

WHAT'S FAITH GOT TO DO WITH IT? (With Apologies to Tina Turner)

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THE strategic vision of the University of St. Thomas School of Law (UST Law) was forged when the University's Trustees resolved in May 1999 to reopen the School of Law (which had briefly existed between 1923 and 1933). The Trustees made several wise decisions at that time. One was to decide to raise a huge amount of money—enough resources to build the newly opened \$35 million Law Building and to establish a \$100 million endowment. Just over four years later, already more than \$80 million has been raised. Another was to press forward to create a “national law school of the highest quality that will be grounded in the rich Catholic intellectual and moral tradition and focused on its Judeo-Christian heritage.”

Since that time, the faculty and staff have been working together to achieve this goal of establishing an excellent law school with a faith-based mission of service and leadership. Our mission is inspired by Catholic social thought, particularly the Catholic Church's robust and historical commitment to advancing social justice by helping those who are most in need of our assistance. Many of our faculty staff, and students are Catholic, but we are not, nor are we striving to become, exclusively Roman Catholic; many in our community come from other faith traditions. Regardless of background, all UST Law's faculty and staff—and, we believe, virtually all our students too—have been drawn to St. Thomas because of this distinctive mission. Moreover, we all believe that now—at UST Law's inception—as well as in the future, our capacity to achieve and maintain a vibrant faith-based identity is linked to recruiting and retaining faculty and staff who are *all*, each and every one, dedicated to this mission. This is our great advantage: As a new law school, we can pursue a faith-based mission more easily than longstanding religiously affiliated law schools that have, in effect, lost their faith and are seeking to regain it.

The most inspiring part of our mission is our commitment to establish a law school dedicated to graduating lawyers who view their professional lives as a calling or vocation. We want to educate students to become, in the words of Robert Greenleaf, servant-leaders.¹ We are trying to create a program that in several ways fosters our students' development of a professional character and identity that draws on their faith and core values. Throughout the academic program, we are encouraging our students not to run away from, but to draw on, their innermost selves.

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1. See ROBERT K. GREENLEAF, *SERVANT LEADERSHIP: A JOURNEY INTO THE NATURE OF LEGITIMATE POWER AND GREATNESS passim* (1977).

My St. Thomas colleagues and I are mindful of the many obstacles in our path, including hostility from within the academy.² Many in the legal academic world would view this type of mission with deep suspicion. Some, we know, wrongly assume that all faith-based institutions are really out to advance an insidious, politically conservative agenda; they worry about issues of academic freedom and narrow religious, political, and social doctrinalism. Some believe that because law school is a professional school and law students are adults, legal educators should principally focus on imparting knowledge about legal doctrine and policy and introducing students to the tools of the trade, the skills of the profession. Some question whether character and professional identity can in any way be shaped or formed at such a late stage in our students' lives. And some are highly dubious whether faith has anything whatsoever to do with becoming or living as a successful lawyer.

Let me deal with the easy issue first, our dedication to the core principles of academic freedom. The University of St. Thomas School of Law understands its mission as greatly expanding, not limiting, the scope of discovery and inquiry. In the words of *Ex corde Ecclesiae*, "It is the honour and responsibility of a Catholic university to consecrate itself without reserve to the cause of truth. It does this without fear but rather with enthusiasm, dedicating itself to every path of knowledge, aware of being preceded by him who is 'The Way, the Truth, and the Life.'"³

In practical terms, this means that our faculty, staff, and students think, discuss, and debate legal doctrine and policy much like the faculty and students of my former institution, the University of Illinois. The UST Law community is currently made up of faculty and students from all sides of the political and social spectrum. They bring a rich diversity of perspectives and voices to the law school intellectual arena. Indeed, in the short time I have been dean at St. Thomas, I am struck by the large numbers of students who live fervently at the extremes of the political spectrum. Struck, but not surprised, because our mission is likely to draw passionate students, activists who want to use their law degrees for extraordinary purposes. I fully expect that we will continue to be at least as diverse (and as passionate) as any other law school community in the country.

Inside and outside the classroom, our faculty and students will study, teach, and write about the law by employing all the methodologies common to the legal academy and profession—textual analysis, common law reasoning from precedent, clinical education, historical and interdisciplinary inquiry, and appeal to our ideals. But to these methodologies, we expect our faculty, staff, and students to bring a special insight, an additional perspective and voice, not typically heard at other law schools. We expect our community to explore the spiritual side of our lives, the implications of religion for development of the law and legal profession, and, most

2. See Michael J. Perry, *The Idea of a Catholic University*, 78 MARQ. L. REV. 325, 327 (1995) ("There are, after all, too many institutions of higher learning that, as a fundamental part of their basic culture, dismiss religious questions peremptorily and even contemptuously....").

3. *Ex corde Ecclesiae* is an apostolic constitution on Catholic higher education, which Pope John Paul II issued on August 15, 1990. POPE JOHN PAUL II, *Ex corde Ecclesiae*, APOSTOLIC CONSTITUTION ON CATHOLIC UNIVERSITIES (1990).

profoundly the extent to which our faith and core values should guide and shape our professional choices, actions, and directions.⁴

Consequently I fully expect the University of St. Thomas School of Law to be more, not less, diverse than my former fine institution. As the Supreme Court recently recognized in *Grutter v. Bollinger* diversity is about bringing more and different perspectives into the classroom.⁵ By elevating the faith-based argument as a legitimate mode of legal discourse and by embracing and encouraging our students' spiritual selves, UST Law will add a dimension to the legal academy that is present only at a handful of other American law schools. We add this dimension to St. Thomas without sacrificing any of the other important dimensions present at the finest secular law schools in this country

But what value do we add by pursuing this faith-based mission? What is this special dimension? What does faith have to do with the formation of professional character and identity? In the next few sections, I will discuss a few ways in which St. Thomas, through its faith-based mission, is trying to answer these questions.

I. FAITH AND FORMATION

Professor Mary Ann Glendon has described the conventional wisdom about law school and character formation. In *A Nation Under Lawyers*, she observes: "Most academic lawyers have regarded character (or its lack) as something that students bring with them when they come to law school. A typical attitude is that law professors do not form character—that is the job of families and religious or ethical traditions."⁶ On this view, the law professor's sole role with respect to professionalism issues is to introduce students to the recognized ethical responsibilities of lawyers, the rules of professional conduct, and otherwise to let nature take its course. Those law students who arrive at law school with exemplary characters will most likely enter and work in the profession as ethical lawyers. They will aspire to better conduct than the rules of professional conduct minimally require, and they will, by and large, succeed in reaching this higher mode of professional interaction. In contrast, those students who arrive with some character flaws or deficiencies more likely will be tempted as attorneys to walk closer to or beyond the lines of generally accepted professional conduct. And, the conventional wisdom goes, there is not much we as law professors can do to influence, one way or the other, this mixed bag of outcomes.

While I no longer subscribe to this conventional wisdom on character formation, I confess that for many years I did. There is certainly much to be said on its behalf. The typical law student does not arrive *tabula rasa*. From the experiences of life with family friends, teachers, clergy and mentors, law students bring finely chiseled characters to law school. They are all adults. Indeed, some, though not too many have been adults for a long time; these older students bring a certain

4. This articulation is principally derived from our *Statement on Mission and Religious Identity*, which the faculty adopted in 2002.

5. 123 S. Ct. 2325, 2338-41 (2003).

6. MARY ANN GLENDON, *A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY* 241 (1994).

something extra to the classroom and to the law school community. Call it experience or maturity. Whatever you call it, the older student has lived more, observed more, and been mentored more. Our older students often seem more anchored, more sure of themselves, of who they are, and of their goals.

But at every full-time American law school, the older student is in the minority. Most of our students are right out of college or only a few years removed. Indeed, most of our students have just barely become adults. While they have begun to prepare for the challenges, stresses, and demands of adulthood, our students still have a lot of personal growth ahead. Few of our students, I suspect, have ever been in a sustained, mature love relationship, where the time-consuming chores and decisions of daily living are mixed with and overwhelm the episodic joys of romance. Few of our students have become parents or have given much thought to the roles and responsibilities of parenting. Few of our students have ever worked in an employment situation where they have had to work as a member of a team. Fewer have ever managed people or have given any thought to how one does this in a way that brings out their best. Few of our students have ever been in a working situation where they were responsible for the lives or well being of clients or customers.

For most of our students, there is a lot of living and growing ahead, a lot of building of a personal and professional identity. Even for our older students, there is more at hand. I know this from my own experience, as I think back to the time when I first entered law school at age 25; and I do not believe my experience is unusual. I do not believe, for example, that my experience of encountering and benefiting from mentors at every stage of my adult life is atypical. As a law clerk at age 28 to Judge James K. Logan of the U.S. Court of Appeals, I learned that good people of integrity serve as judges in America, and that it is possible to be fair and honest about the correct decision under the law, even if your political and social instincts take you in a different direction. As a young lawyer at age 29, I admired many of the senior attorneys for whom I worked. One in particular I considered my mentor, a man in his mid-forties, who meted out responsibility and trust in a balanced way that built my confidence greatly and who taught me by his own behavior how to be a professional and decent attorney. As a young professor of 32 at the University of Illinois, a full professor, Rick Marcus, mentored me in my field of civil procedure and taught me quietly through his example, how to be an academic, and how to be a good and generous colleague. As a young dean of age 40, I was mentored by University of Illinois Provost Larry Faulkner, who taught me by his own actions how to be a tough-minded, but trusting, fair, and compassionate administrator. Faulkner, now President of the University of Texas at Austin, continues to guide me, through his excellent example. In my personal life as well, I have grown from the relationships I have formed with fine men and women, most importantly with my loving wife of 17 years, who has taught me uncountable small and major things about life and, through her own strong faith, has led me to a deeper faith in God.

I believe I have grown in character and in maturity because of my interactions with these stellar individuals. I am not the same person I was when I began law school at age 25. I believe I have also grown in character and maturity as my faith has deepened over the years. I count myself among the huge majority of Americans

who try to anchor themselves and their actions, both personal and professional, to their core religious values and beliefs. I know that I am not alone in this. Indeed, America is a nation of believers. In a recent Gallup survey, more than 90% of North Americans describe themselves as part of some religious denomination. Almost half of them regularly attend religious services. And 62% of North Americans believe that their God is a personal God.⁷

What's faith got to do with formation? For most Americans, everything. The faculty and staff of UST Law believe that there ought to be professional schools that assist students of faith to integrate that dimension of themselves into their professional character and identity. We believe that character formation, both personal and professional, is not ever over, that human growth in God's image is a life-long process. And we see, therefore, our educational mission to include assisting our students in this process.

But how can we do this? Quite frankly none of us is entirely sure, and so we are trying a number of things, most of which have influenced one or more of us in our professional lives. They include the following:

- We are recruiting faculty and staff who themselves have sought to draw on their faith and core values in establishing their personal and professional identities;

We are recruiting faculty who respect the legal profession and who have significant legal professional experience or a genuine, demonstrated interest in the work of legal practitioners and judges;⁸

We have established a first-year advising program in which our permanent faculty meet regularly with small groups of 1-Ls to discuss what's going on in their lives, including the challenges associated with being a first-year law student and of becoming a fully-integrated professional;

- We expect our faculty, in differing ways, to integrate faith-based, ethical, and professionalism issues and perspectives into all of their classes;
- We have established a unique mentor program in which each of our students is paired in each of her three years with an experienced lawyer or judge in the community. Our mentors are selected because of their interest in our distinctive mission and because of their reputation in the Twin Cities legal community as fine professionals. Our mentor program is much more than the typical "meet and greet" lunch program. It involves a significant time

7 These figures are provided by Gallup International in its Millennium Survey, available at <http://www.gallup-international.com> (last visited Sept. 10, 2003).

8. I am indebted to my colleague Patrick J. Schiltz for this articulation of a practice we are following at St. Thomas. See Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 82 MINN. L. REV. 705, 747, 750-71 (1998).

commitment from our mentors to introduce our students to the breadth of the legal profession and to encourage them to be reflective practitioners;

We regularly sponsor speakers, lawyers, judges, and law professors, who address faith and formation issues.

Time and experience will tell whether these methods work. No doubt, five years from now we will be doing other things as we explore the connection between faith and professional formation and the important role law schools and legal education can play

II. FAITH, SERVICE, AND LEADERSHIP

“Let the leader become as one who serves.”⁹

Periodically our most distinguished judges or lawyers issue the clarion call, coaxing law professors, law schools, lawyers, and the legal profession to live up to their social responsibilities of providing service to those most in need. In a recent law review article, for example, Justice Ruth Bader Ginsburg catalogued the state of pro bono service in law schools and the legal profession, pronounced it to be paltry, and urged both groups to do more.¹⁰ Some years back, at a law building dedication (like the one that St. Thomas itself is about to sponsor) Justice Sandra Day O’Connor focused her attention exclusively on legal education, exhorting law professors to “help to develop a sense of civic and professional responsibility that recognizes that lawyers must assure the availability of legal assistance.”¹¹

But what are a lawyer’s social responsibilities, and from whence to they derive? Why us? The most notable common feature of both Justices’ remarks is that they fail to answer these questions. Neither adequately explains why really busy lawyers should feel a compelling sense of social responsibility to donate some of their precious little spare time to helping poor people with their legal problems. Justice Ginsburg spends a great deal of time commenting on their legal profession’s dreadful reputation, particularly as illustrated in plays, opera, books, and movies. “Law and lawyers,” she observes, “one cannot avoid acknowledging, have fared rather badly in many a song and story”¹² Service, one can reasonably infer from Justice Ginsburg’s observations, is something that lawyers should do in order to raise their personas on stage and screen. Service, Justice Ginsburg points out, is also fun and rewarding:

But the satisfactions of public service hold potential to unlock the iron cage modern practice has become for many lawyers. In the words of Talmudic sage Rabbi Tarfon,

9. *Luke* 22:26.

10. Ruth Bader Ginsburg, *In Pursuit of the Public Good: Access to Justice in the United States*, 7 WASH. U. J.L. & POL’Y 1 *passim* (2001).

11. Sandra Day O’Connor, *Legal Education and Social Responsibility*, 53 *FORDHAM L. REV.* 659, 661 (1985).

12. Ginsburg, *supra* note 10, at 1.

"The day is short, and the task is much; the workers are [sometimes] lazy but the reward is great...."¹³

Justice O'Connor fares no better in justifying the lawyer's duty serve and lead, and do so occasionally for no compensation. "My purpose," she disclaims, "is not to advocate the teaching of any supposedly right answers to moral questions, but rather to encourage attention to the moral responsibilities of a lawyer."¹⁴ Law schools can help, she says, by offering clinical programs that provide legal service to clients who are unable to pay for them; clinical experiences "can be enjoyable and interesting, indeed, at times, inspirational for students. Such a program can lead new lawyers to develop a habit of pro bono service."¹⁵

One should wonder whether that's the very best that law schools can do: Offer a lot of clinical experiences in hopes that students will develop a habit of providing service. But why is it that lawyers should develop a "habit" of pro bono service? The most frequently stated argument in favor of pro bono service is one premised on need and special expertise. There is an enormous need for legal services, both among the poor and working poor, and lawyers are the only ones, because of their professional licenses, who can serve this need. Therefore, they must do so.

The argument, however, lacks a premise. As Lubet and Stewart have recently observed, there is a "gap in the argument .. in the transition from need to duty"¹⁶ Undoubtedly, there *is* a need, and lawyers have the skills and tools to address the need. But why should they bear the brunt of this burden, and at no or low cost to consumers? Lubet and Stewart press the point further:

With the flight of jobs to distant suburbs, coupled with the decline of mass transit, many of the urban poor are certainly facing a transportation crisis. Nonetheless, the "special role" of taxi and limousine drivers (all licensed professionals) is not thought to compel a mandatory shuttle service. The crisis in medical services for the poor is addressed through tax-supported programs such as Medicaid and the public health service. While only medical professionals can supply the necessary care, their "special role" is not thought to require them to work for free. Thus, "need" is a necessary, but not sufficient, condition for the establishment of mandatory pro bono duties. Consequently, an argument strictly from necessity must fail: lawyers do not have to solve the problem simply because they can.¹⁷

By encouraging our students to connect their spiritual selves to their professional identities, the faith-based law school can help to provide this missing premise. The missing premise in the argument based on need and special expertise is that as children of God, we are called to love God and love our neighbors.¹⁸ Both for

13. *Id.* at 15 (quoting *Ethics of Our Fathers*, MISNAH 2:18).

14. O'Connor, *supra* note 11, at 661.

15. *Id.*

16. Steven Lubet & Cathryn Stewart, *A "Public Assets" Theory of Lawyers Pro Bono Obligations*, 145 U. PA. L. REV. 1245, 1254 (1997).

17. *Id.* at 1254-55.

18. Others, many at faith-based schools, have made this same point. See, e.g., Rex E. Lee, *Today's Religious Law School: Challenges and Opportunities*, 78 MARQ. L. REV. 255, 259 (1995)

Catholics and for members of virtually every other organized religion, the duty to love God and neighbor means that we are called to dedicate our time, energy and talents to action that manifests the love of another. Those of us blessed with exceptional talents, perhaps because of a privileged education, bear a special responsibility to use those talents for their best purpose. But the duty to serve our neighbor and to lead in our community—to do good and to be good—rests upon all of us—taxi drivers and doctors, as well as lawyers. The lawyer's duty to serve and to lead is not a duty that comes from her special role *qua* lawyer. It comes from her role as a human being, who is called to love God and God's people.

At St. Thomas, our faculty and staff are working to create a community in which our students will view their professional lives as a calling or vocation. Just as we are called by God to be loving sons or daughters, parents, spouses, partners, and friends, we are called by God as lawyers to serve our clients well, to work constructively and expeditiously with opposing counsel, and to advance the best interests of the judicial system and legal profession. Indeed, the most important feature of this calling is not the comparatively few hours we donate pro bono to serve the underserved. It is the hundreds of hours we dedicate each year in our jobs as paid legal professionals, and whether we do so in the service of God and neighbor.

Like many other law schools, we embed pro bono service in our program as a part of that calling by requiring our students to dedicate a certain number of hours to community service. We have quite consciously decided, however, that this service need not be law-related. Undoubtedly, most of our students will fulfill their service responsibilities in this way. But our students can fulfill their community service hours by working in soup kitchens, by assisting the local school board, by volunteering at hospices, or by coaching an inner-city basketball team. Community service, in our view, need not be law-related because the moral imperative to provide service to others does not derive principally from our positions as lawyers, but from our roles as members of God's community.

III. CONCLUSION

I have attempted in this short essay to explain a few of the ways in which St. Thomas, as a faith-based law school, can make a lasting contribution to law, the legal profession, and the justice system. For most Americans and most American lawyers, faith has a great deal to do with their personal views. At St. Thomas, we seek to draw a closer connection between the spiritual dimension in lawyers' lives and their modes of serving and leading society as attorneys.

("Religious law schools have always had legal education's greatest boon right under our noses, but we have yet to take full advantage of it. To the extent that we can successfully incorporate that powerful—note that I do not say simple, but powerful—admonition to love our neighbors as ourselves, we will have taken very large steps toward solving some of legal education's most important challenges.")