



## The Lawyers in *Utopia*

**Thomas More:** a London lawyer and judge who has been sent abroad as England's official "orator"<sup>1</sup> for vital trade negotiations. He is the narrator and a main character of this work.

**John Cardinal Morton:** as Lord Chancellor & Archbishop of Canterbury, he is head of England's legal systems of both church and state.

**An unnamed in-house lawyer:** antagonizes Raphael Hythloday, who accuses him of bias (Raphael also accuses judges of personal or political bias).

**Cuthbert Tunstal, George de Themsecke:** lawyers in the opening paragraphs of *Utopia*, Book 1.

## Status of Lawyers and Law in *Utopia*

**Lawyers:** all are banned from *Utopia* (197/67-68). What are the reasons given? Are they good reasons?

**Laws:** "They have very few, for very few suffice for persons trained as they are" (197/59-61; 173/34). What type of training makes this possible? Is this a model or goal for other commonwealths to emulate?

## Equity<sup>2</sup> and Justice

1. What do you make of this distinction made once by Budé at 146/50 and four times by Raphael at 164/25, 34; 170/10, 39; 209/69, 71?
2. Traditionally, what is the difference between these concepts? How just are *Utopia*'s laws? Do they allow for the practice of equity?
3. Bradin Cormack has recently argued that "At its center, *Utopia* is a lawyer's book as well as a humanist's" (102) and that true *aequitas* is "an important structural principle" for *Utopia* (104). See, for example, the "trial" at Morton's table (114-25).<sup>3</sup> Do you agree or disagree with this assessment?
4. What is the traditional role of lawyers and judges in achieving some degree of equity? Could equity be achieved better without lawyers? What is the *Utopian* rationale for eliminating them?

## Other Questions to Consider

1. Raphael presents the laws of the Polylerites as a model of *humanitas*<sup>4</sup> (78/10). Do you agree? Why? How well do the means used in the Polylerites' legal process bring about the stated ends of humane justice and liberty? In Book 2, Raphael will also present the *Utopians* as models of *humanitas* in their laws and customs (112/5, 162/32, 164/27, 200/7). Do you agree?
2. Raphael's encounter with Lord Chancellor Morton takes up over one third of Book 1. Why is it so important?
  - a. In the incident with Lord Chancellor Morton, the lawyer is ordered to shut up. Did he deserve this treatment? How does lawyer-Morton's mode of communication compared with this lawyer's approach? How do their approaches compare with that of More (the character)?
  - b. What are the "proud, absurd prejudices" that Raphael identifies in England's legal system? Is he correct?
  - c. One form of bias Raphael identifies is, he says, a conflict between civil law and divine law. How do you assess the treatment of this issue?
  - d. Raphael and the in-house lawyer disagree about the punishment of thieves. What is your assessment of Raphael's argument?
  - e. Raphael also identifies the bias of judges who use the "mask of justice" to further their own interests. What is your assessment of this problem?
3. Reflecting on the laws and customs of *Utopia* as a whole, what are the human goods most highly valued, protected, and advanced by *Utopian* laws? Are there important human goods not valued or protected? What do the *Utopia*'s laws and customs assume about the character of its citizens?

<sup>1</sup> At 156/16, More is identified as England's official *orator* (translated here as "ambassador"). See Cicero's two famous treatises *De oratore* and *Orator* where Cicero's model orators possess an expertise in their country's laws.

<sup>2</sup> For the classic understanding of equity as that kind of "justice which goes beyond the written law" and "makes up for [its] defects," see Aristotle, *Rhetoric* 1374b25-b23 and *Nicomachean Ethics* 1137a32-1138a3. See also Louis Karlin and Jordan Teti, "A Trace of Equity in *Utopia*? On Raphael's Reformulation of Classical Equity," *Moreana* no. 207 (June 2017), 19-35.

<sup>3</sup> *A Power to do Justice: Jurisdiction, English Literature, and the Rise of Common Law, 1509-1625* (University of Chicago Press, 2007), 85-129.

<sup>4</sup> See EWTM Study Guide "Cicero in *Utopia: Princeps and Humanitas*"; see also the Study Guide on law in More's *History of King Richard III*.