) of the consequences of general names agreed upon for the *marking* and *signifying* of our thoughts; I say *marking* them when we reckon by ourselves, and *signifying*, when we demonstrate or approve our reckonings to other men."⁵² Reason is the activity that goes on inside the mind. Any talk of the substance of the mind and its capacity to be infused with virtue is pure foolishness.

As far as Hobbes is concerned, metaphysics is but a pretense to disguise the devious intentions of the Roman Catholic Church "to maintain its possession of spiritual sovereignty." There are other methods by which the "Kingdom of Darkness" maintains its diabolic hold over the state: the infallibility of the Pope, the subjection of bishops, the sacrament of marriage, the canonization of saints and the declaring of martyrs, transubstantiation, penance, absolution, purgatory, indulgences, external works, demonology, and exorcism. Not surprisingly, auricular confession is included in the list of pretenses for it is by hearing confessions of the political elite that the priests "obtain, for the assurance of their power, better intelligence of the designs of princes and great persons in the civil state."⁵³

Confession and transubstantiation, however, are dangerous only in terms of snaring men's confidences. An even more dangerous activity is the philosophical basis for these diabolical activities, the sciences of Aristotle which legitimize the above-listed errors. All "the frivolous distinctions, barbarous terms, and obscure language of the Schoolmen," writes Hobbes, "serve them to keep these errors from being detected, and to

⁵¹ Hobbes, *Leviathan*, 1.4.21.

⁵² Hobbes, *Leviathan*, 1.5.2.

⁵³ Hobbes, *Leviathan*, 4.47.6.

make men mistake the *ignis fatuus* of vain philosophy for the light of the Gospel.⁵⁴ What Hobbes does not mention is that the *ignis fatuus* of scholasticism was dangerous not because it obscured scripture, as he suggests, but because it questioned the absolute powers of the monarch.

As far as Hobbes is concerned, the only thing we can know for sure is geometry; "the only science that it hath pleased God hitherto to bestow on mankind."⁵⁵ The other sciences are, in Hobbes's mind "erroneous doctrine" as they are based on "the authority of books" and not from meditation. "For words are wise men's counters, they do but reckon by them; but they are the money of fools, that value them by the authority of an *Aristotle*, a *Cicero*, or a *Thomas*, or any other doctor whatsoever, if but a man."⁵⁶ Hobbes is clearly operating in the nominalist tradition: "the name of *God* is used, not to make us conceive him (for he is *Incomprehensible*, and his greatness and power are inconceivable), but that we may honour him."⁵⁷ Hobbes's contribution to the medieval nominalist position is a rendering of the *corpus mysticum* now with a royal head.

We cannot be certain about St. Dominic's authority at the auto de fe but we can be certain about a king for which "there is nothing on earth to be compared with him."⁵⁸ Order will be restored, insists Hobbes, as long as we stick to geometry and stay away from metaphysics; as long as England has a king who is made "so as not to be afraid."⁵⁹ A strong sovereign is essential because "a commonwealth without sovereign power is but a

⁵⁴ Hobbes, *Leviathan*, 4.47.16.

⁵⁵ Hobbes, *Leviathan*, 1.4.12.

⁵⁶ Hobbes, *Leviathan*, 1.4.13.

⁵⁷ Hobbes, *Leviathan*, 1.3.12.

⁵⁸ Hobbes, *Leviathan*, 2.28.27.

⁵⁹ *Ibid.*

word without substance, and cannot stand."⁶⁰ As Bruno Latour observed, Hobbes "wanted to rediscover Catholic unity while at the same time closing off any access to divine transcendence."⁶¹



Figure 5.3 Frontispiece from 1651 edition of Hobbes's *Leviathan*

⁶⁰ Hobbes, *Leviathan*, 2.31.1.

⁶¹ Bruno Latour, *We Have Never Been Modern* (Cambridge, Mass.: Harvard University Press, 1993), 19.

The Leviathan provided a Protestant solution to the problem of how to maintain order and hierarchy without being subject to the Roman Catholic Church. As Latour's observation suggests, Hobbes "rediscovered" the ordered and corporate society eulogized by Vitoria. Latour's term, "divine transcendence" recognizes the political liability when "factions may invoke a higher Entity – Nature or God – which the Sovereign does not fully control."⁶² Yet that is only part of the picture. Although the head of the frontispiece commands a royal officeholder, the other members of the body politic are indistinguishable from one another.⁶³ The fungible, discrete quality of the various individuals suggest a social equality that conforms to our modern sense of democracy. However, the absence of hierarchy denies the possibility of Suárez's *facultas moralis*. In Hobbes's world not only was an individual denied the possibility of an infusion of grace, which might challenge the king's authority, but the aggregate of individuals could never be transformed into a corporate and hierarchical whole, which could also challenge the king's authority. Rather, in Hobbes's world, the person of the king became the Actor through which society, the authors, might wield a bit of social power.

Interestingly enough, the Actor himself might speak in supernatural terms but everyone would know that it was just king talk. "For if a man pretend to me that God hath spoken to him supernaturally and immediately, and I make doubt of it, I cannot easily perceive what argument he can produce to oblige me to believe it."⁶⁴ Hobbes would only accept a supernatural argument from the lips of his sovereign "who may oblige me to

⁶² Latour, *Never Been Modern*, 18.

⁶³ An observation I owe to Nicholas Xenos.

⁶⁴ Hobbes, *Leviathan*, 3.32.5.

obedience (so as not by act or word to declare I believe him not), but not to think any otherwise than my reason persuades me).⁶⁵

John Locke and the Business of Tolerance

By the time of John Locke (1632 - 1704), the absolutist response was slowly being replaced by one constituted purely by conscience. Absolutism smacked of a coercive hierarchy and coercion was, in Locke's mind, contrary to Christianity. Written in 1685, the same year that Charles unleashed "the most severe persecution of the Restoration period,"⁶⁶ the *Letter Concerning Toleration* begins with an "appeal to the Consciences of those that persecute, torment, destroy, and kill other Men upon pretense of Religion, whether they do it out of Friendship and Kindness towards them, or no."⁶⁷ This is not Christianity, argued Locke, it is a dissimilitude practiced by the powerful.

For if it be out of a Principle of Charity, as they pretend, and Love to Men's Souls, that they deprive them of their estates, maim them with corporal Punishments, starve and torment them in noisom Prisons, and in the end even take away their Lives; I say if all this be done meerly to make Men Christians, and procure their Salvation, Why then do they suffer *Whoredom, Fraud, malice, and such like enormities*, which (according to the Apostle) manifestly relish of Heathenish Corruption, to predominate so much and abound amongst their Flocks and People?⁶⁸

As with Hobbes, Locke insinuates that these coercive methods are serving other ends than those of Christianity. Otherwise, wrote Locke, "they would tread in the Steps, and follow the perfect Example of that Prince of Peace, who sent out his Soldiers to the

⁶⁵ *Ibid.*

⁶⁶ James Tully, "Introduction," *A Letter Concerning Toleration*, translated by William Popple, 1689 (Indianapolis, Ind.: Hackett Publishing Co., 1983), 11.

⁶⁷ John Locke, *Letter*, 23-24.

⁶⁸ John Locke, *Letter*, 24, *emphasis in the original*.

subduing of nations, and gathering them into his Church, not armed with the Sword, or other Instruments of Force, but prepared with the Gospel of Peace, and with the Exemplary Holiness of their Conversation."⁶⁹ The true Christian, according to Locke was not violent but tolerant. "The Toleration of those that differ from others in Matters of Religion," argued Locke, "is so agreeable to the Gospel of Jesus Christ, and to the genuine Reason of Mankind, that it seems monstrous for men to be so blind, as not to perceive the Necessity and Advantage of it, in so clear a Light."⁷⁰ (All this rhetoric about tolerance, however, should not be confused with an open admissions policy. Locke did not extend tolerance to Roman Catholics nor to any extreme charismatic sects, neither of which were reasonable; nor to atheists, who were not Christian. Only religions that were "agreeable to the Gospel of Jesus Christ and the Genuine Reason of Mankind" should be tolerated.)

Not all Protestant proponents of religious tolerance took such an absolute stand against the use of force. Jonas Proast, of All Souls' College, challenged Locke's anonymously-published epistle in a tract published in Oxford in 1690 on the grounds that coercion may be necessary at times. "Proast did not advocate such severities as torture or extermination," writes J. W. Gough in his introduction to the *Letter on Toleration*, "but, citing Proast, 'moderate' force, and such penalties as would ordinarily suffice 'to prevail with men of common discretion, and not desperately perverse and obstinate to weigh matters of religion carefully and impartially'."⁷¹ A modicum of force, a bit of penalty might aid in the process of weighing and considering. In Proast's mind, those who required

⁶⁹ Locke, *Letter*, 25.

⁷⁰ Locke, *Letter*, 25.

⁷¹ J. W. Gough, "Introduction," in *Epistola de Tolerantia: A Letter on Toleration*, trans. by J. W. Gough (London: Oxford University Press, 1968), 32.

torture, the "desperately perverse and obstinant," were not worth the effort of persuasion.

Neither Proast nor Locke worried about the corrupting influences of an intimate enemy. Indeed, when J. W. Gough suggests in his introduction that Proast "might have added reason for using force ... not so much to convert heretics as to prevent them corrupting other people" he has missed what James Tully has called the Protestant "radical departure." According to Tully, "Locke located the identity of the person or self solely in consciousness, and not in substance, thus making his most radical departure from his predecessors."⁷² The predecessors Tully refers to were intellectual predecessors, most of whom were Thomists from whom Locke drew heavily in articulating his understanding of property rights.⁷³ In terms of national predecessors, however, Locke was not radically departing but logically extending what Luther had begun: the righteousness of the sovereign, inviolate self.

Independence and autonomy figure strongly in Locke's depiction of the true Christian. The reasonable man in search of God,

voluntarily joins the society in which he believes he has found that Profession and Worship which is truly acceptable to God. The hopes of Salvation, as it was the only cause of his entrance into that Communion, so it can be the only reason of his stay there. For if afterwards he discover any thing either erroneous in the Doctrine, or incongruous in the Worship of that Society to which he has join'd himself, Why should it not be as free for him to go out as it was to enter?⁷⁴

⁷² Tully, *An Approach*, 239.

⁷³ See James Tully, *A Discourse on Property: Locke and His Adversaries* (Cambridge: Cambridge University Press, 1988).

⁷⁴ Locke, *Letter*, 28.

In Locke's atomistic society, where reasonable Christians shopped around for the best form of worship, there was no need for a spiritual authority. Indeed, according to Locke, "the Care ... of every man's Soul belongs unto himself, and is to be left unto himself."⁷⁵ The reasonable person would listen to his conscience. That alone would lead him to proper judgment.

Not everyone, however, was capable of participating in the business of judgment. Some members of the congregation needed a bit of retooling before they could reliably decide that the worship before them was "not erroneous." In *An Essay Concerning Human Understanding*, Locke points to irrational factors, such as habit, laziness, and the prevailing passions which regularly impede the thought process.⁷⁶ In truly reprobate cases, i.e. the indigent poor, Locke recommended that the state should intervene and create better habits, through incarceration in a workhouse. In cases where the irrational person was not a burden to society, i.e., a member of the landed gentry, Providence alone would eventually condemn him. Providence, therefore, played an extremely important role in Locke's society. Indeed, it was *the* coercive force. Without the fear of divine punishment, there would be little reason for the citizen to postpone immediate gratification and choose a more civic-minded good.

Both the Anglican executions and the liberal workhouse provided the masses with an education in what to avoid.⁷⁷ Both were efforts at reforming the population from

⁷⁵ Locke, *Letter*, 35.

⁷⁶ John Locke, *An Essay Concerning Human Understanding*, IV.20.12. Edited by A.S. Pringle-Pattison (Oxford: Clarendon Press, 1924).

⁷⁷ See Michel Foucault, *Discipline and Punish*, trans.. Alan Sheridan (New York: Vintage Books, 1979) pp. 177-183, for a genealogy between the "disciplinary complex of power and knowledge" and these seventeenth-century Protestant techniques. For a discussion on self-governance and Locke see, James Tully "Governing Conduct: Locke on the reform of thought and behavior" in *An Approach*, 179-241.

heretical habits: whether religious dissent or laziness. The liberals would tolerate anyone as long as their minds were reasonable; the Anglicans could tolerate anyone as long as they swore to obey the Church of England. Yet neither of these Protestant alternatives tolerated the possibility of supernatural grace. As a result, there was little possibility that a man could actually be transformed. For Locke, the people who made those claims were too "enthusiastic" and hence were unreasonable.

The Suspension of Gravity

The Catholic expectation of substantial change went beyond the transformation of a multitude of actors into a cohesive and organic body. Just as the thin wafer was reliably transformed into the body of Christ, so the mere mortal might be transformed into something beyond the confines of reason and even the laws of nature. The installation of supernatural grace was understood to have transformative powers beyond mere human comprehension. With the infusion of supernatural grace, anything was possible. It might change a dullard into a don and lift a praying body five palms off the floor as was the case with Francisco Suárez. According to the records, Padre Suárez was infused repeatedly, causing substantial changes to both his mind and body.

It is not unusual, in a Jesuit narration, to hear about the young Francisco's encounter with the Virgin. Carlos Noreña, for instance, includes in his brief biography of "Suárez and the Jesuits" the supernatural event that changed the novice's life. Soon after the young Francisco was admitted to the University of Salamanca "the Virgin Mary miraculously expanded the novice's IQ."⁷⁸ Noreña is drawing on the standard biographies

⁷⁸ Carlos Noreña, "Suárez and the Jesuits," *American Catholic Philosophical Quarterly* (Summer 1991), 267-86, 267.

of Suárez, one by R. De Scorraile and a later one by Joseph Fichter,⁷⁹ and is merely reporting an accepted belief within the Society of Jesus.⁸⁰ All reports do indicate that within a matter of twenty-four hours, Suárez was transformed from a simpleton to a scholar. Initially rejected as a mediocre candidate, Suárez went from needing a tutor for every subject to asking questions beyond the ken of his professors. Whether or not the Virgin actually passed through his intellect is hardly material to our discussion. What matters is that, within a Thomist framework, intellectual brilliance may find its source outside of that individual's efforts, a point that will be considered in more detail in the following chapter with regard to prophesy.

A posthumous effort to have Suárez canonized, written in 1617, reveals other supernatural occurrences.⁸¹ The eye-witness, Brother Gerónimo, describes two occasions in which he observed "demonstrations of sanctity." In the first instance, Suárez is described as operating outside of social convention; in the second, he is following laws that defy nature. Having been sent to deliver a timely message, Gerónimo tried, without success, to rouse the Padre by calling him by name and making noise with his feet. When Suárez did not appear at his door, the porter entered the antechamber. Still no response. Now somewhat annoyed, he stepped into the inner chamber where, he writes,

⁷⁹ R. De Scorraile, S. J., *François Suarez de la Compagnie de Jésus* (Paris, 1911), and Joseph Fichter, *Man of Spain, Francis Suarez* (New York, 1940).

⁸⁰ A recent discussion with Carlos Beciero at the Jesuit University of Comillas indicates that the Virgin factor continues to carry weight in the Spanish Jesuit community. Personal conversation with Professor C. Berciero, Universidad de Comillas, Madrid, Spain, June 5, 2001.

⁸¹ "Declaración del hermano Gerónimo de Silva acerca de las muestras de Santidad que vió en el Padre Francisco Xuarez de las misma compania," (1617) in *Libro de Varias Cosas en Prosa de Hombres Muy Signes en Letras y Politicas y de Razon de Estado*, 163ff. Sala de Cervantes, Biblioteca Nacional, Madrid.

I clearly saw Padre Francisco Xuarez who was kneeling with his hands raised and his head uncovered in front of the Crucifix. And seeing that he didn't move I approached him and pulled on the sleeve of his robe three times without him making any movement nor responding to me but remained as if stunned (*como pasmado*).⁸²

The second time Brother Gerónimo is called to deliver a message to Suárez, the Padre again fails to respond. This time, however, upon entering the antechamber, he notices a light of great (*grandissima*) clarity coming from behind the curtain that separates the two chambers. He lifts the curtain and enters the room where a brilliant light is coming from the vicinity of the Crucifix. Gerónimo is immediately blinded by the light which he describes "as when the rays of the sun reverberate through a window pane."⁸³ Although he reports that he was unable to stay in the room without being blinded by the light, Gerónimo catches a glimpse of Father Suárez, once again kneeling before the crucifix, hands lifted and his head uncovered. This time, however, the Padre's body is some five palms in height above the floor. Gerónimo quickly exits the chamber but before he is able to leave he reports that he felt "outside of myself" (*estuve como fuera de mí*) and stunned (*de pasmado*) and that his hair stood up straight like the bristles on a brush (*como las cerdas de una escobilla*).⁸⁴ After quarter of an hour, Suárez emerges from his chamber, and Gerónimo is able to relay the message that brought him there in the first place. When asked why he hadn't called, Gerónimo lets the Father know that he had tried to call him and had even entered the chamber. "When the Father heard that I had gone inside his room, he took me by the arm, placed his hands on me, and with eyes filled with tears

⁸² *Ibid.*, 163 verso.

⁸³ *Ibid.*, 164 recto.

⁸⁴ *Ibid.*, 164 verso.

asked me not to say anything about it."⁸⁵ Gerónimo asks for permission to talk with his Confessor, a permission that "was freely given since the Father was [the Confessor's] Confessor."

Having made his statement in proper fashion complete with signature, the amanuensis notes that "the Brother also said that the gleam from the Crucifix filled the face and the breast of the said Father Francisco Xuarez." It appears that Gerónimo was also questioned as to the accuracy of the height of Suárez's levitation for the good Brother adds a statement that the stand upon which the Crucifix rested was a bit more than five palms and thus he was able to measure the distance between Suárez and the floor. The final note describes the ivory Crucifix, which was given to Suárez by Condesa de Santa Gadea, and which lay in a box of black wood on black velvet. A copy of this *Breve* was sent to Pope Paul V who, evidently, declined to interpret the brilliance and levitation as worthy of sainthood. Although surely a disappointment to the Society of Jesus, Suárez's standing as a respectable scholar was certainly served by keeping Brother Geronimo's testimony under wraps. Given the intellectual climate of the time, Suárez's reputation as a jurist, acknowledged by Grotius and Spinoza, might have been reduced had the world known of his tendency to levitate.

Aquinas would tell us that Suárez was in the process of moving from sin to virtue, a process that entailed more than reason, more than we can fully understand. Hobbes would tell us that the porter's vision was "absurd and senseless and insignificant." Had his monarch told him this wondrous tale, he would have believed it purely as a matter of obedience, even as his reason told him otherwise. By the time of Locke, the supernatural experience was no longer part of the discussion. A king contemplating supernatural powers was not competent for the job as that was a king who had subjected his kingdom

⁸⁵ *Ibid.*

to another's authority, thereby "dethron[ing] himself and put[ting] himself in a state of war."⁸⁶

In losing the supernatural, however, English-speakers also lost the possibilities for substantial change. Because reason cannot grasp the powers of grace, grace itself was banished from public life, the sphere of reason. Nor could it take up residence in one's inner conscience, as that was only an autonomous space in as much as it was reasonable. The historical and political reasons for this shift in perception have been touched on in this chapter, i.e. the need to forestall challenges based on a higher authority than the king, for Hobbes, or than reason, for Locke. Yet the irony in this shift should not go unnoticed. For in so doing, Protestant politics assumed that the citizen was capable of substantial change: of being changed from a creature of substance to a creature of consciousness.

⁸⁶ See John Locke, *The Two Treatises of Government*, edited by Peter Laslett (Cambridge: Cambridge University Press, 1988), II. 238.

CHAPTER VI

THE SIN OF SELF-ASSURANCE¹

*Persons who I see are timid, who I think proceed with
great circumspection so that things can be done here
below in conformity with reason
are oppressive to me and make me cry to God and His
saints, who undertook things that now frighten us.*
St. Teresa²

From Hobbes' perspective, Thomist supernatural jurisprudence merely dressed up what was essentially a coercive and political ritual. In theory, the hierarchy of laws might allow for supernatural challenges. In practice, the Spanish theocracy was clearly in control. This instrumental perspective would assume that many of the self-proclaimed prophets were found to be misguided or fake. The only surprise might be the length of time it took the inquisitors to reach that obvious conclusion. Yet that perspective ignores the times when the Inquisition did not favor the formal and old over the mysterious and new. While at times the Holy Office reduced the credibility of political challenges, as Richard Kagan reported with Lucrecia de Leon,³ at other times, a rigorous dialogue with the inquisitors had the effect of authorizing a new method of piety as was the case with Santa Theresa and other visionaries. Ignacio de Loyola's success with his interrogators, for instance, reminds us that not all visions were reduced to private delirium nor were all

¹ This chapter was shaped in large part through discussions with Andrew W. Keitt. His dissertation, "Inventing the Sacred" (University of California, Berkeley, 1999) provided a framework for my argument and his generosity in the archives in Madrid saved me from weeks of fruitless reading.

² St. Teresa of Avila, *Spiritual Testimonies*, 1.14, in *The Collected Works of St. Teresa of Avila*, Vol. 1 (Washington, DC: ICS Publications, 1987), 375.

³ Richard L. Kagan, *Lucrecia's Dreams* (Berkeley: University of California Press, 1990).

visionaries deemed to be pawns of the devil. By subjecting his “way of proceeding” to the rigors of the Holy Office, his spiritual experience was transformed into an accepted social practice.

A Foucaultian perspective, on the other hand, would question the very notion of success with regard to the Inquisition. From this perspective, Loyola’s *Exercises* were but the final product of a mind made compliant through the manipulation of discourse. According to Foucault, the constituent unit of the inquisitorial proceeding, the confession, reduced any dissent, indeed any agency on the part of the accused. “[T]he development of confessional techniques, the declining importance of accusatory procedures in criminal justice... the setting up of tribunals of Inquisition,” writes Foucault, “all this helped to give confession a central role in the order of civil and religious powers.”⁴ In presenting his emotional brand of piety before the Holy Office, Loyola was not *reforming* the institution but *reinforcing* its powers. Not an agent of change, Loyola was merely, in Foucault’s words, “a confessing animal.” Whereas the Thomists would have seen confession as way of perfecting both a person’s natural inclinations and the hierarchical relationships within the Church, Foucault understood confession as a process of creating tasty subjects for “the bloodiest of powers,” their delectability enhanced by their very discreteness. “The truthful confession was inscribed at the heart of the procedures of individualization by power,”⁵ concludes Foucault, not, as the Church conceived it, by social relations.

Foucault’s dark picture of confession does convey the terror of losing one’s tender self to a blood-thirsty power, yet the quality of his terror, psychological rather than sociological, individual rather than communal, positions his anxiety outside of the

⁴ Michel Foucault, *The History of Sexuality, Vol. 1* (New York: Vintage Books, 1980), 58.

⁵ *Ibid.*, 58-59.

Thomist reality. Within that older framework, confession was not a violation of the self but a salve to one's isolation. It anticipated penance, which, in turn, promised reincorporation. Patricia Hampl writes that "[p]enance was not a psychological but a sociological act."⁶ Penance was "intended to heal a different wound – not the break between a person and individual consciousness (or a personal past), but that between the self and the community, which for the ancient, was the core of existence."⁷ The medicine of penance was only offered on the heels of a confession. The powerful answer to the tender need to belong may have included dominance but it also promised forgiveness.

Discipline, on the other hand, indicates that the members of society have assumed the responsibility of governing themselves according to established rules of civility. A civil society hardly needs an Inquisition, as each member is understood to be interrogating herself. This atomistic society never got very far in Spain. It was contrary to the order championed by Vitoria, at cross purposes with the affective practices of the Jesuits, and irreconcilable with the confessional practices demanded by the Inquisition. John Bossy ties the Spanish singular lack of interest in prosecuting witches to the presence of the Holy Office which, in his words, maintained "a traditional practice of penance, a traditional notion of sin, and innocence of *disciplina*."⁸ Bossy's insight does highlight the tension between traditional Christianity, and its emphasis on charity, with the reformed notion of discipline, and its emphasis on civility. At the core of the traditional notion of sin was the sin of thinking alone.

⁶Patricia Hampl, "Penance," in *Signatures of Grace: Catholic Writers on the Sacraments*, edited by Thomas Grady and Paul Huston (New York: Plume, 2000), 47.

⁷ *Ibid.*, 44.

⁸ John Bossy, *Christianity in the West: 1400-1700* (Oxford: Oxford University Press, 1985), 140.

Clearly the inquisitors were operating within a different framework than an instrumental or even the more nuanced disciplinary framework allows for. If the Inquisition was purely a coercive and political institution, then it could not recognize a power greater than itself, i.e. the prophetic; if the Inquisition was a purely disciplinary institution it would, by definition, need to enhance individualism as it invoked its authority. The inquisitors, however, were never worried about destroying the autonomous self. On the contrary, they saw their mission as saving the lost soul from the “inner loneliness”⁹ that Max Weber associated with the coming of Protestantism. Reintegration occurred when the suspect stopped thinking by her own lights and started filtering her experience through the more perfect corporate mind. When considered within Bossy’s distinction between traditional governance and what he calls, *disciplina*, the cases and handbooks considered in this chapter fall clearly within the former.

Judging the Prophet

That the Spanish tradition continued to recognize the possibility of levitation and supernatural visitations should not suggest any political naiveté on its part. Hobbes’s concern about protecting the power of the monarch from so-called higher sources was not unknown to his Catholic counterparts. Unlike England, however, which greatly reduced the powers of the ecclesiastical courts in favor of the state-controlled High Commission, political theorists in Spain were still engaged in a jurisprudence that stretched beyond human law. The street prophets might have their dreams and visions, but their ecclesiastical interrogators had St. Thomas.

⁹ Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (London: Routledge, 1992), 104.

Prophecy, according to St. Thomas, is an intellectual experience with a supernatural component. Although prophecy, by definition, is beyond the capacity of natural reason, it is not beyond the intelligibility of the human mind. In his explanation of the process of receiving divine messages, Aquinas begins with a summary of Aristotelian metaphysics, of how the mind makes abstractions of real things perceived by the senses:

In knowing something we first take in its representation, and by means of that we judge it. Now a thing is represented first to our senses, then to our imagination, and finally to our receptive mind, which takes in the thing's specie as abstracted by the light of our agent mind from our images. Our imagination contains forms taken in from things we have sensed, and transformations of these induced either by some bodily agency (as when we dream or hallucinate), or by our own reason putting together images to help us understand something. But our power to judge comes from the light of our mind.¹⁰

A prophetic mind operates in much the same way as a normal mind, but with two important differences. On the one hand, prophecy "instills a more powerful mental light to judge by," and on the other hand "it provides the mind with further species representing things."¹¹ In other words, both the judgment of the mind and the perception of the senses are enhanced. The latter resembles the effect of having a teacher in as much as a "teacher represents things to his students with words." The former, on the other hand, is beyond the human classroom as the teacher "cannot like God instill light from within." According to Aquinas, "this instilling of light is the most important element in prophecy since knowledge is only complete when we can judge."¹²

¹⁰ St. Thomas Aquinas, *Summa Theologiae*, edited by Timothy McDermott (Allen, Texas: Christian Classics, 1989) II-II, Qu. 173. Art. 2, 447.

¹¹ *Ibid.*

¹² *Ibid.*

Within the Thomist framework, prophesy is an intellectual experience, distinct from a person's will. In explaining why prophets need not be virtuous people, Aquinas writes that "[p]rophesy is in the mind, and the mind's activity precedes the will's which charity perfects." That prophesy affects the intellect and not the will is not surprising given the Thomist preference for the intellect. That this allows for persons of questionable virtue to receive God's wisdom, however, seems somewhat counter-intuitive unless we consider the larger corporate picture. Aquinas reminds us that prophesy "serves the church, and is not for the benefit of the individual prophet's unity of heart." Too much attention on the individual person is too little attention on the system as a whole. For that reason, "prophesy doesn't depend on any roots of moral goodness." By the same token, however, "morally wicked feelings and behavior can hinder it; for a prophet's mind must be lifted up wholly to the contemplation of spiritual things, and strong passions and inordinate concern for external things are obstacles to that."¹³ Charismatic graces, of which prophesy is the highest, do not require any "previous disposition" on the part of the receiver and, explains Stanley Burgess, "may even be given to a person in the state of mortal sin."¹⁴

The relationship between virtue and prophesy may seem counter-intuitive to a modern understanding that would put grace as a reward for good behavior.¹⁵ From a Catholic perspective, however, grace is not part of a contractual arrangement with God but a benefit to the entire community. Given the organic nature of society, what one was blessed to know, the others would soon find out.

¹³ St. Thomas Aquinas, *Summa Theologiae*, II-II, Qu. 171. Art. 1, 447.

¹⁴ Stanley Burgess, *The Holy Spirit: Medieval Roman Catholic and Reformation Traditions* (Peabody Mass: Hendrickson Publications, 1997), 80.

¹⁵ See Max Weber's discussion of the Pietist methodical approach to grace, *The Protestant Ethic and the Spirit of Capitalism* (New York: Routledge, 1992), 133.

The diminished importance of the individual recipient extended to that person's gender. "The grace of prophesy enlightens the mind," writes Aquinas, "and knows no difference of male or female."¹⁶ Yet, gender did restrict a person's ability to directly teach the wisdom received through a prophetic experience. Aquinas worried that women should not publicly teach what God had revealed to them; "partly lest men's sexual desires be aroused; and partly since women generally haven't the fullness of wisdom required for public instruction."¹⁷ Rather, she should inform her confessor of the visions and let him take on the matter of public instruction. From a feminist perspective, this arrangement grates on the modern nerves. However, it is important to realize that both male and female prophets were only valid as instruments of the Church, not as interpreters of God. Men who took their visions directly to the street, who did not include their confessors in the spiritual equation, did not fare well with the Holy Office.

Given the mysterious nature of prophesy, it is not unusual that Aquinas speaks in metaphors, particularly the metaphor of light. "Bodily eyes need physical light to reveal things," writes Aquinas, "and the mind needs a mental light." When the human mind is called upon to think of things beyond human reason, "it needs light beyond the natural light of reason to make it knowable." This supernatural light, however, is only a passing light. "Clearly," concludes Aquinas, "prophecy is not a lasting disposition in the prophet." Rather, "prophetic knowledge relies on God's light in which all things are visible, human and divine, bodily and spiritual, so that anything whatever can be the subject of prophetic revelation."¹⁸ Prophesy held the potential of bringing in a new, unforeseen order contrary to the demands of convention.

¹⁶ St. Thomas Aquinas, *Summa Theologiae* II-II. Qu. 175, Art. 2, 450.

¹⁷ *Ibid.*

¹⁸ St. Thomas Aquinas, *Summa Theologiae* II-II. Qu. 171. Art. 2, 445.

Aquinas recognized that prophecy was not only of uncertain origin; it was also of uncertain reception. Sometimes God conveys divine knowledge through “a *mysterious inner stimulus which human minds undergo without even knowing it.*” The problem with this method of divine revelation is clear: “[W]hen prophets know something by hidden stimulus they sometimes can’t decide whether they thought of it on their own or because God prompted them.”¹⁹ The infusion of grace, then, was neither predicated on individual merit nor was the recipient necessarily cognizant of the spiritual gift.

Cases involving suspected false prophesy demanded a Thomist response if for no other reason than that Thomism provided a method to think beyond mere human understanding. Unlike nominalism, which denied the possibility of thinking about supernatural matters, Thomism assumed that divine law, even prophesy, might be intelligible, if not through reason, then through analogy. Thomism gave the inquisitor permission to engage with the divine. The intellect, writes the twentieth century Thomist scholar, Jacques Maritain, “consults and listens to the inner melody that the vibrating strings of abiding tendencies make present in the subject.”²⁰ What reason couldn’t resolve, the inner tuning fork would recognize.

The Calificador

Not all employees of the Holy Office were capable of reading correctly the supernatural signs. Only a subset of the Holy Office, the calificadores, were prepared to take up the challenge. Trained in both scholasticism and mysticism, the calificador was

¹⁹ Aquinas, *ST II-II*, Qu. 171. Art 5., 446, *emphasis in original*.

²⁰ Jacques Maritain, *Man and the State* (Chicago: University of Chicago Press, 1951), 100, cited in Anthony J. Lisska, *Aquinas's Theory of Natural Law: An Analytic Reconstruction* (Oxford: Clarendon Press, 1996, 28.

able to weigh and consider the matter before him in the light of the writings of St. Thomas and the experience of other acknowledged mystics. Unfortunately, not all inquisitors submitted their findings for *calificación*, a point which contemporary critics found deeply troubling. One anonymous sixteenth century author used a utopian fable, *Regimiento de Príncipes*, to couch his critique. A theologian, argues the protagonist, would not be as hostile to *conversos* as were the less informed canonists. A theologian would recognize that all were equal before God and that those weak or tender in their faith needed more love and not, as the canonists seemed to think, to have their property confiscated and their children orphaned.²¹ The concerns portrayed in the *Regimiento de Príncipes* were reflected in instructional manuals distributed among the various inquisitorial tribunals across the Spanish territories. For instance, a 1561 handbook for employees of the Holy Office declared in the opening paragraph that inquisitors must consult “theologians, men of letters and conscience, in order to determine the quality of the various propositions under review.”²²

Determining the quality of the various propositions entailed determining both the source of the message as well as the motive of the messenger. This latter endeavor was made more complicated by the piety of the times. Misleading from a political point of view, as it implies the absence of reform, the term Counter-Reformation does describe a particular aesthetic: an aesthetic that revered the sensual. By the time of Charles V, Christ’s suffering on the cross and Mary’s emotional pain were not badly proportioned statues but exquisitely painted explorations of human suffering. In the sixteenth century,

²¹ José Martínez de la Escalera, “Utopía y reforma de la Inquisición,” in *La Inquisición Española: Nueva Visión, Nuevos Horizontes* (Madrid: Sigloveintiuno Editores, 1980), 219-229, 226-227.

²² BN 3/40521, *Compilacion de las Instrucciones del Oficio de la Santa Inquisicion* (Toledo: 1561).

the nun was no longer married to a Gothic abstraction but the magnificent and deeply human *Ecce Homo* (Figure 6.1) depicted in sensual detail by Tiziano Vecelli (Titian). As wives of Christ, nuns were expected to experience certain feelings in the presence of their divine husband. Intimate tête-a-têtes with the Savior and unexplainable inner movements conformed to this passionate aesthetic. The rhetoric of St. Thomas, with its metaphors of supernatural infusions and inner movements, also sustained a certain level of sacred sensuality. In any event, highly expressive piety was not understood as a loss of the senses, as Locke would later describe religious enthusiasm, but as a body whose internal strings were being loudly plucked. In other words, a body worth paying attention to.



Figure 6.1 Tiziano Vecelli, *Ecce Homo*²³

Although Aquinas may have formally separated the prophet from the prophecy, Spanish society conjoined the two, attributing the power of the vision to the person who saw it. Just as a withered finger was understood to hold the virtue of a deceased saint, so the visionary held the vision within her blood and bones. This reconfiguration of the person through supernatural powers allowed for a social fluidity that organic laws and

²³ Tiziano, *Ecce Homo*, Oleo sobre lámina metálica 69 x 56 cm, Museo de Prado, Madrid.

limpieza de sangre statutes failed to contain. When it came to prophets, the strict social hierarchy was surprisingly permeable; particularly for women.²⁴ A peasant or *conversa*, blessed with divine visions, might find a place in the court in Madrid, or Toledo; or at least develop an impressive list of patrons. Priests and patrons, convinced of the worth of the passionate message, promoted their new-found instrument as reliable. The Holy Office, therefore, was not just engaged in prosecuting false prophets but in curtailing the propagation of highly fertile sects.

Negotiating their way through these spiritual and sociological land mines was no simple matter. The calificadores had to maintain the authority of the Church doctors while recognizing the mysterious nature of it all. The evidence from the various cases was filtered through long Latin passages lifted from both Thomists, such as Aquinas and Suárez, and nominalists, such as Bonaventura and Jean Gerson. Gerson (1363-1429) plays a particularly important role in the prosecution of *alumbrados*. His two treatises *De distinctione verarum visionum a falsis* and *De probatione spirituum*, influential in the canonization of St. Bridget, provided a useful guide to determining the authenticity of supernatural visitations. Although Gerson's nominalist argument provided, in Fernando Cervantes' words, "the Franciscan rejection of Aristotelian naturalism" and "the growing acceptance of a moral system based on the Decalogue,"²⁵ one of the cases considered in this chapter which cites Gerson, the case of Sister Gerónima, suggests a Thomist sympathy, i.e. the recognition of an innate wisdom within society. When scholarly handbooks and mystical narratives failed them, the calificadores parsed the prophesy

²⁴ See Caroline Bynum, *Holy Feast and Holy Fast: The Religious Significance of Food to Medieval Women*. Berkeley: University of California Press, 1987) for a discussion of the importance of mysticism to women who were denied any formal participation in the liturgy.

²⁵ Cervantes, 24.

according to the corporate grammar of traditional Christianity. Did the vision under question reinforce, what John Bossy calls the “social miracle,” the enhancement of social relations within a Christian, and hence, charitable community?²⁶ Or did it disturb the natural order of things?

The smallest unit of that natural ordering was the vertical relationship between the visionary and her confessor. Many of the female defendants were members of religious orders and the calificadores were most interested in the nun’s daily practices: in how well she submitted to her superior’s demands, and how often she went to confession. In 1624, a well-regarded nun in Lima was held to be an *ilusa*, i.e. one suffering from illusions instead of illuminations, because she “did not share her visions with her confessor, nor with any other persons who might have guided her.” The reason Sister Geronima de San Francisco gave for not revealing her revelations was that she did not want to appear special or gifted by God. “In truth,” writes the calificador, her reluctance to confess “made her suspiciously like an *ilusa del demonio*.”²⁷ By responding to her inner shame, the calificador determined that she was being controlled by the devil.

Not only did Sister Gerónima err by not fully disclosing her spiritual experience to her confessor, but the content of her visions was destructive of social bonds. In reviewing her journal, the calificador found numerous instances where the visions undermined the teachings of the hierarchical Church. She claimed that she was told by Christ himself that he died from love and not from pain, that the Jews did not kill him and that he rose to heaven on the same day he died. Even more troubling, however, was the statement that

²⁶ Bossy, 57-75.

²⁷ AHN Inq. Leg. 4467/11, “Calificaciones a unos papeles que dicen son de Hieronima de San. Francisco vicaria del convento de las descalças desta ciudad de los Reyes fecha por los padres.” (Lima: 1 May 1624), 4 verso.

Jesus told her to “find her own remedy” (*Busca tu Remedio*).²⁸ The calificador Andrés Hernández heavily censured the nun for suggesting that God would ever counsel one to find their own remedy, concluding that a “good spirit” would not “give the penitent occasion to divert, with disdain, from her primary confessor, as given by the words, “find your own remedy.” Those words, according to Hernández, are “distant, self-assured, and disdainful” (*despegada y desenbuelta, despreciadora*), and “the authorship of such spirit may well be the devil.”²⁹

That “self-assured” sits in that unholy trinity illustrates the corporate nature of Spanish society. Renaissance humanism may have revived an interest in man’s faculties but, in Catholic Spain, that interest rarely extended to his autonomy. As Hernández’s rhetoric makes clear, autonomy implied both a distance from and disdain for social relations. Not only was the self-assured considered anti-social but, like the stray sheep, she was greatly at risk. Without the benefit of her peers and particularly her confessor, the self-assured and ashamed nun, looking for her own remedy, was operating under the machinations of the devil. Indeed, the rhetoric of the self was the prime deceit of the devil. Instead, the authentic prophet was highly critical of the self while at the same time believing in her spiritual gifts.

The Selfless Standard

A good visionary was one who understood her role as instrument of the Church, who understood that the vision she received was for the good of the entire Christian community. In early modern Spain, the paragon female mystic was Teresa of Avila (also known as Teresa of Jesus). Both obedient and devout, expectant and compliant, Teresa

²⁸ *Ibid.*

²⁹ *Ibid.* insert.

modeled the appropriate mystical experience, of looking within without being entrapped by the ashamed self.

In her letter to the Jesuit inquisitor of Seville, Teresa of Avila explained that “she no more thinks of herself or of her own gain than if she did not exist, insofar as she and her confessors understand concerning herself.”³⁰ (So complete was her denial of self that, in this account, she forswore the first person.) Written after a disgruntled and dismissed nun reported Teresa and her fellow Carmelites to the Inquisition of Seville as illuminists, Teresa’s narrative models the proper experience of a woman given to visions.³¹ Of the twenty paragraphs, eight refer to actual consultations with male authorities, including Bartolomé de Medina, a Dominican jurist and member of the Salamanca School.

When not enumerating the many authorities she consulted for advice on her visions, Teresa describes the intensity of her fears that the visions were not from God. She writes of “unbearable interior torments and a disturbing inner fear about whether the devil was deceiving her.”³² The “learned men” helped her trust her internal experience but, she writes, it was her vision that helped her the most: “[W]hile in this indescribable state of affliction, merely by hearing the word within, ‘It is I, do not be afraid,’ the soul was left so quiet and courageous and confident that it couldn’t understand where such a great blessing came from.”³³ She concludes that “neither her confessor nor many learned men with many words sufficed to give her that peace and quiet that were given with these

³⁰ St. Teresa, *Spiritual Testimonies* No. 58, 424.

³¹ See Alison Weber, *Teresa of Avila and Rhetoric of Femininity* (Princeton: Princeton University Press, 1996) for a look at Teresa’s rhetorical skills at being both female and instructive at a time when women were considered good receivers but not good transmitters of knowledge.

³² *Ibid.*, 422.

³³ *Ibid.*, 423.

words; nor did these learned men suffice at others times, until she was strengthened by some vision."³⁴

Teresa was able successfully to position her prophetic experience as superior to the advice of learned men without committing the error of individualism. She accomplished this remarkable feat by situating her will beneath that of the Catholic faith.

She ever was and ever is subject to all that the holy Catholic faith holds, and all her prayer and the prayer in the houses she has founded is for the increase in the faith. She used to say that if any of her experiences were to induce her to turn against the Catholic faith or the law of God, she would have no need to go in search of proof, for then she would see it was the devil.³⁵

Teresa exemplified the strange blend of knowing and not knowing that the hierarchical faith required. She recognized the truth of her inner vision and she knew not to trust herself. She recognized the authority of inquisitors and theologians and she knew the limits on their abilities. She understood that her vision should be shared with the world only after she had submitted "to the correction of the Catholic faith and of the Church."³⁶ Her obedience was so great that she "never did anything based on what she understood in prayer. Rather, if her confessors told her to do the contrary, she did it immediately, and always informed them about everything."³⁷

We might understand her submission through a Foucaultian framework, in which case we see the creation of just one more disciplined subject. The Thomist framework, however, would understand Teresa's submissive rhetoric as part of the process of perfection, of becoming part of the larger whole. She understood herself as the spiritual

³⁴ *Ibid.*

³⁵ *Ibid.*, 421.

³⁶ *Ibid.*, 422.

³⁷ *Ibid.*, 421.

eyes of the Catholic community, not as agent intellect. In talking about her reticence to discuss her visions, “for fear that these things would be attributed to women’s fancy,” Teresa describes both her and her assessors’ dilemma. On the one hand, she did not want the authorities “to give definite condemnation of the experiences simply because they didn’t see any reason for them.” On the other hand, she didn’t want them “to act as though everything were from God, for she understood very well that there could be some deception.”³⁸ As an instrument of the Church, Teresa not only respected her own power vis-à-vis the Church, but also the powers assigned to other offices. Respect for these various coordinated offices, whether confessor or confessant, interrogator or accused, helped maintain Christian sociability.

Teresa’s account not only exonerated her of all charges of illuminism, but it provided the calificadores with an important reference guide. Approved by the Jesuit inquisitor, her defense provided a standard by which to judge other cases and the calificadores referred to her often. The frequent citations to her writings reminded the inquisitors that prophesy was both a legitimate form of Christian doctrine and an unsettling experience. A reference to Teresa reminded the interrogators that even saints feel suspect. That the defendant before them felt ashamed should not be an indication of trickery, as Teresa herself felt ashamed. Nor should an accusation serve as an indictment. Teresa was often accused of receiving false or invented spiritual gifts.

What Teresa’s account did make certain was an insistence on repeated and exhaustive confessions. One seventeenth century handbook for judges on how to examine “revelations, visions, lights, interior pictures and external apparitions, raptures, ecstasies, and internal and external movements” insists that, when it comes to supernatural communications and sayings, the recipient should “observe with total rigor and

³⁸ *Ibid.*, 422.

timeliness” the duty “not to hide the littlest thing of her soul from her confessor and spiritual father, as teaches Santa Teresa.”³⁹

This policy, however, brought its own difficulty as the relationship between priests and female supplicants came under closer scrutiny. Although medieval Christianity declared that a priest who had polluted his office was a priest incapable of celebrating mass, sexual infractions were generally overlooked as the parishioners realized that they themselves would be paying the penalty.⁴⁰ In the early modern era, the traditional demand of charity, of being open to one’s neighbor, was finding itself at cross-purposes with the reformed demand of civility, what Bossy called the moral values of the Decalogue, of behaving oneself with one’s neighbor. This was particularly true in the matter of sexual relations.⁴¹ As the virtue of chastity took on greater importance than the virtue of charity, the benefits of keeping men and women apart began to outweigh the cost to social ties.

The Body of Belief

At first, the Jesuits offered a structure strong enough to contain sexual impulses and still open enough to allow for the free flow of spirituality. The daily practice of repentance and purification was understood to cleanse the body of impure desires. Indeed, the practice of the *Spiritual Exercises* was considered so effective that the order admitted a number of women as members in the early years. The metaphor of the pilgrim

³⁹ AHN Inq. Libro 1226: 787-812; 794 recto. “Interrogatorio Judicial para el examen de revelaciones, visiones, luces, e ilustraciones interiores y apariciones exteriores; Raptos, extasis, mociones internas, y externas.”

⁴⁰ Bossy, *Christianity in the West*, 66.

⁴¹ See Bossy, *Christianity in the West*, 153-171 and Michel Foucault, *The History of Sexuality*.

also helped to defuse the intensity of the confessional relationship by reinforcing a relationship of equals focused on something further on down the road.

The egalitarian nature of the exercises, along with a refusal to accept fees for their services, made Loyola's disciples the preferred confessors of women throughout early modern Christendom. Their popularity among the female sex, however, did not improve their political standing. O'Malley recounts a story of a concerned aristocrat of Venice who tried to stop the Jesuits from hearing women's confessions because of the danger to their reputation in the Venetian Senate. The Jesuit rector refused to issue such a ban claiming that the practice was "so essential and proper to our Institute."⁴² As far as the Institute was concerned, the concerns of the well-meaning Venetian were misguided in as much as they were conventional. A true pilgrim passed through the local conventions, following the higher, more universal and inclusive norms.

The Spanish Inquisition, on the other hand, recognized the benefits of Loyola's approach to women. The manual for assessing various internal movements, cited above, refers to "the Great Patriarch, St. Ignacio de Loyola" when describing the proper relationship between a confessor and a female suppliant. "The confessor or spiritual father should always treat women with complete gravity and religiosity, always modest, always circumspect" (*debe el confessor y padre espiritual tratar siempre con ellas con toda gravedad, y religion, siempre modestos, siempre circumspectos.*) The manual goes on to remind its judicial audience of "the laws of nature, the native propensity of both sexes," urging them to remember the teachings of Loyola so that "monstrosities will not

⁴² John O'Malley, *The First Jesuits* (Cambridge, Mass.: Harvard University Press, 1996), 148.

be able to prevail” (*monstruosidades no podran suceder*) from frequent and affectionate contact.”⁴³

A random survey of cases involving calificadores against female visionaries does not reflect any great concerns for impropriety between the confessor and the female visionary. Rather the calificadores held the female defendant to Teresa’s standard of frequent and exhaustive confessions. Indeed, if what Bossy suggests is correct – i.e. the Inquisition maintained the traditional, i.e. sociable, aspect of Christianity into the early modern era – then defendants before the Holy Office would be corrected far more for errors of individualism, i.e. for withdrawing from society, than for errors of private conduct, i.e. for inappropriate connections. As long as the smitten nun followed the hierarchical Church, i.e. as long as she constantly confessed, she might participate in spiritual mysteries that more civil people, i.e. “those who proceed with great circumspection” would fear.

Yet civility’s demands were not completely off the Spanish radar. The circumspect person, whom Teresa condemned, might be a Lutheran theologian who was commanding larger and more influential audiences in countries to the North. The Church, therefore, was becoming increasingly worried about inappropriate confessional relationships. It was one thing for Teresa to condemn circumspect people and another thing entirely for the Church to sanction uncircumspect relations between priests and female supplicants. One way of responding to these attacks was to reinvent Loyola as a circumspect preacher, as was the case in the undated manual cited above. Another way of responding to Protestant allegations was to align inappropriate expressions of piety with Protestant dogma.

An edict against *alumbrados*, published in 1623 by order of the Holy Office,

⁴³ AHN. Inq. Libro 1226/798 verso.

begins by describing the many persons, both male and female, “of depraved soul” (*con animo depravado*) who are teaching and propagating such propositions and doctrine that appear to be diverting them from our blessed Catholic faith.”⁴⁴ In order to guarantee that its audience recognized a false doctrine from a true one, the author/inquisitor listed 76 examples of false doctrines, each one constituting a perversion of the faith. Participating in any of these activities caused grave danger to the “Christian republic,” (*rrepublica christiana*) and threatened “the unity of our blessed catholic faith and the Roman Church.”⁴⁵

The items ranged from entertaining theories of predestination to engaging in communal sex. Some of the false doctrines were clearly against Church dogma, as in “saying bad words against the sacrament of marriage”(Item 6), while others promoted individualism: “that one may follow one’s own inner movement and inspiration in order to do or not do whatever thing ” (*hazer o dejar de hazer cualquiera cosa*) (Item 12). Many confused matters of sexuality with matters of spirituality: “carnal movements are caused by the spirit working in nature” (Item 52). The inquisitors’ preoccupation with kisses and the placing of hands in women’s “dark places” (*a cierta parte oculta de una muger*) (49) should not suggest some Calvinist distancing of the body from the spiritual experience as the body was very much involved. Not only was it wrong to bless a “daughter of confession” (*hija de confesion*) with a kiss on the mouth (32) but it was equally wrong to believe that a mental prayer is as valid as a vocal prayer (3). From the beginning, the inquisitors make it clear that those who thought that “the corporeal exercises” (*ejercicios corporales*), of making visible and vocal the teachings of the faith, “were not a necessary part of serving God,” were apostates(4). Justification of faith by

⁴⁴ AHN Inq. Libro 1231/648 -653, “Edicto contra alumbrados”

⁴⁵ *Ibid.*

works insisted that the catholic ideas of the mass were *embodied* in each supplicant; a position consistent with the principles of Aquinas' theory of natural law. A mental prayer, for instance, was wrong because it did not engage the body which was naturally disposed to the good. A mental prayer was also wrong because it did not promote sociability; it could not be heard. As far as the Holy Office was concerned, both Lutherans and *alumbrados* had destroyed the right relationship of spirit to body. The Lutherans destroyed it by removing the body's participation, i.e. the works. The *alumbrado* destroyed it by destroying the social bonds in favor of personal desire.

By tying Lutheran beliefs to sexual perversion, the inquisitors not only vilified the enemy but they also made clear what happens when the body is left out of the spiritual equation: without the benefit of the corporeal exercises, the unoccupied hand will wander into dangerous and dark places. The Holy Office, maintaining the Thomist principle that nature was perfected by grace and that perfection was always social, continued to demand the primacy of the body in spiritual matters. The trials against *alumbrados* conform to the Thomist critique against Protestant governments. James I's error was, at root, an error of relying too much on his own lights and not recognizing his place in the larger cosmological order.

The Substance is Social and Sentient

Teresa's inner voice said, "It is I, do not be afraid." The passage is striking as it is the only time in the account when Teresa uses the first person. What the paragon of instruments discovered when she looked deep within was something that spoke in the first person. Yet that message, that inner movement, did not inspire the purported arrogance of the *alumbrados*. She did not take her spiritual gifts as a sign that she could "do or not do whatever thing" she chose. Indeed, Teresa's ability to be both self assertive

and conciliatory to the existing authorities has caused some confusion for feminist scholars. In her treatment of Teresa's "rhetoric of femininity," Alison Weber concludes that this rhetoric "served her own needs of self-assertion so successfully" while at the same time it "paradoxically sanctioned the paternalistic authority of the Church over its daughters and reinforced the ideology of women's intellectual and spiritual subordination."⁴⁶ A more fitting framework for understanding this paradox might be Thomist naturalism: she recognized something inherently good inside of her that might be perfected through the "social miracle" of the Catholic Church.

Feminists are not the only thinkers to reframe, and thereby distort, a historical phenomenon using modern parlance. According to Marxist theorists, the hierarchy established between Teresa and her confessors brought power and influence to them and alienated her from her own experience, or, in Marxist terms, her mode of spiritual production. And yet this useful modern criticism does not fully encompass the corporate truth of Teresa's internal and external relationships. First of all, alienation is a modern condition, dependent on both the Cartesian division of the world into mind and matter and the carving out of individual consciousness in the Protestant Reformation. Second, the calm and comfort she describes is understood as the experience of participating in the Chain of Being, of moving up the innate light into celestial wattage, an intense internal experience that, for the good of society, must be confessed to others.

The confessional relationship, the constituent unit of the Thomist order was predicated on confronting and transforming a person's shame into a deeper social bond. By the very act of confessing, individual shame was dislodged by the first wedge of sociability, the listening priest. Confession was the practice that kept the various members on track. It reminded the confessant of her dependence on her spiritual director

⁴⁶ Alison Weber, 165.

and it brought the confessor into close proximity with the inner movements of others, some of which might be divine. This last point refines the distorted picture of the Inquisition painted by its Protestant critics. Rather than a static and power-driven hierarchy, the Thomists understood the hierarchical relationship as a social vessel for one member's supernatural insights. The grace bestowed upon one could not end in one's personal gain but in its actualization within the entire community.

Considered in this corporatist context, Tully's observation about the radical distinction between the Thomists and the Protestants – the self in substance versus the self in consciousness – might be amended to include John Bossy's insights about traditional and reformed Christianity. In many ways, the constituent unit within the Catholic framework was not a self at all but a social relation. The self alone was an incomplete substance. Even a self infused with supernatural grace was not fully developed.

This commitment to the corporate explains how supernatural matters, derided in Protestant countries, could survive in early modern Spain. Rather than fear divine interventions as a challenge to the existing political order, as was the case with the peasant interpretation of Luther's doctrine of *sola scriptura*, the inquisitors were able to recognize, even anticipate, divine interventions because those interventions, like Suárez's *facultas moralis*, were only divine in as much as they enhanced social connections. The final cause was to participate in divine reason. The formal cause that permitted this possibility was a hierarchically-arranged society. The substantial cause that fostered that possibility was human nature. The efficient cause was confession.

CHAPTER VII

SOME FINAL THOUGHTS

*A confession has to be
part of your new life.
Ludwig Wittgenstein¹*

That the Inquisition used coercive means is not unique to Spanish ecclesiastical jurisprudence. What is unique to the Catholic inquisitorial system is its emphasis on sociability over the protection of individual rights. The values of the inquisitorial system were corporate, corporeal, cosmological, confessional, and hierarchical. The emphasis was on moving up the Chain of Being, away from being a mere individual to functioning as a member of a larger, more perfect society. The method for that movement was the embodiment of faith in a social context, i.e. the practice of confession.

The social justice of the inquisitorial framework – i.e. its essential belief in redemption, its emphasis on social rather than individual rights – is largely discounted in the English speaking world. Some of the reasons for this oversight are historical, bound in the centuries old antagonism between England and Spain. Some of the reasons are religious, based on the Protestant need to distinguish itself from its parent religion. And some of the reasons are connected to the United State's deeply-held belief in its own exceptionalism. Were the effect of all this antipathy merely studied neglect, then the Inquisition should have disappeared from our national consciousness. Yet that is hardly the case. The Inquisition continues to play the convenient role of the jurisprudential "other;" the system of justice that destroys true justice by its very operation.² This

¹ Ludwig Wittgenstein, *Culture and Value*, trans. by Peter Winch (Chicago: University of Chicago Press, 1984), 18e.

² See Edward Peters, *The Inquisition* (New York: Free Press, 1988).

dichotomy is useful since liberalism identifies with a completely different set of values – atomistic, voluntary, rational, autonomous, and equal – than those of traditional Christianity. As long as the traditional values are associated with the Inquisition, liberalism can reign supreme.

Despite the fact that the last auto de fe took place over one hundred years ago, the specter of the Inquisition continues to haunt liberal proceedings. Kenneth Starr, for instance, was referred to as “Torquemada in wire-rim glasses”³ and Chief Justice Earl Warren famously described police interrogation in the *Miranda* decision in much the same language as H.C. Lea depicted the ruthless inquisitors. Lea was not surprised that the inquisitor, “eager to destroy the foxes which ravaged the vineyard of the Lord,” “speedily emancipated himself from the trammels of recognized judicial procedure.”⁴ Warren plays on the same anxiety:

To obtain a confession, the interrogator must “patiently maneuver himself or his quarry into a position from which the desired object may be obtained.” When normal procedures fail to produce the needed result, the police may resort to deceptive stratagems such as giving false legal advice. It is important to keep the subject off balance, for example, by trading on his insecurity about himself or his surroundings. The police then persuade, trick, or cajole him out of exercising his constitutional rights.⁵

Interestingly enough, the dissent in the *Miranda* decision accused the Court of “a strained

³ Jeffrey Toobin, “Starr can’t help it,” *The New Yorker* (May 18, 1998), 32-38.

⁴ H. C. Lea, *A History of the Inquisition of the Middle Ages* (New York: Macmillan, 1888), 100.

⁵ *Miranda v. Arizona*, 384 U.S. 436 (1966) cited in Alpheus Thomas Mason and Donald Grier Stephenson, Jr., *American Constitutional Law* Upper Saddle River, NJ: Prentice Hall, 2002), 469.

reading of history.”⁶ To insist on a standard of complete voluntariness, wrote Justice Harlan, is “utopian” or “voluntariness with a vengeance.”⁷

The anti-Catholic element contained in the Court’s stand against the use of confession was stated most clearly in a 1954 article on the Fifth Amendment, when soon-to-be Justice Abe Fortas declared that

Mea culpa belongs to a man and his God. It is a plea that cannot be exacted from free men by human authority. To require it is to insist that the state is the superior of the individuals who compose it, instead of their instrument.⁸

Fortas is taking an absolute position in favor of protecting an individual’s autonomy, yet even his more moderate colleague on the bench, Felix Frankfurter, engaged in similar rhetoric. In *Culombe v. Connecticut*, a 1961 Supreme Court case, Frankfurter considered the competing needs of the state and the individual in extracting a confession and concluded that if the suspect’s “will has been overborne and his capacity for self-determination critically impaired, the use of his confession offends due process.”⁹ When it comes to confession, Frankfurter agrees with Fortas, the state is the instrument of the individual.

In his extended reflection on the use of confession, Peter Brooks invokes Catholic jurisprudence generally, and the Spanish Inquisition specifically, as a prop in his critique.

Reflecting on the value we attach to the spoken confession of sin, crime, and error, we may become aware of how close we still are to the year

⁶ *Ibid.*, 470.

⁷ *Ibid.*

⁸ Abe Fortas, “The Fifth Amendment: *Nemo Tenetur Seipsum Prodere*,” *The Journal* 25 (Cleveland Bar Association, 1954): 91, 98-100. Cited in Peter Brooks, *Troubling Confessions* (New Haven: Yale University Press, 2000), 17.

⁹ Felix Frankfurter, *Culombe v. Connecticut*, 367 U.S. 568 (1961). Cited in Brooks, 69.

1215, when the Roman Catholic Church, in the Fourth Lateran Council, made annual confession obligatory for all the faithful.¹⁰

A jurisprudence that demands full confessions is a backward jurisprudence, argues Brooks. A progressive jurisprudence, on the other hand, is one that distrusts the very idea of confession, whether or not coercion is a factor.

It is not only that the coerced confession may be untrustworthy (a false confession) but also that the means of production of a confession – even of the truth – may violate our sense that individuals before the law, even as criminal suspects, must be conceived as autonomous human subjects.¹¹

The sense that is being violated in Brooks' passage is a liberal sense, a sense that holds the autonomous human subject as supreme. Yet that framework is not necessarily progressive. In as much as the protection against self-incrimination prevents us from moving beyond an unacknowledged past, these liberal protections may keep us in a form of social purgatory. Had we never heard the full confession of Sean Penn's character in the film *Dead Man Walking*, we would never have had a sense of his humanity. From a legal point of view, the confession of an inmate on death row was immaterial: the state had presented enough conclusive evidence to have him convicted. From a social point of view, however, his confession was central. Sean Penn's character walked to his death having finally connected with his audience. Perhaps in an inquisitorial court, where the goal was confession not conviction, he would have been reconciled.

From a Thomist perspective, confession is not a crime against the individual will but the possibility of starting afresh. "We ask that you fully confess," repeated the inquisitors to the young Leonor de Cáceres, "so that you will make room for mercy." The inquisitorial approach not only assumes that bearing witness against oneself is helpful to

¹⁰ Brooks, 2.

¹¹ Brooks, 72.

the common good but to the confessant as well. Like the Catechism, the words of a full confession are both the efficient and formal cause of a new and reintegrated life. Progress, then, carried different identifying marks than those espoused by liberalism. To submit to another's superior will was progress. To understand one's contribution to the world in terms of social benefit, not individual merit, was also progress. These values, however, did not disappear with the seventeenth century. In Southern Europe and Latin America, these corporate, corporeal, and hierarchical values continue to inform indigenous efforts towards social justice.

In her ethnographic study of ecclesiastical base communities (CEBs) outside of Sao Paulo, Brazil, Carol Ann Drogus discovered an understanding of social justice that the inquisitors would have commended. One active member of a CEB explained how she understood creating a community for social justice:

We can't form a community through politics, or even through the Bible, not even the Bible can form a community. It has to be to pray the rosary at home. The people like to pray the rosary! ... They don't understand the Bible either. If we pray the rosary, everybody likes it, everybody knows it, see? So that helps.¹²

This female CEB leader recognized that community, within this Catholic framework, is best created through a social and corporeal expression of faith. Reflecting on Bible passages does not transform an aggregate of individuals into a corporate group; praying the rosary does. Luther founded his community on *sola scriptura*. Aquinas demanded a performative utterance: "The believer's act [of faith] does not terminate in the propositions, but in the realities [which they express]."¹³ In other words, the act of

¹² Carol Ann Drogus, *Women, Religion, and Social Change in Brazil's Popular Church* (Notre Dame: University of Notre Dame, 1997), 91.

¹³ St Thomas Aquinas, ST 11-11, 1,2,ad 2, cited in *Catechism of the Catholic Church*. Available at www.vatican.va/archive/catechism/pls1c3a2.htm#credo.

reciting a prayer while moving down the beads constitutes the reality of a community of believers, a community constituted by confession. One female member of the CEB spoke with pride of getting up at “the crack of dawn to go to mass... we got up and walked three hours, we went on foot, on the road, and in the middle of the brush, to go to mass and to confess.”¹⁴

Liberalism sees progress using entirely different markers. Within that framework, the indicators of Thomist justice are indications of injustice. Hierarchies, in particular, are highly problematic. Fortas decries a state that puts itself above its constituent members; Frankfurter worries about a will being *overborne*. This anti-hierarchical bias may appeal to our democratic sense of equality, that every person is equal to every other person in the manner of Hobbes, but it denies the possibility offered by the Thomist alternative which would argue that society has a higher standing than the individual, that different groups serve different functions, and that the will is not the top of the mental chain.

Like the communal praying of the rosary, confession disrupts the primacy of the will. Confession entails a hierarchy, the relationship of confessant and confessor; it encourages the subordination of the will, and it emphasizes the social bond over psychic integrity. It is, by nature, an anti-liberal activity but not necessarily an unjust activity. The Thomist inquisitors demanded a level of intimacy from their subordinates that offends liberal sensibilities. An individual’s will was often dominated – not for the thrill of domination, as Foucault insinuates – but for the possibility of a culmination of the past and a movement towards a better future.

Although modern-day Thomists, such as Jacques Maritain and Ralph McInerny, have kept alive the discussion on the innate capacities of human beings, few Catholic theorists have been willing to defend the traditional notion that confessional hierarchies

¹⁴ Drogas, 78.

may be useful for social justice. This absence of a coherent theory has not only hindered Supreme Court justices from exploring society's need for confession, it has also hampered political scientists doing research on liberation theology and the popular church in Latin America. There is no contemporary theory to explain how a hierarchical and patriarchal institution like the Roman Catholic Church can also be a vehicle for the empowerment of poor people and women.¹⁵

Fortunately, critics of postmodernism have begun to re-examine some of the deeply-held assumptions of liberalism, even the inherently repressive qualities ascribed to the hierarchy.¹⁶ "One of the ugliest things there is," writes social critic Frederick Turner

must be the claim that what is in fact a necessary and beautiful hierarchy, containing and preserving differences and surprises without denaturing them, is merely a cloak for power relations, when that claim comes either from the mere malignity of the insensitive or from the strategic rhetoric of those who themselves seek coercive power.¹⁷

Turner's critique of postmodern theorists does more than just reveal their own suspect power relations. By tackling the anti-hierarchical assumptions of liberal and postmodern thought, Turner has given Thomist political theory a place in contemporary critical theory. Rather than perpetuate the notion that democracy cannot abide a hierarchy, Turner argues that democracy demands hierarchy.

¹⁵ See Drogas, 1-25; Daniel Levine and Scott Mainwaring, "Religion and Popular Protest in Latin America," in *Power and Popular Protest: Latin American Social Movements*, edited by Susan Eckstein, (Berkeley: University of California Press, 1989).

¹⁶ For a biological basis for natural law see, Humberto R. Maturana and Francisco J. Varela, *The Tree of Knowledge: The Biological Roots of Human Understanding* (Boston: Shambhala, 1992); Francisco J. Varela, "The Reenchantment of the Concrete," in *Incorporations*, ed. by Jonathan Crary and Sanford Kwinter (New York: Zone, 1996), 320-339.

¹⁷ Frederick Turner, *Beauty: The Value of Values* (Charlottesville, VA: University of Virginia Press, 1991), 11.

Democracy is misconstrued as a way to get rid of hierarchy; instead it is an attempt to create true hierarchy, a flexible and porous one in which the relations of subordination and superordination are guaranteed by consent rather than power. As the Framers of the United States Constitution knew, when democracy turns into an attempt to destroy hierarchy, it destroys autonomy, consent, and permitted difference, and instead of democracy we get bureaucracy or the tyranny of the majority.¹⁸

Turner is able to consider the hierarchy as “necessary and beautiful” because his thinking in many ways follows the assumptions of Thomism. In an essay on biology and beauty, Turner explicates the “essential assumptions” of his thesis (the negation of which, he asserts, are the assumptions of modern and postmodern thought);

(1) There is a real human nature; (2) there is a real universal nature – partly knowable by appropriate means – that includes us but is not completely determined by our constructions of it; (3) There is an essence and meaning in things; (4) There exist real hierarchical properties in the world, which involve scaling, the organization of living and nonliving systems, and levels of reflexivity and sensitivity; (5) There is such a thing as real progress; and (6) Any significant work in the present must include and be the culmination of the past.¹⁹

The similarities between Turner’s framework and that of the Thomist inquisitors are striking. Both assume something universal called human nature; both assume an organizing hierarchy; both assume movement towards a better world; and both assume that any progressive movement is born from an acceptance of both our bodies and our shame. Rather than “deny our shame as the inheritors of crime and atrocity,” writes Turner, we must

remove the obstacles to our recognition of our shame and restore to us the most fundamental and most fertile shame of all, the conscious recognition of ourselves as creatures of matter, animals that feel and think as we eat, breed and die.²⁰

¹⁸ Turner, *Beauty*, 12.

¹⁹ Turner, “Biology and Beauty,” in *Incorporations*, 406-421, 407.

²⁰ Turner, “Biology and Beauty,” 407.

Turner recommends tragic drama as the vehicle for this embodied and social confession and yet that would require an audience “that has some intellectual grasp of the necessary irreconcilability of our moral and logical conflicts.”²¹ Turner comments that it would be hard to find an audience who could tolerate such irreconcilable conflicts, a phenomenon attributable to liberalism’s pervasive hold. As far back as Hobbes, we see the conflation of moral and logical. The business of spiritual infusion is immoral because it is illogical. Thomism resides in a Kingdom of Darkness because it is beyond reason.

By allowing the hierarchy back in, Turner’s universalism is of a far different shade than that promoted by feminist theorists. While committed to a framework that understands the difficulties faced by women because they are women, feminist theorists such as Martha Nussbaum, Catharine Mackinnon, and Elaine McDonagh have faltered on matters that involve larger units than the female body.²² Although their critiques have provided a useful framework for reconsidering the role of women as subjects rather than objects of property, their frameworks are, at times, rigidly insistent on liberal values. For instance, Martha Nussbaum insists on equality as a universal value, equating scholars who recognize functional differences as converging “with the positions of reaction, oppression, and sexism.”²³

Yet not all social problems can be addressed purely in terms of liberalism’s values. Family Court, for instance, requires a jurisprudence that acknowledges the social organism

²¹ Turner, *Beauty*, 55.

²² Catharine A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Cambridge: Harvard University Press, 1987). Eileen L. McDonagh, *Breaking the Abortion Deadlock: From Choice to Consent* (Oxford: Oxford University Press, 1996). McDonagh’s book is particularly atomistic, reframing the question of abortion in terms of tort law on self-defense; the fetus as intruder theory.

²³ Martha Nussbaum, *Sex and Social Justice* (Oxford: Oxford University Press, 1999), 36.

of the family. Truth and Reconciliation Commissions require a jurisprudence that recognizes the social organism of the recovering country. Because Family Court is contained within an existing liberal system, as opposed to Truth and Reconciliation Commissions which are often part of a new order, efforts to move toward reconciliation are highly constrained. Rather than being encouraged to make a full and complete confession, defendants are cautioned to remain silent. Any repentance revealed in Family Court might result in criminal charges in District Court. To take stock of one's past actions does not reincorporate the abuser back into the social fold; rather he is subject to incarceration and on-line data banks.

My hope is that we can learn something from our jurisprudential "Other." The Spanish Inquisition reminds us that justice can exist outside of the liberal framework and that equality and the autonomous will may not always be essential for social progress. Of course to make such a claim is to immediately be branded a heretic of liberalism and to be suspected of repressive tendencies. Yet in order for liberty of conscience to be able to mean something real and not just something convenient, alternative frameworks need to be considered and different sensibilities need to be cultivated. The values of liberalism are many but they are not necessarily universal.²⁴ Whether we're trying to understand CEBs or family courts, or any other activity beyond the radar of liberal theory, our efforts will be more rewarding if we have some understanding of the historical, religious, and philosophical principles guiding those extra-liberal practices.

²⁴ See Michael Ignatieff, "We Are Not the World, *The New Republic* (August 13, 2001), 14-15 for a succinct critique of "universal jurisdiction" and the prosecution of heads of state.

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