

A photograph of a person kneeling on a sidewalk in front of the White House. The person is wearing a bright red jumpsuit and a black hood that covers their head and face. They are kneeling on a white cloth that has the words "BAN ALL TORTURE NOW" written on it in blue capital letters. A black backpack is on the ground next to them. In the background, there is a black iron fence, a green lawn, and the White House building with its columns and an American flag flying on a tall pole. The sky is overcast.

America

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Torture and the Rule of Law

WILLIAM MICHAEL TREANOR • DAVID COLE • MARY ELLEN O'CONNELL

OF MANY THINGS

Big cats—lions, tigers, leopards and jaguars—are admired for their strength, their speed, their agility. They figure prominently in heraldry, in folk tales and in children's stories. They inhabit our imaginations all the more because they are elusive. We see signs but not the cats. We catch a glimpse, and then they are gone. Their elusiveness sometimes makes them stand-ins for the divine presence.

Peter Matthiesen spun an unforgettable tale of the mysterious snow leopard in his travelogue of the same name. As he trekked with the naturalist George Schaller in the Nepalese Himalayas, the story of spotting a snow leopard at high altitude became intertwined with Matthiesen's search for a legendary lama and ultimately the Buddha himself. He met the lama, but mistook him for the monastery caretaker. At the end of the trip, he wondered whether his Sherpa guide might have been the Buddha; but like the snow leopard, the man had vanished from sight.

In June, New York's Central Park Zoo announced its latest guests: three snow leopards—born and bred in captivity. Most snow leopards now living were bred in captivity. The survival of the species depends on it. The day I went to meet our new neighbors, the 12-year-old was not to be seen and a 3-year-old twice came close to the glass partition only to disappear in the blink of an eye.

In the western United States I have had a couple of encounters with mountain lions. On a hike in Point Reyes National Seashore, we spotted one running across the trail below us. Just as we crested a small rise, it dashed into the underbrush.

When we had descended a little, I suggested to the group that we stop, quietly turn around and see whether we could spot the cat. Sure enough, there it was looking out at us from underneath the manzanita. We stared

back at one another for several minutes as it twice moved its lookout along the ridge. Finally, another group of hikers came along and the cat fled deeper into the woods.

Some years later I was doing my annual backpacking retreat near Glen Aulin in the northern region of Yosemite National Park. I had begun hiking along the Tuolumne River, where I have had some vivid prayer experiences in past years. Before I had gone very far I was forced back by the threat of thunderstorms. I turned around and my eye fell on a peak that towered over the valley. On a promontory, I saw the silhouette of a large mountain lion. I looked a long time to be sure of what I was seeing. The long tail was the giveaway.

The sighting stretched out to 15 or 20 minutes, and I was filled with an enormous sense of grace. The encounter was so unusual I took it as a blessing.

A couple of months later I used the story in a retreat homily to illustrate the elusiveness of our experience of God. One of the retreatants, Jim Weber, a rugged outdoorsman, was wearing a T-shirt with a mountain lion silhouetted in black on the chest. When I told my story, Jim wept. Jim's wife, Marjorie, had died some months before. As it turned out, she had chosen the mountain lion as her own totem; and her sister had made the T-shirt as a remembrance of her.

The elusiveness of the big cats makes their appearance a special revelation. My own encounters make me long for the wild lands where the elusive appearance of the big cats comes as a joyful surprise, filling one with a sense of unity in creation and blessedness before God. As George Schaller wrote, "When the last snow leopard has stalked among the crags...a spark of life will have gone, turning the mountains into stones of silence."

DREW CHRISTIANSEN, S.J.

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Cover: A protester dressed to represent a detainee of the U.S. government demonstrates against torture outside the White House, November 2005. Reuters/Jason Reed

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A Shabby Welcome

As U.S. troops are preparing to return to the United States, millions of Iraqis continue to endure hardship both as displaced persons within Iraq and as refugees in surrounding countries. But even Iraqi refugees in the United States face harsh pitfalls. Since the war's mass displacements began in February 2006, barely 30,000 Iraqis have been admitted to the United States, and few of these were admitted prior to August 2008. Now, because of the sharp economic downturn, nonprofit resettlement agencies are finding it increasingly difficult to help them find jobs. Many face eviction and homelessness.

The title of a recent report by the International Rescue Committee tells the grim story: *In Dire Straits*. The report focuses on two cities, Atlanta, Ga., and Phoenix, Ariz., which were chosen by the I.R.C. because the relatively high numbers of Iraqi cases in those cities, as an I.R.C. spokesperson told *America*, have been significantly affected by the economic crisis. The I.R.C. plans to settle approximately 230 Iraqi refugees in Atlanta in 2009 and an equivalent number in Phoenix. But resettlement has become increasingly difficult, because all refugees are expected to find employment within a few months of their arrival in a city.

The State Department's Bureau of Population, Refugees and Migration provides a reception grant of \$900 per refugee upon arrival at their destination—an amount meant to cover immediate necessities like security deposits on rental housing, food and other immediate needs for the first month. But this falls far short of actual needs, especially with housing costs varying widely by city and state. In a strange reversal of roles, better-off relatives in Iraq sometimes send assistance to loved ones in the United States.

Individual states in which the refugees resettle provide some public assistance, but the amount varies widely from state to state—an inequity in itself. The average for a family of four nationwide is \$575 per month, but in some states the amount can be as low as \$309—which adds to the precariousness of the refugees' lives. Medicaid, which is generally included, is crucial because many arrive in poor physical and mental health. But Medicaid does not cover all medical needs, such as those of trauma victims. The trauma can make it more difficult for them to begin work in their new country. In addition, a number have serious medical problems or physical disabilities that can undermine their immediate employability.

Widows face especially harsh struggles. Most are from traditional backgrounds in which the wife or mother was not expected to be the primary breadwinner in their families. But the requirement to find employment quickly applies to them as well as to men. Male relatives attempting to join them face additional security checks and therefore longer delays in being reunited. And yet family reunification is one of the strongest indicators of resettlement success. The I.R.C. report tells the story of a widow living alone in Phoenix. Like others who have received eviction notices, she has nowhere to go, and homeless shelters are full. The waiting list for subsidized housing is two years.

The most immediate need is for increased federal assistance in the form of cash and better access to medical treatment. Also needed is a leveling of the widely disparate amounts individual states offer for refugee resettlement. The I.R.C. urges that Congress provide \$97 million in supplemental funds for the Office of Refugee Resettlement in the Department of Health and Human Services to cover emergency rent payments for refugees at risk of eviction. This past spring the State Department released \$5 million in emergency rent stipends to assist those facing eviction, but such modest steps are mere stopgaps. The entire refugee resettlement program needs to be reinvented.

The United States has agreed to admit 17,000 Iraqis in fiscal year 2009 (October 2008 to September 2009), a shamefully small number, given that many Iraqis have even risked their lives working for the U.S. military and government and for American companies in various capacities—for example, as interpreters. Whether that number will be reached remains to be seen, although so far the U.S. government is on track and resettlement groups are optimistic. As of June 30, 2009, 13,537 had been received. Roughly a third are Christians, still a targeted group in Iraq. Some four million refugees in all have fled their homes because of a war for which the United States bears primary responsibility.

The least we can do is to better share the load with Iraq's neighbors and provide adequately for those Iraqis who manage to arrive here as traumatized refugees. The voluntary resettlement agencies that care for them are increasingly overburdened as the recession continues and unemployment climbs.



The Stakeholder Society

‘G’ratuity” is a genteel term for a tip for services rendered by a waiter, taxi driver or bellhop. Of course, it also refers fundamentally to any gracious act that is not strictly expected. In times past it referred to the beneficence of kings. In its most exalted sense, it denotes the transcendent goodness of God to us. Perhaps the most remarkable proposition in Pope Benedict XVI’s encyclical letter *Caritas in Veritate*, therefore, is the controversial assertion that gratuity—or as the official English translation frequently reads, “gratuitousness”—is essential to economic life. Can a gesture of politeness or a supernatural relationship have anything to do with everyday commerce? What has Jerusalem to do with Wall Street? Is it not true, as the late philosopher-theologian Paul Ricoeur wrote about the Gospel, that “the logic of generosity clashes head on with the logic of equivalence which orders our everyday exchanges, our commerce and our penal law”?

Over the centuries, the reduction of economics to pure commercial exchange has resulted in the fraying of the social bonds that both made the real economy run and compensated for its worse excesses. Now, in a flat, globalized world with egalitarian aspirations for material success everywhere, the system is gravely troubled. Economics, moreover, as the pope points out, has come to dominate all other sectors of life—the state, the economy and civil society—so that few people are any longer concerned about the well-being of others; and, in practice, most people presume they need be concerned exclusively with pursuing their private accumulation of wealth.

The metaphor underlying the term “gratuity” is that of gift-giving; and Pope Benedict believes the neglect of gratuity, of a generous readiness to give for the good of others, is a root cause of the current world economic crisis. “Marked by grave deviations and failures,” he writes, “today’s international economic scene requires a profoundly new way of understanding business enterprise.” He elaborates: “The great challenge before us” in the unfolding of globalization and in the current economic crisis is not only the need for “the principles of social ethics, like transparency, honesty and responsibility,” but also the need “that in commercial relationships the principle of gratuitousness and the logic of gift as the expression of fraternity can and must find their place within normal economic activity.”

This generosity has a public dimension; it is by no

means a private virtue. Rather, it is akin to what the ancients called magnanimity, a greatness of soul that acts in the understanding that one’s deeds—in this case one’s business transactions—affect the whole of society. Thus, the primary meaning of the economy of gratuity for business seems to be that businesses function within a “stakeholder society.” “Business management,” the pope writes, “cannot concern itself only with the interest of proprietors, but must also assume responsibility for all the other stakeholders who contribute to the life of the business: the workers, the clients, the suppliers...the community of reference.” The notion of a “stakeholder society” is already a familiar one to business ethicists, management consultants and political philosophers. It is an idea whose day, the pope believes, will come.



Aware that critics may regard this ethic as utopian, Benedict points to businesses that already follow this model. “Alongside profit-oriented private enterprises, there must be room for commercial entities based on mutualist principles and pursuing social ends...” He expresses the hope that from the interplay of such groups with traditional commercial sectors, new hybrid forms of commercial behavior will continue to emerge and serve to “civilize” the economy. Following the publication of the encyclical, the Catholic lay movement Focolare reminded its friends that Chiara Lubich, its foundress, had promoted this kind of enterprise. Today the movement sponsors more than 700 such for-profit companies based on an ethic of gratuity and communion.

For Benedict, however, it is not enough that there be a special socio-economic sector operating on this model. All businesses must conduct themselves as members of the stakeholder society. Only 30 years ago the principle that business has moral ties to the wider society was made popular by the investor responsibility movement, and it was for a time affirmed by many corporations. Unfortunately, that realization was eclipsed in the last generation by an Ayn Rand-style of individualism and the prominence of high finance, the branch of business most abstracted from real people and fundamental human interests, as a leading sector of the economy. In the wake of the global financial crisis, the relevance of the stakeholder conception of business should be clearer than ever.

SIGNS OF THE TIMES

THE VATICAN

President, Pope Discuss G-8 Commitments, Bioethics

The church's positions on bioethical issues and matters of global social justice received marked attention during Pope Benedict XVI's meeting with President Barack Obama on July 10 in Rome. Mr. Obama had traveled to Rome for the Group of 8 summit, an annual meeting of the world's wealthiest industrialized countries, which had concluded that morning in L'Aquila, Italy. The G-8 summit had focused on the global economic crisis, climate change and global tensions.

The pope and Mr. Obama touched on each of these topics in their 35-minute closed-door meeting, as well as immigration and the issue of reuniting families, the Vatican said following the session. The two men also touched on international politics, such as the peace process in the Middle East, "on which there was general agreement," the Vatican added. "Dialogue between cultures and religions, the global economic crisis and its ethical implications, food security, development aid—especially for Africa and Latin America—and the problem of drug trafficking" were all discussed. "Finally, the importance of educating young people everywhere in the value of tolerance was highlighted," the Vatican said.

Pope Benedict and the president discussed other issues that represent "a great challenge for the future of every nation and for the true progress of peoples, such as the defense and promotion of life and the right to abide by one's conscience," according to the Vatican. During their time together, the pope gave Mr. Obama a signed copy of his encyclical *Caritas in Veritate* (*Charity in Truth*), as well as a copy of the recent Vatican document on biomedical ethics, *Dignitas Personae* (*The Dignity of a Person*). "Oh, what we discussed earlier," said Mr. Obama, referring to their talks, "I will have some reading to do on the plane." According to Msgr. Georg Gänswein, papal secretary, the president was given the instruction to help him better understand the church's position on bioethics.

The Vatican spokesman, Federico Lombardi, S.J., told reporters after the

audience that "great serenity and great cordiality" characterized the meeting. Father Lombardi said he spoke with the pope after the meeting and that the pope "seemed extremely satisfied with how the meeting went." He said the pope found the president to be "attentive and ready to listen," adding, "The president explicitly expressed his commitment to reducing the numbers of abortions and to listen to the church's concerns on moral issues."

Denis McDonough, U.S. deputy national security adviser, later spoke to reporters about many of the points in the Vatican statement, adding that the two men also discussed Cuba, Honduras and outreach to Muslim communities. "I think the president was eager to listen to the Holy Father, [and] was obviously eager to learn more about his views" on issues such as abortion and stem cell research, he said. McDonough reported the presi-

dent asked the pope to pray for his family and expressed his appreciation for the role Cardinal Óscar Rodríguez Maradiaga of Tegucigalpa, Honduras, was playing in trying to resolve the political crisis in his country in the wake of the June coup that ousted President Manuel Zelaya.

In addition to the encyclical and Vatican bioethics document, Pope Benedict gave Mr. Obama a mosaic showing St. Peter's Basilica and Piazza and a medal marking the fifth year of his pontificate. The president in turn gave the pope a liturgical stole that had adorned the body of St. John Neumann of Philadelphia, the first male U.S. citizen to be proclaimed a saint.

President Obama also delivered a private letter to the pope from Senator Edward M. Kennedy, Democrat of Massachusetts. Senator Kennedy has been battling brain cancer for the past year.



Mr. Obama arrives at the Apostolic Palace



SOCIAL ETHICS

Is Assassination Ever Justified?

The recent disclosure that the U.S. Central Intelligence Agency was developing a program to track down and kill individual Al Qaeda leaders has re-awakened legal and ethical questions about assassination as a tool of national policy. The program had been kept hidden from Congress until this spring, when it was uncovered and cancelled by the current C.I.A. director, Leon Panetta. In a succession of executive orders, Presidents Ford, Carter and Reagan had proscribed assassination as a policy of the U.S. government.

President George W. Bush, in “an intelligence finding,” without formally rescinding the earlier prohibitions,

authorized “lethal covert actions” against Osama bin Laden and al-Qaeda operatives. Previously, the government had been using pilotless aircraft to target terrorist camps. The new plan involved deploying teams of assassins to kill individual senior terrorists, requiring the assassins to strike “at two feet instead of 10,000 feet,” according to an intelligence official quoted by *The Washington Post*. The anticipated benefit of assassination over drone attacks is a potential decrease in “collateral” civilian casualties.

The new program, according to some analysts, violated the spirit, if not the letter, of executive orders issued by previous presidents. Those executive orders came in the wake of a series of government reports on U.S. intelligence activities in the 1970s that detailed abuses of power. Among the matters investigated were attempts to assassinate foreign leaders, including Fidel Castro of Cuba and the brothers Ngo Dinh Diem and Ngo Dinh Nhu of Vietnam.

Just War Analysis. The new disclosures have prompted a debate about how government-sponsored assassination should be viewed in light of the Catholic moral tradition on just war theory. Traditional just war theory was inclined to prohibit assassination of political and military leaders on two grounds. The first was that to “decapitate” the enemy might make negotiation of peace more difficult and lead to protracted fighting as a result of chaos or competition for command in the enemy ranks. The other was that civilian political leaders were technically “innocents”—that is, they were not bearing arms and directly threatening the other side. Armed personnel were permitted to attack only other armed personnel.

The emergence of global terror networks intent on mass terror raised new questions. Are terrorists, who are not members of a national army, but are carrying out lethal attacks often under civilian cover, open to direct attack as if they were armed military? Is the fight against terrorism best carried out as “a war against terror” or as an international police action?

David L. Perry, a former ethics professor at the Army War College in Carlisle, Pa., addressed the matter in a 1995 issue of *The Journal of Conflict Studies*: “Just as it is not a crime to kill the enemy during wartime, so too should it not be regarded as a crime or a morally reprehensible act when a nation, acting in concert with its obligation to protect its own citizens from harm, seeks out and destroys terrorists outside its borders who have committed, or are planning to commit



CIA director Leon Panetta

atrocities on its territory or against its citizens.” Yet “the assassin in effect acts as prosecutor, judge, jury and executioner combined; the target is precluded from being represented by counsel before an impartial court,” added Perry.

Gerard F. Powers of the Kroc Institute for International Peace Studies at the University of Notre

Dame, in Indiana, distinguished among targets of assassination. "You're not talking about killing political leaders. You're talking about killing Al Qaeda leaders. You're talking about killing terrorists," he said. "If terrorism is treated primarily as a crime, then the targeted killings would probably be problematic, unless they occurred in the effort to arrest. And all the normal rules of police work apply," Powers added.

"But to the extent that terrorism can be seen as an act of war, then the targeted killings of known terrorists who are actively engaged in terrorism, or actively planning terrorist acts, then the terrorist becomes more like a combatant in war," he explained. "And the same criteria that would apply to war would apply to the killings of terrorists." In the case of Al Qaeda, Powers said, there "are elements akin to war" and "others more akin to crime. That's where the issues become blurred."

Honduran Cardinal Addresses Coup Crisis

Cardinal Óscar Rodríguez Maradiaga of Tegucigalpa has endorsed a Honduran bishops' conference statement saying that deposed Honduran President Manuel Zelaya engendered "class hatred." The cardinal denied that the church supported the coup d'état, saying that those who accuse the church of siding with Honduras's elite "are not listening." Cardinal Rodríguez said he has seen an unwelcome change in the politics of Honduras, which he attributes to Zelaya's alliance with Venezuela's President Hugo Chávez. "Recently, I have observed something that did not previously exist in Honduras: class hatred," the cardinal said. "Zelaya had advisers in Venezuela, and stirring up class hatred was the strategy."

NEWS BRIEFS

Security has been tightened around churches and **Christian towns in Iraq** following a series of attacks in recent weeks that have targeted Christians, according to The Washington Post. • Church officials in **Zimbabwe** said that the church there "is well-positioned to reach people and bring them into the process" of drafting the new constitution. As part of a power-sharing agreement, Zimbabwe is to draft a constitution that will go before voters for approval in 2010. • Catholic bishops in western Mexico called for three days of prayer for the end to a wave of revenge-driven, drug-cartel violence that has engulfed the State of **Michoacan**. • **Eddie Panlilio**, a Catholic priest who serves as governor of the Philippine province of Pampanga, has written the bishop requesting a dispensation from his priestly responsibilities so that he may run for president in 2010.



Eddie Panlilio

Aid Official Describes Starvation in Eritrea

A Catholic aid official who just returned from Eritrea described children too weak to walk and orphanage staffers overwhelmed by the number of children being dropped off because their families cannot feed them. "Unless you've been there and seen it, you cannot understand the gravity of the situation," says Gabriel Delmonaco of the Catholic Near East Welfare Association. "We are trying to save one life at a time." Nearly half of Eritrea's population is undernourished, and more than 85,000 children are malnourished as a result of widespread famine, according to Amnesty International. Eritrea's 2002 drought resulted in severe water shortages and an almost complete failure of that year's harvest. Since then, rainfall has been inadequate, and last year's drought made conditions significantly worse.

From CNS and other sources.

Conditions 'Improve' for Russian Catholics

An official of the Russian bishops' conference said the Catholic Church's working conditions in Russia have improved, and that he is hopeful that this would lead to better relations between church and state. "Our church's ties with state and society here have significantly improved recently, and we hope this process will now develop further," said the Rev. Igor Kovalevsky, the secretary-general of the Russian Catholic bishops' conference. "A full relationship will clearly facilitate links at a time when both the Holy See and Russian Federation share common views on many international questions," said Father Kovalevsky.

The Interfax news agency reported earlier in July that Archbishop Antonio Mennini, the Vatican's representative in Moscow, said that talks on diplomatic relations between the Vatican and Russia had covered "a lot of ground."



Filling the Gaps

The world has a governance problem. We need more of it—at a time when we have less of it. Globalization has created gaps between the problems we face and our ability to respond. The problems move quickly, but our institutions do not. Problems like the meltdown of the global financial system and global climate change cross borders and require urgent and coordinated action across countries. But governance stops at the borders of our primary institutions, sovereign states.

New forms of governance are emerging to fill the gaps, especially in the private sector, sometimes in public-private partnerships, sometimes alone. Civil society combines in transnational networks to change corporate and government behavior on issues from debt relief to land mines. Nongovernmental organizations and private companies provide services previously deemed the purview of states—from building roads to providing security. Civil society and companies develop and hold businesses accountable to corporate social responsibility codes. A private regulatory body governs the Internet, to the extent that anyone does that.

The public sector also attempts to increase capacity and collaboration across borders. We create new international institutions (the World Trade Organization) and adapt old ones (NATO and the United Nations). Religious actors are part of the mix as well.

MARYANN CUSIMANO LOVE, *professor of international relations at The Catholic University of America in Washington, D.C., is the author of Beyond Sovereignty: Issues for a Global Agenda.*

But all these efforts are still not enough. People are dying, but states cannot save them. The United States and other strong states cannot solve these problems alone; their institutions are not wired for it. Nearly a third of the people on earth live in the weakest states in the system, as described in detail in *The Failed State Index*, a new report by the Fund for Peace. Their citizens are the most vulnerable, yet these states are the least able to respond to the challenges of globalization and some deny their people the ability to participate in or hold their governments accountable for the activities undertaken in their name. The worst of these states are predatory, deliberately killing the very citizens they are supposed to protect.

Sovereignty—the ideas that governance aligns with territory and that those outside the geographic boundaries have no authority to meddle in internal affairs—is problematic for most of the people on the planet. But most leaders and scholars ignore the problem of sovereignty in world politics, focusing on government action even as states are less able to resolve global problems alone.

I am not a neutral observer of these issues. I had recently finished the fourth edition of my book on globalization, *Beyond Sovereignty: Issues for a Global Agenda*, when Pope Benedict XVI released his encyclical *Caritas in Veritate*. The pope reveals himself to be an institutional pragmatist. When the challenges are as urgent as they now are, we have to use all available tools and work through, reform, strengthen, expand and improve many institutions.

States, existing and new international institutions, civil society partnerships, more ethically oriented businesses, churches and individuals—all have a role, and no one is off the hook.

Media controversy focused on No. 67, “the urgent need of a true world political authority...universally recognized and vested with the effective power to ensure security for all, regard for justice, and respect for rights.”

Few noted No. 41, which urges us “to promote a dispersed political authority, effective on different levels,” and No. 57, which notes that “the governance of globalization must be marked by subsidiarity, articulated into several layers and involving different levels that can work together. Globalization certainly requires

The pope calls for international institutions to serve the most vulnerable.

authority, insofar as it poses the problem of a global common good that needs to be pursued. This authority, however, must be organized in a subsidiary and stratified way.” Pope Benedict calls for effective international institutions, as did his predecessors, but he also calls for updating and making all our institutions more ethical and effective.

The pope calls for neither one world government nor untrammled sovereign autonomy, but for effective global governance. Institutional pluralism carries costs, including overlapping jurisdictions and coordination difficulties. But these institutions already exist, and so can be more quickly reformed to serve better the needs of the world’s most vulnerable.

We the People

insure domestic Tranquility, provide for the common Defence
and our Posterity, do ordain and establish this Constitution

Article 1.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and in each State shall have Qualifications requisite for Senators of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and including indentured Servants, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of seven Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed thirty thousand, but each State shall have at least one Representative, and until such Enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania seven, Delaware three, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall choose their Speaker and other Officers, and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six Years; and the Electors in each State shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Clases. The Electors in the first Clase shall meet in the fourth Year, the Electors in the second Clase in the sixth Year, and the Electors in the third Clase in the eighth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Continuance of any Clase, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been seven Years a Citizen of the United States, and when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall choose their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. The Chief Justice shall preside. And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of Profit or Trust under the United States; but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment, and Execution according to Law.

Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they provide by Law for a different Day.

Section 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business, but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and with the Concurrence of two thirds expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment be necessary to be kept secret; and the Yeas and Nays of the Members of either House on any Question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three Days, nor to any other Place, than in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the United States Treasury. They shall in all Cases, except Treason, Felony and Breach of said Oath, be privileged from Arrest during their Attendance in either House, and in going to and returning from the same, and for any Speech or Debate in either House; they shall not be questioned in any other Place.

Torture and the Rule of Law

Torture, detention without trial, secret surveillance of citizens, power to strip citizens' rights on suspicion of terrorism—the list of alleged misdeeds by the Bush administration in its so-called war on terror is highly troubling, reminiscent of the abuses for which the American colonies declared independence from Britain. For months debate has stirred on how the nation should address these violations of civil liberties and discipline the officials responsible for them. **America** has asked three distinguished lawyers to make the case for one of three alternatives: taking preventive action, convoking a blue-ribbon committee of inquiry or bringing criminal charges.

PHOTO: SHUTTERSTOCK/FRITZ KOCHER

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Legal Obligations

The proper role of White House lawyers

BY WILLIAM MICHAEL TREANOR

An opinion issued on Aug. 1, 2002, by Assistant Attorney General Jay S. Bybee of the Department of Justice's Office of Legal Counsel held that the federal statute that makes it a crime to commit torture outside the United States should not be read to "apply to the President's detention and interrogation of enemy combatants pursuant to his Commander-in-Chief authority." The opinion further concluded that if the statute did criminalize interrogations ordered by the president, it was unconstitutional.

The memorandum, which has become known as the "torture memo," figures prominently in the ongoing public debate about whether there should be prosecutions of Department of Justice officials or a truth commission to investigate the treatment of detainees by U.S. officials. But as important as the memorandum is to any consideration of the past, it is at least as relevant to any consideration of how to ensure that in the future, the Department of Justice and the executive branch as a whole honor the rule of law and the U.S. Constitution.

Since its inception, the Office of Legal Counsel, the office that issued the torture memo, has played a critical role in ensuring that the executive branch follows the law. Operating as a kind of court within the executive branch, the office rules on the legality of potential executive branch actions. In both Democratic and Republican administrations, the office has understood its mission as making decisions that reflect the best view of the law, without regard for politics. "It is not our function to prepare an advocate's brief or simply to find support for what we or our clients might like the law to be," Ted Olson, who headed the O.L.C. during the Reagan administration, has observed. Rather, the O.L.C.'s duty is to make "the clearest statement of what we believe the law provides and how the courts would resolve the matter."

The torture memo, as well as other important Department of Justice memoranda approving counterterrorism activities, reflected a very different approach. Former Assistant Attorney General Jack Goldsmith, who

rescinded the torture memo in 2004, has written that the torture memo and other opinions were "deeply flawed: sloppily reasoned, overbroad, and incautious in asserting extraordinary constitutional authorities on behalf of the President."

Underlying the torture memo and other memoranda was a stunningly broad theory of executive power. "In wartime," the memo states, "it is for the President alone to decide what methods to use to best prevail against the enemy." The memo reflects an approach under which the president even has the power to disregard statutes governing the military or the conduct of war.

This conception of presidential power is at odds with the Constitution. While the drafters of the Constitution made the president the commander in chief of the armed forces, they also gave Congress great powers in military and foreign affairs, including the power to declare war. This constitutional framework is one of shared authority, and governing judicial precedent reflects that understanding. The torture memo ignored all this as its authors single-mindedly pressed an expansive view of presidential power.

What made the torture memo and similar memos authorizing war-related actions by agents of the executive branch even more of a threat to the constitutional order and the rule of law is that they were secret. Congress had no way of knowing that the executive branch was disregarding U.S. law. There are three crucial steps needed to protect the rule of law.

First, as former O.L.C. head Walter Dellinger has suggested, the executive branch needs to adopt and make public a careful statement setting forth its conception of the proper role of the different branches of government with regard to war powers and foreign affairs. Unlike the torture memo, that statement should reflect the balance of congressional and executive power embodied in the Constitution's text, structure and history, as well as judicial precedent. Such a statement would establish a framework for future decision-making. It would help avoid the result-oriented and crisis-driven reasoning reflected in the torture memo, and, by being made public, it would facilitate a needed public debate by allowing Congress the opportunity to respond to the executive branch's conception of its role.

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Second, there is a need for greater transparency. While concerns about the protection of classified information are important, Congress cannot defend its powers if it is unaware of what the executive branch is doing. A mechanism for informing Congress while protecting classified information must be established. Dawn Johnsen, President Obama's pick to head the Office of Legal Counsel, has argued passionately during the past few years for the O.L.C. to return to its traditional role, and she has urged passage of a statute that would require the administration to notify Congress whenever it is not enforcing a law because of constitutional concerns. Senator Russ Feingold

has introduced legislation embracing this approach.

Third, the O.L.C. must return to its traditional role. Its opinions must reflect straightforward analysis of the law, not advocacy, even when that legal analysis would keep the executive branch from pursuing policies it wants to pursue. The Constitution states, "the President shall take Care that the Laws be faithfully executed." Honest O.L.C. opinions are critical if the president is to satisfy that constitutional obligation.

Our constitutional framework is a wise one. It provides for a strong national defense while it protects individual liberties and the rule of law. The lessons of the past will help us ensure that that framework is honored.

ON THE WEB

William Michael Treanor on torture and accountability.
americamagazine.org/podcast

Truth and Consequences

The case for a commission on torture

BY DAVID COLE

Why are so many so afraid of the truth? The proposal of Senator Patrick J. Leahy, Democrat of Vermont, for a nonpartisan truth commission to investigate possible crimes committed in connection with the Central Intelligence Agency's interrogation of detainees has sparked resistance from President Obama and a wide range of Republicans, all of whom urge us to look forward, not backward. But in the face of credible evidence that high-level Bush administration officials authorized torture, a crime against humanity, the least we should do is undertake a serious, independent investigation. Accountability is the touchstone of the rule of law. We owe it to the victims, the world and ourselves to hold the wrongdoers accountable. Moreover, without an official acknowledgment of wrongdoing, we risk repetition of the abuses of the past.

We know already that U.S. officials up to and including Vice President Dick Cheney authorized waterboarding. We also know that lawyers in the Justice Department's Office of Legal Counsel, including Jay Bybee, John Yoo, Daniel Levin and Stephen Bradbury, wrote memoranda that gave a green light to the practice by arguing that waterboarding does not constitute torture, or even cruel,



U.S. Attorney General Eric Holder testifies on April 23, 2009.

inhuman or degrading treatment. President Obama, Attorney General Eric Holder, and C.I.A. Director Leon Panetta have all since conceded what the world already knew—that waterboarding is in fact torture.

As a legal matter, the United States is compelled by the U.N. Convention Against Torture, a binding treaty that we ratified in 1988, to "submit the case to competent authorities for the purpose of prosecution." Those authorities "shall take their decision in the same manner as in the case of any

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PHOTO: REUTERS/YURI GRIPAS

ordinary offence of a serious nature.” At a minimum, then, Attorney General Holder must investigate and make a decision as to whether to prosecute.

Vague Standards Defining Torture

A prosecution of Vice President Cheney or, for that matter, the Justice Department lawyers would be deeply divisive, but that is no justification for declining to prosecute. The attorney general could decide, however, that a prosecution is not warranted on the grounds that there is not proof beyond a reasonable doubt that anyone knowingly authorized torture. The cabinet officials who gave the go-ahead, and the C.I.A. agents who carried out the interrogations will claim that they relied on opinions from the Justice Department and concluded that these tactics did not rise to the level of torture. And the lawyers will argue that they sought only to identify the line between torture and abuse short of torture. Given the vague standards used to define torture, this was no simple task. My own view is that when the Justice Department memos are read carefully, they show that the lawyers contorted the law to facilitate brutality, instead of requiring the C.I.A. to conform its practices to the law. But without more evidence, a prosecutor might reasonably conclude that such a case cannot be proven beyond a reasonable doubt, as the criminal law requires.

A criminal prosecution, however, is not the only way to achieve accountability. It took more than 40 years to do so, but in 1988 Congress officially apologized for the wrong of internment of 120,000 Japanese and Japanese-Americans during World War II, and paid reparations to the survivors. After a Canadian citizen, Maher Arar, was rendered to Syria for

torture by U.S. authorities acting on information provided by Canada, Canada conducted an official inquiry, resulting in a 1,100-page report that exonerated Arar and castigated Canadian authorities. Canada’s Parliament unanimously apologized to Arar, and the government paid him \$8.7 million in damages. These forms of accountability, while not criminal, nonetheless help create a bulwark against repetition of the wrongs.

Whether or not a criminal case proceeds, as a country we have a moral obligation to investigate and acknowledge illegal abuses committed in our name. That process would be best advanced by a blue-ribbon commission that could rise above partisan politics, assemble all the facts and issue an official report addressing the question of whether the practices employed by the C.I.A. were not only a bad idea, but illegal as well.

Some complain that a truth commission is not enough. Crimes require criminal prosecutions, but empaneling a commission does not foreclose that possibility. Depending on what the evidence shows, prosecution may be the appropriate response in the long run. For the moment, however, that conclusion is not yet obvious. It may have been wrong, but not criminally wrong, to rely on flawed legal advice from the Justice Department that waterboarding was not torture. The legal advice itself may have been morally repugnant and professionally incompetent without necessarily being criminal. Only further investigation can tell whether criminal prosecution is warranted. But a truth commission would be an important first step toward both restoring the rule of law in the United States and restoring the United States to its place as a law-abiding member of the community of nations.

No Excuses

Our obligation to prosecute human rights violations

BY MARY ELLEN O’CONNELL

We Americans have a clear and definite legal duty to investigate and prosecute the crime of torture. Under the 1949 Geneva Conventions, each party is “under the obligation to search for persons alleged to have committed or to have ordered to be committed, such grave breaches [of the duty not to torture], and shall bring such persons, regardless of their nationality, before its own courts.”

Similarly, the 1984 Convention Against Torture requires each party to “ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is

reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”

Our nation is a party to these and other treaties prohibiting torture and mandating investigation and prosecution.

We know that high officials in the Bush administration violated these treaties. We have unimpeachable documents confirming that individuals taken into custody since Sept. 11, 2001, were waterboarded and worse. The controversy over whether waterboarding is torture is entirely specious. In fact, the United States has prosecuted Japanese military

personnel at the end of World War II, American soldiers during the Philippine Insurrection, (1902–13) and others for waterboarding.

Investigating and prosecuting such crimes is obligatory; it is not a “witch hunt,” as some charge. Nor is it something optional—a matter of “prosecutorial discretion”—that the president may choose to forgo.

The only issue is whether the Obama administration will follow the violations of the Bush administration by a violation of its own.

Senator Patrick J. Leahy, Democrat of Vermont, proposes a truth commission to look into the scandal. We should praise him for his courage. But a truth commission will not meet our obligations as a nation, which are to hold violators judicially accountable.

Some think that recent domestic legislation prevents the United States from fulfilling its obligations in the aftermath of torture. The presence or absence of specific domestic legislation is, however, irrelevant to our nation’s duty. After World War II, during the trials in Nuremberg and Tokyo, the United States prosecuted individuals for what the United States judged to be wrong, even if arguably authorized by German or Japanese law.

We also hear that torture committed since 2001 by U.S. personnel is not illegal because it violates “only” international law. Treaty obligations are, however, part of the law of the United States. The Constitution specifically provides that treaties are the “supreme” law of the land. International law prohibitions on torture are the law of the United States. Moreover, the prohibition on torture is a peremptory norm of international law—a higher norm that cannot be changed by merely changing a treaty. The concept of peremptory norms owes much to Catholic natural law scholars, including St. Thomas Aquinas.

Government lawyers produced thousands of pages of legal memoranda on the subject of torture and international law, ironically demonstrating how serious these international law obligations are. Some now—incredibly—contend that prosecution is not possible because of the existence of these same memos.

In fact, officials who act in reasonable and good faith

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Protestors dressed as Guantánamo Bay prisoners in front of the White House

reliance on legal advice may be immune from prosecution. The advice in the memos, however, is anything but reasonable. The memos are full of basic errors. They do not focus on what the law requires of interrogators but rather on how to avoid prosecution; as such, judges are unlikely to permit the memos as evidence at trial. The lawyers who prepared the memos cannot credibly contend that they acted in good faith in their preparation. Nor do the memos address what should be our greatest concern: the liability of superiors who authorized the use of torture or failed to prevent it.

Former officials insist that “harsh interrogation” produced essential intelligence, but such advocacy cannot change the fact that torture is morally and legally wrong. When judges and jurors see the techniques at issue demonstrated, they will recognize them for what they are. No president can change these facts.

Finally, some argue that even if the use of torture is wrong, interrogators may rely on an affirmative defense of “necessity.” The Geneva Conventions and the Convention Against Torture, however, reject necessity as a defense for torture.

America’s obligation to investigate and prosecute is clear. Other countries are obligated to prosecute if ours does not. Some cases are already under way. But this is fundamentally our nation’s duty. If we Americans do not prosecute our own perpetrators, in addition to compounding our wrongdoing, we weaken our right to demand that others end a practice that our church rightly teaches is intrinsically evil. 

IT IS TIME TO END THE TRAIL

As our country teeters on the brink of a deepening military quagmire in Afghanistan, Pax Christi USA lifts up the impassioned cry of Pope John Paul II:

"No, never again war, which destroys the lives of innocent people, teaches how to kill, throws into upheaval even the lives of those who do the killing and leaves behind a trail of resentment and hatred, thus making it all the more difficult to find a solution to the very problems which provoked the war."

The "trail of resentment and hatred" in Afghanistan has deep roots—a tragic history of foreign occupation, proxy wars and the support of extremist elements—the consequences of which contributed to the rise of the Taliban and al-Qaeda. The U.S. "war on terror" has not proven to be an effective framework for ensuring security nor reducing terrorism. Instead, this reliance on military strategies has fueled the spiral of violence and further destabilized the region. . . .

We fear that a "surge" will only inflame violence in the region, putting at greater risk U.S. and Afghan lives, without building the deeper foundations for a long-term peace. . . .

A January 2009 public opinion poll showed that only 32% of Afghan citizens believe that the U.S. strategy has worked well, a drop from 68% in 2005; only 18% want more U.S. troops in their country.

A separate survey of Afghan civil society leaders warned that one result of a troop surge would be to create greater recruitment opportunities for the Taliban; the leaders stressed that the United States needs to shift its approach, emphasizing diplomacy and development. As opposed to the United States' exclusive focus on attacking the Taliban and building the Afghan central government, these leaders emphasized that strengthening civil society is the key to holding government leaders accountable and ensuring long-term stability.

History has shown that there is no military solution in Afghanistan. . . .

It is clear to us that reducing the U.S. military footprint would be one of the most effective measures to weaken the armed opposition. A shift in U.S. policy in support of a multilateral diplomatic and development surge has far greater potential for achieving long-term peace and stability in Afghanistan. . . .



Photograph courtesy of Linda Panetta,
www.OpticalRealities.org

Before risking even more lives, we call on our nation's leaders to:

1. Immediately halt air strikes and the use of drones on targets in Afghanistan and Pakistan. . . .
2. Lead with diplomacy, which includes: a) robust engagement with

stakeholders in the region toward a regional peace process backed by the UN; b) greater support internally for civil society and civilian rule of law in Afghanistan; c) reconciliation processes and negotiations with elements of the Taliban; d) ensuring the participation of women.

3. Employ multilateral approaches to protect the people and strengthen institutions, including support for local law enforcement, government and judicial reform, as well as non-U.S. peace-keeping forces if necessary.

4. Promote a surge in development aid. Afghanistan will not begin to stabilize until Afghan-identified needs rise to the top of the U.S. agenda there. Reform the delivery of humanitarian aid: a) prioritize Afghan organizations over foreign contractors; b) discontinue the use of the military-led Provincial Reconstruction Teams which have militarized the aid process; and c) support long-term sustainable development.

5. Promote a robust public debate on our country's approach toward Afghanistan. . . .

As a faith community, we call on our church leaders to:

1. Elevate a moral voice and reject a military escalation in Afghanistan. . . .
2. Ensure that U.S. tactics are in accordance with proscriptions against harming civilians, including the immediate harm caused by aerial bombardment and the lingering harm caused by the use of cluster munitions.
3. Deepen efforts at interreligious dialogue at both the international and local levels to build greater understanding and acceptance of differing traditions, challenges and aspirations. . . .

Let this be the moment when our nation experiences a "metanoia"—a conversion—when we turn around, change direction and chart a new course. As church, as people of faith and good will, we must raise our voices and create the public groundswell that makes real change possible—here, in Afghanistan, in Iraq, in Palestine/Israel and everywhere.

OF RESENTMENT AND HATRED

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The Eyes of a Child

BY STEPHEN MARTIN

Around 10 a.m. one Sunday, my wife and I wrapped up our quarterly shift supervising the church nursery. For the previous hour, we had chided, cuddled and consoled 15 kids (including our own two) ranging in age from 1 to 5, all in a space about the size of a modest living room. We careened through the morning in a whirl of tipping chairs, airborne Legos, broken crayons and smelly diapers I had no intention of changing. Given the circumstances, the morning had passed reasonably well. It was about to go badly awry, but I did not know that yet.

In my experience, successfully managing the church nursery hinges on two key principles: keeping injuries to a minimum and looking at your watch as infrequently as possible. Jaw clenched for the duration, I violated Principle No. 2 only five or six times. As for Principle No. 1, the good news is no bandages were necessary.

When it was all over and we had assured the last parents their little boy had behaved spectacularly the whole time, we headed for the door. There we ran into a rather notorious child of the parish—let’s call him Brandon—whose grandmother was attempting to drop him off in the nursery so she could enjoy a quiet cup of coffee in the adjoining fellowship hall. I couldn’t blame her. I had seen Brandon in action before. He was twitchy, bratty



and loud, even by the standards of 6-year-old boys. “Sorry,” I told her rather smugly, “nursery’s closed.” I nearly added, “Why don’t you teach that kid a thing or two about manners?”

Were these charitable thoughts for a Sunday morning? Of course not. Did I deserve what happened next? You be the judge.

Out of the corner of my eye, I saw my 3-year-old son reach up to grab something on the wall. That was not unusual: he has never met a light switch he didn’t love. But this time it was not the light switch he was going for. It was not art work or a rogue fly. It was the fire alarm.

You know how in the movies, before something bad happens, an actor will sometimes yell, “Nooooooooooooooooo!!!” in slow motion; and the word emerges not so much like language but as a desperate, terrified, primordial roar? I recall sounding something like that as I swatted my son’s hand away from the fire alarm. But it was too late. The red plastic handle was halfway down. Frantically, I shoved it back into its original position. Two seconds of silence followed. I started to tell my wife, “Maybe it’s....”

And then came the impossibly shrill, irrevocable shriek of the siren. If your son or daughter has never pulled a fire alarm in a highly public place, try to imagine your reaction if it happened. Having trouble? Here’s how I felt: sick. Followed by: cowardly.

It’s bad enough to be responsible for getting a fire truck called to your church, but things were worse than that. A twice yearly sale of handmade goods from our sister parish in Peru was under way in the fellowship hall next door. Scores of addled parishioners, who until moments earlier had been inspecting sweaters from the mountain village of Manazo, came streaming out onto the sidewalk clutching their ears. Overwhelmed by the sudden crush and the relentless wail of the alarm, my first instinct was to run. Very fast. And very far. The only one who knew the truth was Brandon’s grandmother, and she could hardly go around pointing fingers at anyone else’s kid.

ART: DAN SALAMIDA

STEPHEN MARTIN has written for *America*, *Commonweal* and *U.S. News & World Report*. He lives in Greensboro, N.C.

It was my wife, a convert to Catholicism (perhaps made more upstanding by her Presbyterian upbringing), who rose to the occasion. Seizing my son by the hand, she marched into the church to take the blame and to find someone who could turn off the blasted alarm before the entire fire department arrived. As I cowered outside with my infant daughter, fittingly enough in the church's new columbarium, she tracked down Someone in Authority and made my son apologize to her. Meanwhile, I started assigning blame. (Be assured I wasn't pointing to myself.) "What kind of pea-brain," I wondered, "would install a fire alarm four feet from the floor in a nursery of any kind?! And if you're going to do that, don't you at least encase the handle in glass?!" Clearly, I should have complained about this disaster-in-waiting before. But here's the truth: Up until the moment my son's hand touched it,

I had never even noticed the alarm was there.

Not long after that shameful Sunday morning, I happened to reread a passage from Matthew 13: "This is why I speak to them in parables," Jesus tells his disciples, "because seeing they do not see, and hearing they do not hear, nor do they understand." The words took on a whole new meaning. With the hindsight of 2,000 years, it's easy enough in studying the Gospels to shake our heads in befuddlement at the legions of poor men and women who simply could not see what they most needed to see, the things that Jesus tried his best to put right in front of their noses. You read about one stunning miracle after another and think, "He was raising people from the dead, turning water into wine and curing the impossibly ill—and people still didn't get it!"

But what you see depends on how and where you look, to borrow a phrase from the design guru Dan

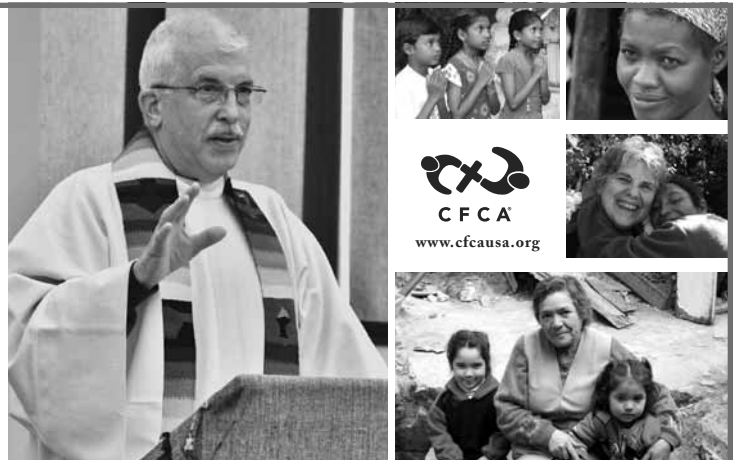
Buchner. Most people, including Jesus' own Apostles, were not really ready to see the humble son of a lowly family as a savior. They looked at Jesus, and they saw what they were trained to see: an eccentric teacher, a rebellious self-promoter, an insidious threat to authority.

Jesus told them precisely how to look at him and the kingdom of heaven: with the eyes of a child. It turns out that's not easy. If I could see with the eyes of a child, I would have noticed a red box with a large, inviting red plastic handle just a few feet up a wall, and I would have done something about it long before it was too late. It makes me wonder: What else am I not seeing? What miracles and mysteries do I look right past each day?

There is a sign hanging in our church nursery now that's hard for even me to miss. "Fire alarm out of order. Call 911 in case of emergency." It is a wicked reminder of just how much I have yet to see and hear and understand. **A**

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Johnny Depp in "Public Enemies"



FILM | RICHARD A. BLAKE

COPS AND ROBBERS

Michael Mann's 'Public Enemies'

PHOTO: CNS/UNIVERSAL STUDIOS

My childhood friend Jackie Reilly spent more time in the principal's office than the principal did. Or so he would have us believe. Whenever we chose up sides for a game of "guns," our postwar version of "cops and robbers," he played John Dillinger. Typecasting. For obvious reasons, no one wanted to play Baby Face Nelson or Pretty Boy Floyd, equally famous characters in

our comic books. Anyone Jackie picked for his side became simply another gang member. It made little difference, since J. Edgar Hoover and his G-men would always chase them into Pudgy Donohue's backyard and shoot them with Tommy guns. Jackie died spectacularly every Saturday morning, spinning backward and twitching on the lawn as he breathed his last.

More than Al Capone and Jesse James, Dillinger stands at the pinnacle of the pantheon of mythologized American criminals. A loner, defying all authority to protect his peculiar understanding of personal integrity, Dillinger played by his own rules. That's why Jackie Reilly wanted to imitate him. Yet society destroys people like Dillinger in order to survive.

Defiance and self-induced destruction provide the stuff of tragedy. The combination has given dramatists a library of complex characters over the centuries. In one culture after another, we return to the brave hero who would rather sacrifice himself than compro-

mise. We weep at the destruction of the man of singular valor, yet we gloat when society makes him pay for his ambitions. By placing our own arrogance or sinfulness in this perversely admirable figure and then sacrificing him, we try to purge ourselves of evil. This held true for our band of nine-year-olds. When World War II ended, we kids no longer dug foxholes in an empty lot from which to shoot foreign invaders. Looking for a worthy enemy, we turned from Nazis to Dillinger, a criminal who had been dead for over a decade.

“Public Enemies” resurrects the perennial tragic hero for one more ritual slaughter. To what purpose this time? The question holds the key to understanding the film, since gangster films tell us more about the culture that produces them than they do about the characters they present or the historical period they ostensibly analyze. This film recreates the Depression-era events, but uses them to comment on the tragedies we have

fashioned for ourselves in 21st-century America. Whether the director Michael Mann, who co-authored the script with Ronan Bennett and Ann Biderman, had such a purpose clearly in mind does not alter what he put on the screen. Directors and screenwriters claim to be storytellers, but the best of them, like fiction writers, do more than tell a story. Melville’s *Moby-Dick*, for example, offers readers more than the chronicle of a fishing trip with a crazed sea captain.

“Public Enemies” presents a good story, but nothing surprising: Dillinger went on a crime spree and the F.B.I. killed him as he came out of a Chicago movie house in July 1934. The film gains interest with spectacular action sequences. Mann offers enough bank robberies and shootouts to keep even a restless 12-year-old boy in his seat for the full two hours and 15 minutes. Yet the story lacks sparkle. And the characters, even Dillinger himself, fade into the narrative without demanding

much emotional investment. One senses a conscious strategy here. Johnny Depp, as the protagonist, and Christian Bale, playing his nemesis Agent Melvin Purvis, stand at a distance from their characters, appearing content to accompany them as they wander from one action sequence to the next. Their motivation remains in the background. Does Dillinger need the money, or does he want to humiliate law enforcement agencies? Or does he merely enjoy living on the edge? Purvis becomes obsessed with his job, but does he seek personal satisfaction or a leading role in the new F.B.I.? Or has he allowed himself to become a Hoover sycophant?

Gangsters reach the screen as men for their own season, not all seasons. James Cagney in “Public Enemy” (1931), Paul Muni in “Scarface, Shame of a Nation” (1931) and Edward G. Robinson in “Little Caesar” (1932) created the template for gangsters of the Depression era. They rose to the top of the mob, yet despite their ingenuity they overreached. They stepped out of the crowd and became captivated by their own ruthless success. Society had to crush them for their pretensions. In the Depression, society crushed everyone, regardless of their hard work and single-mindedness. In “White Heat” (1949) Cagney’s Cody Jarrett became a psychopathic killer, who blows himself to pieces rather than surrender. During the cold war this insane strategy, when applied by the two nuclear powers, was called Mutual Assured Destruction. In “Bonnie and Clyde” (1967) we saw images of the loveable flower children of the 1960s, who defied social customs in their search for freedom on the open road. In the “Godfather” series of the mid-1970s, Francis Ford Coppola presented a highly moral critique of the world’s descent into amorality. Among the Corleones, good and evil have no clear margins; it’s “only business.” In “Bugsy” (1991) Warren Beatty flashed

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that broad goofy smile and made Bugsy Siegel into a used-car salesman about to make his fortune in the dot.com boom.

Now Mann has given us a Dillinger for the bailout generation. The action sequences make him an old-time gangster, whose Tommy gun rains death on lawmen and bystanders without discrimination. Yet Dillinger remains opaque, in the image of today's buttoned-down gangsters. Today's mobsters do not rob banks; they loot them with credit-default swaps. Faceless and all but anonymous in their striped suits, they no longer race their black sedans down country roads to evade the sirens of their tormentors. Today, gangsters ride their corporate jets and stretch limos to board meetings and Senate committee hearings. They don't brandish machine guns; they send e-mails from their laptops. They don't have sworn enemies in law enforcement; they have well-paid lawyers who find the loopholes to make their activities appear legal. And what of their motives when they have more millions than they could possibly spend in a lifetime? Ego? Proving to themselves that they are above the law? The thrill of the chase? They are ruthless, but dull. Mann's John Dillinger would fit right in. But would Jackie Reilly insist on being Bernie Madoff during our Saturday game of Ponzi scheme?

As a narrative device, Hoover's F.B.I. functions as antagonist, but thematically the organization is Dillinger's henchman. Of course. The screenplay grew not from a novel but from Bryan Burrough's historical study, *Public Enemies: America's Greatest Crime Wave and the Birth of the F.B.I., 1933-34*. Note the plural in the title. Could it include the F.B.I. itself as an enemy of the people? J. Edgar Hoover (Billy Crudup) needs a highly publicized arrest to secure funding for his new organization and increase his personal power. He enlists



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lawmen, little more than hired thugs actually, from Texas to provide muscle to back up his band of “scientific investigators.” He authorizes wire-taps, has the Immigration and Naturalization Service threaten to deport an uncooperative witness and even urges “enhanced interrogation techniques”

to encourage Dillinger’s girlfriend Billie (Marion Cotillard) to reveal his whereabouts. Hoover and Purvis

are odious. We don’t want them to succeed, but we have little emotional connection to Dillinger. Events just play themselves out for these equally ruthless thugs.

The script, too long by a quarter hour, presents a fragmented story. Like today’s headlines, it forces us to fill in several gaps. Frank Nitti and the Chicago mob turn against Dillinger because, as a celebrity criminal, he has swayed public opinion and Congress to allow the F.B.I. jurisdiction over interstate crimes, thus endangering the Mafia’s nationwide syndicate. How they reach this conclusion and what they do about it remains shadowy. Other characters are equally nebulous. The madam who turns Dillinger over

to the F.B.I. appears from nowhere, and his relationship to her or one of her workers pops up too suddenly to be convincing. The script never gives Billie, Dillinger’s real girlfriend, enough context either. Marion Cotillard, an Academy-Award winning actor, has too little to work with

ON THE WEB
Jon Sweeney reviews
the art of James Ensor.
americamagazine.org/culture

in her role as the obligatory “girl” brought on to humanize the gangster. An F.B.I. agent who has previously had only two lines at a staff meeting draws the crucial dramatic task of reporting Dillinger’s final words to her in what could have been a climactic coda to the story—who is he?

For action and entertainment, “Public Enemies” stands out among this year’s summer films. Depp’s Dillinger fits into the pattern of today’s super criminals. He’s not a fascinating sociopath, like Cagney’s Tommy Powers. He’s just doing business like Michael Corleone. I don’t think Jackie Reilly would be interested in playing him either.

RICHARD A. BLAKE, S.J., is professor of fine arts and co-director of the film studies program at Boston College in Chestnut Hill, Mass.

Andrew Delbanco’s splendid anthology of Lincoln’s public and private writings.

The second was the Lincoln administration’s interaction during the Civil War with New York’s archbishop John Hughes, in which the president sought Catholic opinion on the preservation of the Union and the emancipation of slaves. Hughes advised the secretary of war that Catholics would fight only for the Union, but he also undertook an informal diplomatic mission to Paris and Rome to explain Lincoln’s policies to the French and the Vatican. Hughes also helped Lincoln by working to quell the draft riots of 1863 in New York City. Later, Lincoln would lobby the Vatican to appoint as Hughes’s successor John McCloskey, who was elevated to the rank of cardinal 10 years after the president’s death.

Faith Struggles, Social Choices

These relatively few contacts should not obscure the fact that Catholic thought can shed light on Lincoln’s own thinking, and that Lincoln’s example can inspire fresh Catholic thought. As Thomas Keneally demonstrates in **Abraham Lincoln: A Life** (Penguin), Lincoln’s faith struggles were rooted in grave doubt about the Calvinistic teaching of predestination. Lincoln spent much time wrestling with this “doctrine of necessity,” moving from a firm belief in it during his youth to a modified version of it during the Civil War. The Second Inaugural Address, in 1865, was the last expression of his religious thinking. Allen C. Guelzo, the author of **Abraham Lincoln as a Man of Ideas** (Southern Illinois Univ. Press), believes that by then Lincoln’s fatalism had taken a more optimistic tone, assuming that necessity would compel North and South to work for reconciliation “with malice toward none and charity for all” whether they wished to or not.

As Guelzo also notes, however,

BOOKINGS | THOMAS MURPHY

THE FAITH OF ABRAHAM

In this bicentennial year of Abraham Lincoln’s birth, a spate of recently published books has added to his reputation as one of the most written about figures in American history. In considering some of these books, a new approach emerges—the possibility of developing a Roman Catholic perspective on Lincoln’s politics. It is also intriguing to ask whether Lincoln the man can reveal anything about spiritual discernment to anyone interested in

how human beings come to experience God and act morally.

Lincoln figured in American Catholic history in at least three instances. The first was a famous pre-presidential letter he wrote to his friend Joshua Speed in 1855 condemning the Know-Nothing Party’s anti-Catholicism as a hypocritical contradiction of American ideals. This letter is reproduced in **The Portable Abraham Lincoln** (Penguin Classics),

there are theories that Calvinism was not the only force that motivated Lincoln and other 19th-century Americans. The historian Thomas Haskell argued in the 1980s that the rise of market capitalism created a sense of human empowerment that became a direct cause of the abolitionist movement. There was a renewed emphasis on the human choice to shape social life and do good.

In Keneally's book, we are told that a key incident in Lincoln's young life was the first time he was paid with cash rather than a commodity. This, Keneally says, made Lincoln realize that he could choose a lifestyle other than the manual, physical labor of the cashless frontier and pursue his dream of making a living with his mind. When we compare the perspectives of Guelzo and Keneally, we may affirm that Lincoln could have been torn between a sense of fatalism and a yearning for freedom. Did this make him quintessentially American? While there is no evidence that Lincoln himself was actually influenced by the Catholic teaching that faith

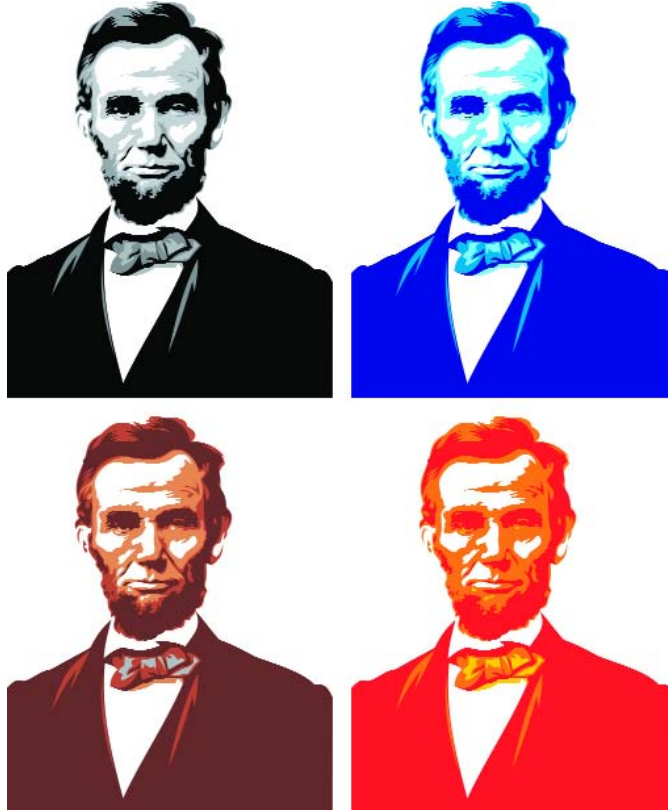
and freely chosen good works are both critical parts of the moral person, such a perspective can form a useful comparison against which to measure Lincoln's complex efforts to distinguish between what was fated and what was ours to decide.

Some commentators have criticized Catholic social teaching for not addressing adequately the possible role of wealth creation in establishing a just social order. This is another reason that Guelzo's reference to a possible connection between the market economy and abolitionism can provoke helpful reflection among Catholics who study Lincoln. Keneally believes that

Lincoln's embrace of the Whig platform on American internal improvements—canals, bridges, highways—sprang from a desire to help poor Americans create wealth.

Ambiguities

Lincoln was that most challenging of subjects for spiritual direction—the soul focused on ambiguity. Ronald C.



White Jr., the author of *A. Lincoln: A Life* (Random House), understands this characteristic, illustrating it with a quotation: "I am almost ready to say this is probably true." He reconstructs a means by which to trace the growth of Lincoln's mind. Lincoln did not keep a formal diary, but preserved hundreds of fragmentary notes to himself over the years. An immense advantage of the Delbanco anthology is that it reproduces many of these musings—one example is a "Meditation on the Divine Will" from early September 1862, which foreshadows the Second Inaugural Address's theme of the Almighty

directing the Civil War according to his own purposes. And White's biography, by tracing Lincoln's life through his written words, both public and private, reveals a soul formed by many things—e.g., the soil, Scripture, Shakespeare, the law and humor.

Lincoln may not have had a spiritual director in our modern understanding of that term, but he did have a spiritual mentor of sorts during his presidency in the person of Eliza Gurney, a Quaker activist whom he met in the fall of 1862. She came to his office to encourage him and to pray with him for divine guidance, and they subsequently corresponded. White emphasizes that while Lincoln met with a great many religious leaders during the Civil War, Gurney was the one to whom he opened himself. Unfortunately, not all their letters have survived, but what we do have indicates that Lincoln developed his theology about God's greater purpose in directing the war partially through exchanging opinions with Gurney. Lincoln's sense of ambiguity may have been

fostered by pondering the distance between the Quaker tradition of pacifism and his own desire to find a moral justification for the war against the seceded states.

Another ambiguity that Lincoln sought to clarify was the tension between the Constitution and the Declaration of Independence. Many of his contemporaries believed that there could be no true reconciliation between the ordered liberty protected for some in the Constitution and the equality for all celebrated by the declaration. Guelzo demonstrates, however, that by adapting a phrase from the Book of Proverbs, Lincoln presented

the Constitution anew to the nation as a picture of silver, designed to preserve, frame and exhibit the Declaration, an apple of gold. He had no desire to discard the Constitution because it allowed slavery. Instead, he sought to make the nation's plan of government more reflective of the Declaration. This reasoning explains why he began the Gettysburg Address by grounding the nation in the proposition that all men were created equal. It also pointed the way to the three great Reconstruction Amendments to the Constitution, which abolished slavery, inspired the civil rights movement that would revive in the mid-20th century, and granted African-Americans the right to vote.

In one chapter, Guelzo praises Lincoln's prudence and recommends it to today's Americans. Lincoln was able to avoid hasty decisions because he realized that while we must accept the will of God, it is often difficult to figure out. He sought to balance the integrity of means and ends, accepted a need to work through imperfections rather than rush to absolute resolutions and was willing to wait for providence to reveal its hand. Those who are puzzled by Lincoln's progression

from personally abhorring slavery to demanding actively its abolition will find this chapter illuminating. It is also a chapter that may foster thought about whether Americans of any political persuasion are inclined to make decisions too hastily and too absolutely in our own day.

A Lasting Legacy

Since Lincoln was himself such a discerning person, it is appropriate that the nation has devoted so much time since his death to reflecting on his legacy to the United States. This search for a legacy is detailed in **Looking for Lincoln: The Making of an American Icon** (Knopf), a collection of photographs and other mementos from the first six decades following Lincoln's presidency. Unlike the other books I have cited, this one begins on the day of Lincoln's death. The three editors are all members of the Kunhardt family (Philip III, Peter and Peter Jr.), a clan that has been collecting Lincoln memorabilia for five generations. The material presented here extends to the death of Lincoln's last remaining son, Robert, in 1926. It also includes a useful scholarly appendix on every Lincoln photograph

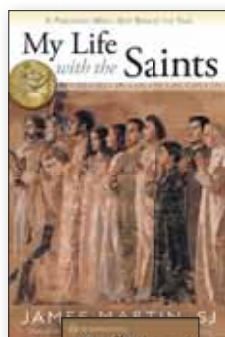
known to exist. It is a sequel to their *Lincoln*, a pictorial biography published in 1992.

Those who want to read reflections on Lincoln's life from beyond the circle of his acquaintances should still turn to Merrill Peterson's *Lincoln in American Memory* (1994), which traces interpretations of Lincoln into the late 20th century. Among its other advantages, Peterson's book tells how the civil rights movement of the 1960s altered the way Lincoln is remembered.

The Kunhardt book stresses two important points. The first is that the African-American community kept the memory of Lincoln alive at a time when white Americans preferred to remember him only as savior of the Union. The second is that Robert Lincoln, who could be both ambivalent and negative about his father's legacy, nonetheless did the nation a service by preserving the Lincoln papers in the Library of Congress. He did so despite the tragic aftereffects that the Lincoln presidency had on the family, including the death of Lincoln's youngest son, Tad, and the madness of his widow, Mary.

Taken together, these books challenge the tendency to view Lincoln's work as complete at the time of his death. Like Franklin D. Roosevelt, who also died at a moment of victory in war, Lincoln is celebrated as a figure of accomplishment. If these books do nothing else, however, they reveal that the inquisitive-minded Lincoln constantly re-examined policy. We simply cannot know how such a mind would have responded to the day-to-day events of the Reconstruction period. It is ironic that a mind as active and keen as Lincoln's should have been stilled by an assassin's bullet to the head, leaving him brain-dead for hours before his death.

Lincoln has become a symbol of global freedom, the Kunhardts note in the preface to their book. It is unfortu-



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nate, then, that these books do not do more to situate him in the international context of his era. Keneally, for example, is Australian, and it would have been interesting had he said more about how Lincoln appears in the context of the Australian struggle to overcome their colonial penal system. Transportation of convicts to Australia was abolished just three years after Lincoln pushed the Thirteenth Amendment through Congress, and the city council of Sydney sent con-

lences to Mrs. Lincoln after the assassination. Keneally does not bring up these associations, but there is an echo of his Australian perspective on economy in his account of the incident when Lincoln's discovery of cash first offered him a way out of the prison of the frontier barter economy.

Our nation's 16th president emerges from these books as a soul who sought God, wanted to help his neighbors and found a way to do so through politics. That he did so

thoughtfully and wisely was his great triumph and the reason why the books reviewed here are all worth examining. Despite his melancholy and his personal tragedy, Abraham Lincoln is a hopeful symbol for the United States. He demonstrates that it is possible for idealism to exist and for the will of God to be fulfilled through human action.

THOMAS MURPHY, S.J., is associate professor of history at Seattle University.

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LETTERS

In Saecula Saeculorum

Re the article by Thomas G. Casey, S.J., suggesting we replace Latin with English as the official language of the church (“Ave atque Vale,” 6/8): While I may be biased as a student of the classics, I think that Latin holds a significant place in the Catholic Church and should continue to do so. The church uses Latin in official documents precisely because it does not change. In other words, what the pope writes today will be interpreted or understood in a similar manner, dependent on the original Latin text, perhaps even in 100 years.

Because English, as Casey states, “never stops venturing into new territory,” there is the possibility for error and confusion later on. Eternal truths should be communicated in eternal words.

BEN EMMEL
South Orange, N.J.

Words of Wisdom

I hope Julie Irwin Zimmerman’s “Science and the Path to Parenthood” (7/6) will be circulated widely around the world. The response of the church to reproductive technology is often clouded, and as the article states, Catholics know what is forbidden but know little about what is allowed or possible.

Are children and young people given enough correct information even to know about the church’s stance on reproductive technologies, even when we now have so much more information than ever?

ROSEMARY KEENAN
Perth, Australia

Parish or Perish

When I read “Why Race Still Matters,” by Gerald J. Beyer (5/18), I was reminded of Gibson Winter’s book from 1962, *The Suburban Captivity of the Churches*. This book argued that Protestant churches

unwittingly but powerfully accepted our nation’s racism by accepting as the boundaries of their faith communities America’s racially structured neighborhoods. Then as now, I see this as a profound problem with our Catholic communities in their determination of parish boundaries.

Perhaps in addition to episcopal teaching on racism, we might see preaching in action by creative experiments in boundary-crossing parish structures. Our faith structures could then struggle to unite what our social structures divide and alienate. That combination of word-teaching and deed-preaching about racism would surely shed light and breed hope.

JACK GLASER
Santa Ana, Calif.

Forgotten Partners

While I appreciated Gerald J. Beyer’s comments in “Why Race Still Matters,” I would like to make an addendum. In order for a dialogue about race to continue among Catholics in the United States and among African-American Catholics in particular, we need the continued presence of black Catholic parishes. These parishes are today experiencing more unfair and unjust situations than ever before, and their existence is threatened to a far greater degree than that of their suburban sister parishes.

It is good to remember that the American bishops called racism a sin in 1979. African-American parishes need to be lifted up, encouraged and supported if there is to be a Catholic dialogue about race that is meaningful and holy.

Even though African-American Catholics are encouraged by Barack Obama’s election, the ordinary daily life of African-Americans remains the same. American Catholics need to know that black parish life has not become any easier these days, but is more stressful and much more problematic, as the bishops downplay or

neglect the main focus of offices for black ministry, euphemistically renaming them offices of cultural affairs or offices of diversity.

Black parishes need to exist in this dialogue on race and in all aspects that make the church truly Catholic.

(REV.) THEODORE K. PARKER
Detroit, Mich

War No More

Thank you for the reflections by Matt Malone, S.J., on the hope for peace (Of Many Things, 7/20). Keep saying what you’re saying. It is awful what we are doing to our own soldiers and our country, to say nothing of the horrible damage we are inflicting on the rest of the world.

BRUCE BYROLLY
Cambridge, Mass.

Atomic Omission

You published an article on energy choice (“The Ethics of Energy Choice,” by William H. Rauckhorst, 7/6) with no mention of the word “nuclear.” Future historians will get quite a chuckle when they read this.

MORRIE PONGRATZ
Los Alamos, N.M.

Get Over It

Re your editorial, “For the Common Good” (7/20): How can “single-payer healthcare” be considered by a Christian intellectual? Have we not seen the consequences of government monopolies anywhere?

I must confess that I was shocked in my youth to find I did not have a right to free sheets and towels when I first occupied a dorm room. I got over it. The American people, with the help (not hindrance) of the church, must get over it. Only a capitalist system has worked to create wealth. If we want a

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quality health care system, it must harness the attention of all of us.

CHRIS MULCAHY
Fort Myers Beach, Fla.

On the Other Hand...

"For the Common Good" (Editorial, 7/20) should be required reading for all citizens of the United States and our representatives. If there is no common truth, then both parties can hide under the cover of postmodern philosophical gibberish. Dueling ideological caricatures are no substitute for the good of the whole society. As a nation that claims a religious core, we must ask: "Where is the consideration of a loving God in this modern mess?"

RAY MOSTER
Port St. Lucie, Fla.

What Witness?

Thank you for your clear presentation in "It's Not All About Eve" (Christine Schenk, C.S.J., 7/6) of how I often feel as a woman in the Catholic Church. Like Schenk, I too worry about the witness we are giving to our daughters and sons. I remember hearing one notable Catholic theologian tell the story of his daughter who was denied the opportunity to be an altar server because she was a girl. Her response was, "Then why do we belong to this church?"

Thank you to Christine Schenk for her faithful, prophetic witness; may her efforts help to enlighten minds and soften hardened hearts.

SUSAN MCCARTHY, R.D.C.
White Plains, N.Y.

Expert Opinion

In "Married and Ordained" (7/20), William T. Ditewig writes that historians like Gary Macy and Phyllis Zagano must be considered vis-à-vis the ordination of women as deacons, and that women have been ordained to diaconal ministry in the past and they could be again.

While a "full and open conversation" about the ordination of women to the diaconate might well benefit the

entire church, that conversation needs to take place among those with the education to examine the texts and evidence in the original languages. It will also require a firm grasp of how the disciplines surrounding holy orders have historically differed in the East and West. In a popular magazine like *America*, it is a serious oversight to suggest a "full and open conversation" without being clear that such a conversation will need to be conducted largely by specialists.

CECILIA LOPEZ
Sioux City, Iowa

Considerations

Re "Married and Ordained," by William T. Ditewig: Mere mention of the restoration of the female diaconate in the Latin church can raise hysterical hackles across the board and divert the discussion from the needs of the church to some imagined line that cannot be crossed. Those opposed as well

as those in favor of the restoration of women to the order of deacon need to consider several points.

First, whether or not women were sacramentally ordained in the past is not determinative of the current needs of and possibilities for today's church. Second, the diaconate is a creation of the church (Acts 6:1-6), and as such is not bound by the argument from authority (that Christ chose only male apostles) regarding priesthood. Third, while there is a modern instruction from Rome telling bishops not to train women for the diaconate, there are no higher authoritative statements on the matter other than those conciliar and papal documents from the early church that state at what age and under what conditions a woman is to be ordained to the diaconate.

Let the conversation continue, in charity.

PHYLLIS ZAGANO
Hempstead, N.Y.

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Nourishing Word; Food for Life

NINETEENTH SUNDAY IN ORDINARY TIME (B), AUG. 9, 2009

Readings: 1 Kgs 19:4-8; Ps 34:2-9; Eph 4:30-5:2; Jn 6:41-51

“Whoever eats this bread will live forever” (Jn 6:51)

Sometimes things are so horrible we say we just want to die. Most of the time we intend that metaphorically. Elijah, in today’s first reading, seems to mean it literally. He is fleeing for his life, as Jezebel is determined to kill him because he vanquished the prophets of Baal and put them to death. Parking himself under a broom tree a day’s journey into the desert, he prays, “This is enough, O Lord! Take my life, for I am no better than my fathers.”

It is not clear whether Elijah is fed up with the difficulty of his ministry, or whether he is lamenting his own actions, having just killed the prophets of Baal. Perhaps it is both. In any case, the frailty of God’s fiery prophet is most visible. When Elijah is at his lowest, God’s messenger comes with food and water, urging him to continue onward. Obediently, he gets up and takes nourishment, continuing his sojourn in the desert for 40 more days, a trek that is reminiscent of the Israelite desert wandering of 40 years. Elijah’s quest will culminate at Mount Horeb (also called Sinai in the J and P strands of the Pentateuchal narrative). There, like Moses, he encounters God.

But the Holy One is not in the fierce wind or the earthquake or the fire, but in the voice that emerges out of sheer silence. The divine voice

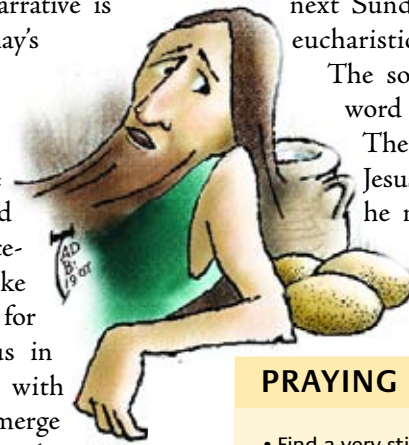
instructs him to anoint kings over Aram and Israel and to anoint Elisha as prophet to take his place. This last part of the narrative is not included in today’s reading. When read as a whole, however, the story points us to the ways in which God can tame the fierceness in us, when, like Elijah, our passion for justice can find us in bloody battles with opponents. We emerge victorious, but at what cost?

In the desert Elijah learns of God’s nonviolent ways. He does not find the Holy One in the violent wind or the earthquake or the fire, but in the silence that instructs him to anoint others: an act of consecration and also of healing.

In the Gospel, there is murmuring in the desert by the people surrounding Jesus, just as the Israelites did with Moses. In the latter instance, the complaint was about not having food, to which God responded by sending manna and quail. In the Gospel, the problem is with the source of the spiritual nourishment being offered. Jesus claims to be the “bread that came down from heaven,” echoing God’s promise in Is 55:10-11 of the nourishing and effective word that comes “down from heaven.” In this first part of the discourse on

the bread of life, the emphasis is on bread as a nourishing word. In the second half, which we will hear next Sunday, the emphasis is on eucharistic nourishment.

The source of this nourishing word is a point of contention. The people think they know Jesus’ origins and family; is he not one just like them? Another stumbling block is his unusual manner of teaching.



PRAYING WITH SCRIPTURE

- Find a very still, quiet place. Wait for God’s voice. What do you hear?
- Ask God to draw you to the One who is Bread of Life. What nourishing word is being offered to you?
- Pray with the image of Jesus as mother who feeds us with his body and blood.
- Ask Christ to draw you into his abiding love, letting go questions of “how.”

He does not preach in Elijah’s fiery way but waits for God to draw open hearts to himself, letting themselves be taught, through listening and learning, while not seeing entirely, and finally responding with belief. This is “living bread,” a nourishing word that leads one to cherish all life, to choose life and, ultimately, to relinquish one’s own life for the life of the world, believing that this is the way to life eternal.

BARBARA E. REID, O.P., is a professor of New Testament studies at Catholic Theological Union in Chicago, Ill.

ART: TAD DUNNE

**TWENTIETH SUNDAY IN ORDINARY
TIME (B), AUG. 16, 2009**

Readings: Prv 9:1-6; Ps 34:2-7; Eph 5:15-20; Jn 6:51-58

"Whoever eats my flesh and drinks my blood has eternal life" (Jn 6:54)

How can this man give us his flesh to eat?" One's sympathies easily go with the people who ask this question in today's Gospel, struggling to understand what Jesus meant by offering as "bread" his "flesh for the life of the world." The previous part of the discourse, heard last Sunday, which focused on "bread" as instruction, asking for a response of belief, was difficult enough. The shift this Sunday to "eating his flesh" strains to the limit our ability to comprehend and respond. Elsewhere in Scripture this expression carries a very negative connotation. "Devouring flesh" is the action of evildoers from which the psalmist prays to be delivered (Ps 27:2). Drinking blood is forbidden because the life is in the blood, over which only God has power (Gn 9:4; Dt 12:23; Acts 15:20).

Coupled with the first reading, we can see in John's Gospel clear parallels between Jesus and Woman Wisdom. She prepares her meat and wine and sets her table and calls out to all to come and partake. She offers instruction to the simple and understanding that leads to life. Likewise, in the Prologue (1:1-18) there are other unmistakable parallels between the Logos and Wisdom, who existed with God from the beginning (Prv 8:27, Wis 9:9, Jn 1:1), "pitched her tent" among humankind (Sir 24:4, 8; Jn 1:14), lights the path for them (Bar 4:2, Jn 1:4-5), and yet suffers rejection (Prv 1:25, 29-31; Jn 1:11).

It is in this likeness to a woman that we may find one way to understand Jesus' words in Jn 6:51-58. Just as a mother gives her very flesh and blood to nurture a new life carried within her, and then continues to feed the child

from her own body after it is born, so Jesus nourishes with his very self all who are birthed to new life through him (Jn 3:3). Similar to the union of mother and child while the latter dwells in the womb, so Jesus promises, "Those who eat my flesh and drink my blood abide in me and I in them" (Jn 6:56). The life that results is eternal (6:54, 58) and for the whole world (6:51). The mystery of how this life will last forever is also expressed by the Fourth Evangelist in a birthing metaphor when at the Last Supper Jesus likens his coming passion to the pangs of a woman in labor (Jn 16:21). The death of his earthly body is the birth to new life for all.

Some of the medieval mystics also found the image of motherhood a help for understanding the mystery of Jesus giving us his flesh to eat and his blood to drink. Blessed Julian of Norwich spoke of "God-all wisdom" as "our natural mother" and elaborated on how "a mother can give her child milk to suck,

but our precious mother, Jesus, can feed us with himself. He does so most courteously and most tenderly, with the Blessed Sacrament, which is the precious food of true life." (See the translation of Julian's *Revelations of Divine Love*, by M. L. Del Mastro, New York: Doubleday, 1977, portions of which are available online at www.gloriana.nu/mother.htm.) Our response to the one who gives his flesh and blood for our life and that of the world is not only intellectual assent. Jesus gives his "flesh and blood," an expression that connotes the whole person. So we entrust our whole selves to him, body, mind and spirit, expressed in our physical partaking of the eucharistic body and blood. There is no adequate answer on an intellectual level to the question, "How can this man give us his flesh to eat?" Rather than trying to explain the "how," he simply invites us into the depths of the "who."
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