

St Thomas More Parish and Forum Dinner 2018

Lessons from St Thomas More and the freedom of religion in Australia today

St Thomas More is the patron saint of politicians and statesmen. He was beheaded for his Catholic faith and passionate defence of religious freedom. Nearly 500 years later, placing limits on the extent of an individual's religious freedom has never been more popular. Freedom of religion is a core Australian value and its protection requires strong vigilance from growing secularism and unbridled populism. A look at populism and the current state of the religious freedom debate in Australia through the eyes of St Thomas More.

Keynote Speaker:
The Hon Dan Tehan MP
Federal Minister for Social Services

Friday 22 June 2018

Good evening

As a young boy growing up in country Victoria, my grandfather had a portrait of St Thomas More hanging over the desk in his office. It was through my grandfather that I came to learn of Thomas More's deeds. The story of his sacrifice and quiet spiritual devotion is a lesson in morality for us all.

Thomas More was one of Henry the Eighth's most effective and trusted civil servants, acting as his secretary, interpreter, speech-writer, chief diplomat, advisor and confidant.

As you are all well aware, More opposed the King's separation from the Catholic Church, refusing to acknowledge Henry as Supreme Head of the Church of England and the annulment of his marriage to Catherine of Aragon. After refusing to take the Oath of Supremacy, he was convicted of treason and beheaded.

According to More biographer and scholar Richard Marius, Thomas More was a complex man, and all too human. He was, at times, pious, rigid and authoritarian.

At other times he was a wearer of hair shirts who took deep satisfaction in hurling obscenities at Protestants and burning heretics at the stake.

Thomas More was also the only layman who died a martyr during the reign of Henry the eighth.

When reflecting on that final fact about an all-too-human man, there is something humbling and awe-inspiring about the manner of Thomas More's death.

As Marius writes: "His was not the headlong rush of a fanatical zealot into oblivion; it was the fearful, considered decision of a man of great self-knowledge."

Thomas More knew the only outcome of standing up for religious freedom and defying the King was death and yet he chose to defy his King.

He remained true to his beliefs, and for those beliefs he paid the ultimate price.

A contemporaneous account of More's execution, referred to by historians as "The Paris Newsletter", reports his final words as the following: "I die the king's faithful servant, but God's first."

When Pope John Paul the second declared Thomas More the patron saint of statesmen and politicians on October 31, 2000, his holiness said:

"The life of Saint Thomas More clearly illustrates a fundamental truth of political ethics. The defence of the Church's freedom from unwarranted interference by the State is at the same time a defence, in the name of the primacy of conscience, of the individual's freedom vis-à-vis political power. Here we find the basic principle of every civil order consonant with human nature."

This quote is something that every politician and statesman should remember as they go about their business, even a far from perfect Catholic like myself.

St Thomas More made a stand for religious freedom against unwarranted interference from the state. He believed that a church ruled by a king could never be true to itself because it would be a church ruled by the words of men and not the words of God.

What we can learn from the example of St Thomas More is that inherent in the protection of religious freedom is the protection of all freedoms.

The world has changed greatly since the time of Thomas More yet lessons that were relevant then are as relevant today.

And the central lesson that has not changed is this: where religious freedom meets the state we have got to get the balance right.

This is a broad topic, so tonight I will touch on two areas where we are seeking balance between religious freedom and modern Australia:

One: The creeping encroachment from the state on religious belief.

Two: The use of political correctness to marginalise and silence the religious perspective.

One of the challenges to religious freedom in the 21st century not present during the lifetime of St Thomas More is the fault line where religious freedom rubs against laws written to protect other rights.

To start, let us look at an international example.

In Switzerland, where euthanasia is legal, the law compels charities caring for the sick and elderly to provide assisted suicide when a patient or resident requests it.

A Swiss court has ruled that a Christian nursing home must either permit assisted suicide on its premises or give up its charitable status.

The court rejected the argument from the Salvation Army, which ran the nursing home, that the law violated their core religious beliefs and represented an affront to freedom of conscience.

If a religious organisation cannot take conscientious moral actions based on its faith then it puts into doubt its ability to provide any service beyond a place of worship.

Euthanasia is not yet legal in Australia but we have seen the advent of assisted dying laws. We should reflect on the Swiss experience and ask: how would we deal with such encroachment here?

Back in Australia, a transgender activist and Federal Greens candidate Martine Delaney lodged a complaint about the Catholic Church's booklet "Don't mess with marriage", which had been handed out at Catholic schools and set out the Church's position on same-sex marriage. While the book was consistent with the Church's teachings, Delaney claimed some of its content breached Tasmania's Anti-Discrimination Act.

Delaney later withdrew her complaint, but look at the impact of the action. It had threatened the Church, cost it money, created unnecessary work and, in the process, had been used by sections of the media and online as a stick to beat Catholicism for its assumed bigotry.

Although the complaint was withdrawn, there was a very real risk Delaney's complaint would be upheld.

There is an important principle here. The Church should have a right to put forward its position and Delaney should have a right to disagree with it, but she should not have a right to censor it.

Let's look at another timely example of where religious freedom and the law must find balance.

As Minister for Social Services one of the most important responsibilities I inherited was the establishment and delivery of the National Redress Scheme for survivors of institutional child sexual abuse.

Every child deserves protection.

The Royal Commission into Institutional Responses to Child Sexual Abuse revealed crimes and sins that were abhorrent to us all.

When the Catholic Church became the first non-government institution to join the Redress Scheme it demonstrated leadership and sent a clear message to survivors of abuse and the Australian community that our religious institutions should own their historical crimes and seek to make amends.

Let me be clear: the Catholic Church needed to do this.

The crimes and the cover up revealed by the Royal Commission is a stain on the Church. What happened was unconscionable and the Catholic Church will have to work very hard to fully restore its reputation.

I have met many survivors of abuse, I have listened to their stories and felt their pain.

As the Church, and society, tries to heal that pain the government has to work on implementing the other recommendations of the Royal Commission.

And the search for balance is currently being played out as part of the debate on the seal of the confessional.

One of the Royal Commission's recommendations was to implement, or extend, mandatory reporting regimes for child sex abuse to cover people in religious ministries as well as removing the protection of information disclosed in the confessional.

This has legal and theological implications.

At a federal level — proceedings in the High Court, Federal Court, Family Court and the Federal Magistrates Court— are guided by the Commonwealth Evidence Act.

That Act contains legal protection for a priest who hears information in the confessional. According to my colleague, the Attorney-General Christian Porter, the relevant section of the Act, which has been in place since 1995, has never been used.

At a state level, only the Northern Territory, South Australia and Victoria has legislation that covers mandatory reporting by religious ministers.

The Council of Attorneys-General have agreed to work together to harmonise their legal approaches. This will be important work that will require a deeply considered approach.

One of the important questions to be dealt with, relates to the what any changes will mean for priests who have done no wrong and who have sworn to God to adhere to the seal of confession when it was clearly legal to do so.

Father Frank Brennan says of child sexual abuse that in 32 years of being a priest, no one has ever revealed a crime of that nature to him during confession.

And Father Brennan is concerned that removing the protection of the confessional will have the opposite effect, saying "instituting such a law, simply reduces, rather than increases, the prospect that anyone will ever come and confess that to me."

As an elected representative, I, like many others, swore an oath of office on the bible and that oath is something I hold dearly. Likewise, when entering the priesthood, a priest swears an allegiance to God.

Now men, such as Father Brennan, who have done no wrong and who have sworn to adhere to the seal of confession, at a time when it was clearly legal to do so, could possibly have that act retrospectively made illegal.

This is an issue that must be worked through with the church.

It is also an issue with direct parallels to the experience of Thomas More.

We all agree: the protection of our children must be the number one priority but how do we deal with this issue.

Another speech on St Thomas More, I think, provides us with a path to resolution.

In 2010 Pope Benedict the Sixteenth gave a speech reflecting on More's experience and the relationship between religious freedom and political power.

Pope Benedict said the role of religion in political debate was not to offer concrete solutions but to help, and I quote, "purify and shed light upon the application of reason".

He went on: "The world of reason and the world of faith – the world of secular rationality and the world of religious belief – need one another and should not be afraid to enter into a profound and ongoing dialogue, for the good of our civilisation. Religion, in other words, is not a problem for legislators to solve, but a vital contributor to the national conversation".

History has shown that our society works best when Church and State are operating independently but in harmony. I believe that with enough dialogue, goodwill and compromise, we can find a way for the needs of the state and the rights of the individual to

peacefully coexist even on such a difficult theological and legal issue as the seal of the confessional.

The key lesson here is that freedom of religion must co-exist with other fundamental political and civil rights.

All Australians are free to choose their religion, and are entitled to express and practise their religion and their beliefs without intimidation and without interference, as long as those practices are within the framework of Australian law.

That said, when it comes to religious freedom in Australia there are two broad points to make. First, legal protection of religious freedom in Australia is limited.

As Senator David Fawcett noted in his capacity as chair of the Inquiry into the status of the human right to freedom of religion or belief: “While a culture of religious freedom has thrived, and the common law has respected religious freedom to a large extent, the legislative framework to ensure this continues is vulnerable”.

Second, Australia is a federation where the different states and Commonwealth treat religious freedom differently.

Again as Senator Fawcett observed: “An imbalance between competing rights and the lack of an appropriate way to resolve conflicts is the greatest legal challenge to the right to freedom of religion. This is most apparent with the advent of non-discrimination laws, which do not allow for lawful differentiation of treatment by religious individuals and organisations”.

While religious exemptions within non-discrimination laws provide some protection, these place religious freedom in a vulnerable position with respect to the right to non-discrimination, and do not acknowledge the fundamental position that freedom of religion has in international human rights law.

All states and territories (except New South Wales and South Australia) have anti-discrimination legislation in place that prohibits discrimination on the ground of religious belief or activity.

All states and territories should be encouraged to work together to agree a uniform approach to enshrining religious freedom in law via anti-discrimination legislation.

At a Commonwealth level, there is no explicit protection for religious freedom although the Constitution provides a narrow protection.

Religion is also not an explicitly protected ground under Commonwealth anti-discrimination laws. However, religion is a protected ground under the prohibition on discrimination in employment under the Fair Work Act 2009.

The Age Discrimination Act 2004 and the Sex Discrimination Act 1984 also both contain a general religious exemption.

Given the ad-hoc nature in the way these laws have been legislated over time, I would argue that we need a codified response to this development and that Australia needs a Religious Discrimination Act.

A Religious Discrimination Act would have to be crafted with due consideration to other human rights while also seeking to do two things:

1. To offer protection against discrimination on the grounds of religious belief or activity, and
2. Ensure nationally that legislation, such as the state-based Sex Discrimination Acts, that limit the right to freedom of religion are no more restrictive than required.

The reality for Australians today is that there is another threat to religious freedom and it does NOT come from the application of various laws.

Rather, it comes from what former Prime Minister John Howard describes as “minority fundamentalism” – which he calls, “the assumption that long-held custom, practices and beliefs represent or implies an attack on those who do not support it”.

The Liberal political virtue of tolerance does not legislate for morality.

Instead, it separates law from morality and allows for freedom of conscience and actions, yet Australia has reached an unusual point where the tools of oppression – sowing the seeds of division, conquest, manipulation and cultural division – are being wielded by the minority against the majority.

We now live in a society where tolerance is subjective.

To put it another way, we have not realised Martin Luther King’s dream of a society where you are judged by the content of your character not the colour of your skin.

Instead we have a woken up in a nightmare where the value of your contribution to a debate depends on what you claim to be a victim of.

When the forces of political correctness continually marginalise and dismiss contributions to debate informed by a reasonable religious belief it sends a very clear message: you are not welcome here, your views are not welcome here, and your religion is not welcome here.

During the same sex marriage campaign, Coopers Brewery was subjected to a boycott of their products for the crime of sponsoring a debate between both sides of the same sex marriage argument, in which my colleagues, Tim Wilson and Andrew Hastie, agreed to disagree in a – quote – “civil and respectful way”.

One Sydney pub, The Union Hotel in Newtown, led the boycott by posting the following on its Facebook page.

"We're huge fans of the beer, but nothing short of genuine public support from Coopers for marriage equality would get us back to pouring their good stuff."

The Coopers family, long-time supporters of the Bible Society, weren't promoting hatred or homophobia, they weren't advocating for people to choose one side of the debate over another, they just wanted a peaceful and respectful discussion.....And they were clearly religious.

More recently, rugby union star Israel Folau faced a similar attack after he posted his strong views on homosexuality and redemption.

Folau, who is an active member of the Assemblies of God fellowship, said his belief was formed by his understanding of the bible, specifically a passage in Corinthians.

Folau gave a nuanced explanation of his social media post, saying: "There are many sins outlined in that passage from 1 Corinthians and I have been guilty of committing some of them myself... if you sin, which we all do, and do not repent and seek forgiveness, you will not inherit the kingdom of God."

His critics called it bullying and tried to have him sacked. One of New Zealand's former immigration ministers said he should be denied entry into their country.

Former player and journalist Peter Fitzsimons was particularly vicious, describing people of faith as being "brainwashed" and questioning whether there was a place in the sport for Folau.

This is not to defend what Folau said or to argue that religion should be above criticism.

In a liberal democracy, people must have the freedom to air unpopular views, including those informed by their faith, and those views must be open to challenge.

My observation, however, is that there is more disrespect directed at people who share their faith publically and that is to the detriment of us all.

We are out of balance.

As Peter Kurti, an Anglican minister and head of the religious and civil society program for the Centre for Independent Studies, observed:^[1]^[SEP]“Tolerance is about putting up with things you don’t like.”

For people of faith, the centrality of religion to their character needs to be recognised.

The 2016 Census revealed an interesting picture when it came to Australians and religion.

Christianity remains the most common religion, practiced by 52 per cent of the population – however that number is falling.

The change is especially stark among young adults, aged 18-34, where 39 percent indicate “No religion” more than three times the number who identify as Christian.

If this trend continues, and there is no reason to believe it won’t, then one day in the future the Australians who are part of any religion will become a minority.

In preparation for that day, we need to consider how we will defend religious rights in this country from political correctness.

As I said earlier, a Religious Discrimination Act is clearly the best way forward.

But, I would also argue, it is the responsibility of all Australians of faith, and those who respect people of faith, to take a stand.

Where it is needed, we must strongly defend our rights and responsibilities to take part in debates of national significance and to make contributions informed by our beliefs.

The Judea-Christian faiths have been intrinsic to the development of western civilisation.

To deny this faith-based perspective is to deny not only our history, but a perspective that has helped create societies with the most freedom, happiness, peace and prosperity in history.

We must defend a society that allows people the freedom to thoughtfully and peacefully honour their own faith.

As Christians taking part in public debate, we must be mindful of our faith and respectful of other people. If we ask for tolerance we must be tolerant. It is possible to disagree with another person without the recourse to abuse.

Citizens in a liberal democracy must enjoy equal standing before the law.

When the free exercise of religious belief and practice is threatened in the name of equality, the roots of our commitment to equality under the law are threatened.

In conclusion, protecting religious freedoms do not discount the freedoms of other people.

Rather they enhance the tapestry of Australian society and ensure everyone is free to practise their views in an open and tolerant country.

Given the changing nature of the law in Australia, and including the flow towards increasing secularism, we need a Religious Discrimination Act.

I wanted to end this speech with a thoughtful and appropriate quote from St Thomas More.

In his book Utopia, More sets out an idealistic portrayal of a nation where he has this to say about how politics would operate: “Anyone who campaigns for public office becomes disqualified for holding any office at all”.

But if we took this literally I would not be here with you tonight and would have missed the great honour afforded me to spend time in such marvellous company.

So instead, I will leave you with probably More’s most famous quote:

No man shall be blamed in the maintenance of his own religion.

ENDS

The Hon Dan Tehan MP is the Member for Wannon in Victoria. He is Minister for Social Services and was sworn in on 20 December 2017.

Mr Tehan served as Minister for Veterans’ Affairs, Minister for Defence Personnel, Minister Assisting the Prime Minister for Cyber Security and Minister Assisting the Prime Minister for the Centenary of Anzac from 28 July 2016. Before that, he was Minister for Veterans’ Affairs, Minister for Defence Materiel and Minister Assisting the Prime Minister for the Centenary of Anzac from 18 February 2016.

Mr Tehan was elected to Federal Parliament in 2010.

Prior to this, Mr Tehan worked in agriculture in Australia and overseas. He has worked in the Department of Foreign Affairs and Trade, including as a diplomat in Mexico. Mr Tehan worked as a Senior Adviser to the Deputy Prime Minister and Chief of Staff to the Minister for Small Business and Tourism. He also worked as Deputy State Director for the Victorian Liberal Party.