

A 9/11 REFLECTION—IT'S NOT JUST A PROJECT ANYMORE

*Richard A. Matasar**

SEPTEMBER 11, 2001—three years since all hell broke loose eight blocks from New York Law School. A generation of students has come and gone. The country has mourned, fought war (and continued to fight the peace), and moved into a new presidential cycle. We've come to accept searches, invasions of privacy, and armed guards as normal. An orange level of threat won't stop our daily activities, even if it does back up traffic to New Jersey.

Although many memories persist, it's clear that things have changed. There is something delicious in our resilience. This year, 9/11 is a Saturday—with college football games, goofing off from work, going out to eat, enjoying the great outdoors, and even a little sadness in remembering where we were three years ago. Law schools will be out in force, recruiting new students at the 9/11 New York forum—a clear sign that *business* is on the top of our mind.

I'll be in Victoria, Canada this year, at a board meeting of the Access Group, worrying about financing graduate education (and maybe doing a little whale watching on the side). At the law school, we will go through our perfunctory September 11th remembrance—displays on the wall, patriotic readings and civil libertarian worries, and moments of silence for the fallen. Our moot courtiers have their intramural competition, and we'll all be breathing a sigh of relief that the Republican Convention is over.

For me, however, there is a deeper emotional state that I can't shake. Whatever I once thought about my personal connection to the world of legal education, the dean business, ambition, cool projects, entrepreneurial activity, and the usual hoo hah just doesn't cut it any more. Once it was easy to describe my job as an outside dean: it was a wonderful project, a chance to go to a school as a stranger, inject some different ideas into the culture, play with colleagues, help to inspire students, raise some money, do some nifty stuff, and ride into the sunset just before overstaying my welcome. "It's just a project"—that was my mantra.

No more. I cannot escape the emotional hold of New York Law School. Our community shares a bond. It was forged by outside events. It tells us that life is not just a project. It is about preserving values, building an indestructible future, inspiring each other to reach beyond our expectations, remembering the past, creating hope that education matters, demonstrating that lawyers can make a difference, and understanding at our core that New York Law School does important work that must be cherished, admired, and expanded. It's not a project anymore; it's personal.

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SHARING

September 11, 2001 was a national tragedy, but it had a profound, close-to-home impact in New York. For New York Law School, we avoided the worst consequences. While many members of our community suffered incredible personal losses of family, friends, and colleagues, and the law school lost some of its alumni, we lost no students or faculty. It was inconvenient to lose power to our buildings, have no phone service for months, go through check points to get to work, close school, worry about safety (until we could find each other), and struggle with air quality and fear. Looking back, we know we were the lucky ones.

Nonetheless, the intangible losses have been real and profound. For most of our students, it was the first sense that the world can be a dangerous place, the first tragedy that was close to home, the first experience of war, and the first desire for vengeance. For those of us who have been around for a while, it was the reminder of other bad times and events. For all, however, 9/11 has left a permanent impression upon us. It has driven us to self-reflection and pushed us to put work into a proper context—revealing our petty squabbles as unimportant clutter that will not stand in the way of cooperation.

In thinking about this essay, I went back to my communications with our community. I want to share them. They begin on September 11, 2001, and I present them in sequence as I wrote them—lightly unedited, unrefined, and annotated where necessary—because they have helped me to understand the evolution from outsider to insider. They are my reminder that New York Law School is more than a project. I am sharing so that I can explain and understand. Although the events that gave rise to each message have dimmed somewhat (and the myopic New York Law School lens now seems a bit too much), my return to these short essays reminds me of the very fragile mental state in which we found ourselves. They reflect the journey we made—from fear to resolve from worry to optimism from day-to-day to future planning.

E-Mail to NYLS Community

Written 9/11 at the Office; 3:44 p.m Just Before Losing Power

It is with great sadness that I write this message. As I look out of my office window I can see the smoke and debris from the Trade towers. There is no worse feeling than the helplessness that comes from being close, but unable to help. Many of us have colleagues, family, and friends who work in the Towers. We are fearful that they may be lost, grateful for the escape of others, and thankful for the tireless efforts of the rescue workers.

Many of you have suffered a personal loss Our hearts go out to you. The Law School will be working to find grief counselors to help ease your pain. To those who were here at the Law School today, thank you for your calmness in the face of chaos and for your understanding as all New Yorkers and Americans try to sort through these events.

Today, someone asked me what we, as individuals educated and trained in the law, can do. We must pray that the rule of law be followed: that we use all of the force of a mighty nation to lawfully discover those responsible for this attack; and that we use every legal means available to us as a nation to punish those responsible to the full extent of the law.¹

Our country and profession will be challenged in unprecedented ways. Our emotions cannot and should not be checked. Rather we must channel them to do what is right. We will be challenged by changes in our civil life—security measures, inconveniences to daily living, fear, and pleas for revenge.² My hope is for our leaders to show courage, and to respond swiftly and in a measured way. For the rest of us—New Yorkers, Americans, and all members of the legal profession—let us use every tool at our disposal to help bring our community together to respond to a shared national catastrophe.

Let all of us in this community come together and come back as strongly as we can.

The events of the day have blurred over time, but many elements remain crystal clear. It was a beautiful morning. I was in my office and heard the first plane fly directly overhead. I heard the impact. It was election day. We had many people from outside the law school hovering at our entrance, waiting to vote. We went to the street. We saw the second plane—impact, explosion, then chaos. We closed. We kept the students huddled together until receiving permission to let them go. We saw the towers come down, the people running, and the fear. We were able to send everyone home. And, because it was clear we would be closed for a while, I knew I had to write something.

*E-Mail to NYLS Community
Written 9/14 at Home, 2:14 p.m.*

Members of the New York Law School Community. Our world has been shattered. All of us have suffered incalculable losses—of family, friends, colleagues, and fellow citizens.³ The peace that we have come to expect as our birthright has been broken, perhaps forever. Nothing any of us can say or do can

1. It now seems somewhat strange that even as early as 9/11, I emphasized a legal hook in communicating with our community. But, on reflection it is clear that this preoccupation with law provided a security blanket for all of us, the only tool we had available to make ourselves feel useful, and the context that we would need to put the events into perspective.

2. Here, too, I harken to a New York Law School touchstone—we have had a deep commitment to civil rights and civil liberties, with one faculty member, Nadine Strossen, who is president of the ACLU, and several others, who are international human rights specialists—that makes us particularly focused on justice issues.

3. The e-mails from our students and faculty poured into my home over the three days after 9/11. Many of them were filled with stories of losses and of heroism (since many of our students worked as police, firefighters, emergency medical personnel, and construction workers at the site). We could not console them, other than to let them know of our support.

restore what was; we can only look forward and do what we can to come back stronger than ever....

The New York Law School family has many difficult days ahead, but we are fully dedicated to resuming our students' education as soon as possible, and to sharing our expertise with those who need our help.⁴ As distraught as our academic community is, we have come through these events in much better shape than others. It is our job to do what we can to help.

....

I have been meeting daily off-campus with the senior administration of the law school and our trustees. Our Student Life office has been calling students leaders; we have visited our students at the dormitory; and we are in constant contact with our faculty. New York Law School will do everything it can to respond to this crisis. We will do what we do best: use our classrooms to address every legal and moral issue raised by this cowardly attack. We will become a forum for our neighborhood. We will offer our legal expertise to those directly affected by this tragedy who may have nowhere else to turn. Every member of our community will need a sense of security and our school will be a haven for us all.⁵

What separates our society from others is our extraordinary commitment to the rule of law. Over the next few month our most cherished beliefs will be challenged. We must resolve to double our efforts (and then redouble them again) to bring order out of chaos and use every legal means to find and then punish those responsible. More fundamentally, as members of a helping profession, we must do all we can to bring our community back as strong as ever. I often say that at New York Law School we "Learn Law and then Take Action." Now is our time to do both.

Over the three days after September 11th, we were not permitted to go near the law school. Luckily we had secured our buildings before leaving. Both I and our associate deans took with us whatever we could grab—phone lists, e-mail lists, addresses, etc. The leadership team established a regular series of conference calls. We were able to send e-mail to all of our students because Lexis and West were able to supply us with personal e-mail addresses for most of our students. Our IT provider was able to give us an emergency web site on which we could duplicate our normal web presence and post information. Mostly, we worried whether anyone would return when we were permitted to go back to the law school.

4. The overwhelming content of communications from our community members made it clear how anxious we were to get back to working, studying, and using our talents as lawyers to help. This theme emerged and grew over the months to come.

5. The law school faculty, while as shaken as the students and administrators, rose nearly in unison to vow to make the classroom experience special for the rest of the year. We would not duck taking on issues created by the attacks—which itself became quite controversial as faculty members immediately exposed students to all issues, including civil liberties trade-offs with security, and the legality of U.S. responses. Moreover, the faculty urged us to use our role—the only law school close to Ground Zero—to help coordinate the many legal issues that would arise—a challenge that Associate Dean Steve Ellmann led by bringing the City's clinicians to our law school as soon as we could.

*E-mail to Faculty and Staff
Written 9/15 at Home, at 9:10 a.m.*

I am writing to you after my visit to the law school today. There are many emotions I could share—about the sense of dedication of every fire fighter and police officer I met, the exhaustion etched on the faces of the construction workers, the strangeness of TriBeCa without the Towers looming in the background. It will be hard for us to return to our home, but thankfully our place is in excellent condition.

....

Many of our students have written and called me. They are thankful for your care and concern (and even amazed that we seem to care about them).⁶ They have a million questions about their courses and the schedule. I hope that we will address many of these at our meeting on Monday [9/17].

Stay strong. We have some tough days ahead, but we will certainly do everything it takes to make our school stronger and help our neighborhood move forward.

It was amazing that so many of our students worried about the small things after 9/11. They worried about their assignments. Some worried about their lost books—left in haste or abandoned on their walks home. Others wanted to read ahead—ever prepared for the competitive nature of law school. As we thought about these mundane concerns of daily legal education, we were gratified to know that our students could see the law school as salvation—as a chance to forget about the travails of the day and their fears. No doubt—our school would be very important to them in the days ahead. The real question would be whether we would be up to the challenge. Certainly, many of us in the administration and on the faculty had our fears. Law school seemed like a distant concern. Yet, we knew that it would be our responsibility to carry on. Hence, we looked forward to our first faculty meeting with some trepidation.

*E-mail to NYLS Community
Written 9/17 at Home, 6:29 p.m.*

Colleagues, leaving the law school today I was bursting with conflicting emotions. I am so grateful to be part of a wonderful community of faculty and staff. So many of you found your way to the city and then to the Law School. I am proud

6. I've been in legal education for nearly 25 years and have seen my colleagues respond to any number of issues. I've never seen a more amazing output than theirs in the days following 9/11. Those with e-mail class lists shared them with our whole community. They helped us track down our students so that we could have a high confidence level that we had no (or few) losses. They were especially caring in tracking down the many students we had who had jobs or externships at the Towers—and helping us to recognize that we knew that almost all were safe. (Only later could we track down the remainder). And, the faculty were extraordinary in reaching out to every student, passing on their concerns, consoling them in their losses, and making sure that we were aware of issues as they arose.

of our commitment to give our students everything they deserve, to take account of their educational AND emotional needs, to do everything we can to help our neighbors and our city. At the same time, I am angry about the many serious inconveniences that we will face getting back to normal, disgusted with the few sick individuals in our city who are interfering with the police and fire fighters, and worried about the many things that we cannot make right and the impossibility of making whole those irreparably harmed

For me these many thoughts are compounded during the high holidays [Rosh Hashanna, the Jewish New Year, and Yom Kippur, the Day of Atonement]. Walking into services through metal detectors with a significant police presence reinforces the conclusion that all is not right. Yet, reading texts that go back through the ages about the need for peace in our times and the need for personal accountability reminds me that none of us ... is completely a victim unless we choose to let ourselves fall into despair; none of us is fated to a future of someone else's making when we have the power to influence future events.

... I leave this day with yet another emotion: determination that we come together as a community, press ourselves to accomplish all that we are capable of accomplishing, and create a future for ourselves and our students that will be vibrant and aware of our own power to make change....

Among the senior administrators, we wondered how many of the faculty and staff would make their way to TriBeCa for our meetings to discuss the future—classes, work loads, systems, pass/fail options, fears about admissions impacts. The bets ranged from 20% to 45%—since it was damn hard to get to the law school and the need to pass through police checkpoints could deter anyone. So, when almost everyone trudged into the law school and stayed through the electrical fire in our basement and even laughed when we had to evacuate because of a bomb threat, it was clear that our school had bonded. We were back, we were a community, and we were ready to take on the world.⁷

*Excerpts from Two Essays
Written in Late September and Mid-October*

[W]e must face a ... perplexing and unique question: What do the[se] events mean to us as legal educators?

7. The decisions we made were quite unusual for a law school that prides itself on tough love. We waived some of our attendance policies. We assured ourselves that we would exercise care in treating the students with sensitivity. We agreed to a pass/fail option for the students, allowing them to waive their lowest passing grade *after* finals. We permitted ourselves the luxury of thinking about how to begin classes, whether to explicitly address our students' emotional needs or whether to jump in as though nothing had happened. We even unanimously agreed to use technology to get the word to every student in every class what we would be doing. Finally, we agreed to be there for each other and for our students. We scheduled an old-fashioned "teach-in" about the legal issues raised by 9/11 as our first official act after re-opening. And, we agreed to greet our students with cheer, comforting words, and a sense of shared grief (and relief).

The very concept of legal education is under strain. We teach that there is a rule of law that provides civilized nations with methods to resolve disputes, to achieve stability in commercial relations, to permit citizens to file grievance against their government, to protect minorities from oppression by majorities, to preserve freedom of speech, travel and religion, to allow governments to negotiate with each other and to give the world assurance that it will not destroy itself in blind aggression. Yet all of our commitments to these cherished principles inevitably will be challenged because our faith in the rule of law has been shaken. In short, what are we to do about the rule of law when there are no rules?⁸

Law schools revel in questioning all of our beliefs and assumptions. Law teachers force their students to ask why a rule exists, whether it can be improved, and sometimes whether rules matter at all. After peeling away our students' blind adherence to rules, we hope to instill in them, a respect for the flexibility of law and its extraordinary ability to adjust as times change. We never back off from exposing weakness in existing law but return to the same theme. Without law, and a commitment to civilized resolution of our problems, we will surely sink to the lowest level of behavior.

...[S]ince returning to classes ... our mission has been clear. We will explore how to bring terrorists lawfully to justice. We will continue our debates about the death penalty, the contours of due process, and the line between privacy and security. We will push for an understanding of how to use international law to deal with individuals across borders, how to share information, form coalitions, and unify those with dramatically different cultures and traditions. We will look to our Constitution as a bulwark to protect us against our worst instincts, to remind ourselves of the need for tolerance and for the sure, swift and lawful punishment that may be exacted under due process of law. Our government may seek to curtail some civil liberties of our citizens and guests, but we cannot cross the line to lawlessness and also hope to continue to be a world leader in the expansion of democratic principles.

Through the rule of law we will survive this crisis, overcome those who create chaos, and assure ourselves that the world will commit to laws that can be applied with force against transgressors. My colleagues and I join with law faculties across the country in our commitment, through teaching, scholarship, and advocacy, to bolstering the nation's confidence in the rule of law.⁹

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8. This was not an academic question. Some faculty members asked it of themselves after returning to work. They were joined by students and our graduates who wondered aloud whether the Uniform Commercial Code, the Federal Rules of Civil Procedure, Rule 10-b-5, or anything the common law could offer really mattered. The great joy we discovered together was how important relatively prosaic legal rules are—both because they give us comfort and because they represent the hope that our enterprise can make a difference.

9. Richard A. Matasar, Opinion: The Rule of Law, *Offering Reassurance*, NAT'L L.J., Oct. 15, 2001, at A25.

“Normalcy.” “The return to business as usual.” “Getting on with our lives.” “Moving forward.” “Better than ever.” The phrases seem to be multiplying by the day, but they all imply the same thing: tragedy, no matter how catastrophic, cannot stem the will of the American people to restore the way of life that defined our society before ... September 11th. But things are not the same; “normalcy” now includes fear, anger, and uncertainty. We face a new challenge: to redefine “business as usual” and create a new norm.

... We have learned to console our students, faculty, staff, and graduates over the loss of loved ones. We have created a much more visible security presence and worried about our commitments to openness and access. We have dealt with trauma, anger, and fear, using nothing more than our dedication to our community as guidance in conversations none of us had ever anticipated, let alone engaged in, before. We have repressed our frustration with those who seem overly concerned about themselves in the face of the massive needs of other people suffering from acute problems. We have even mediated the intellectual debates between ferocious advocates of legal (or extra-legal retaliation) and dedicated champions of caution, diplomacy, and multilateral legalistic structure—none of whom will really be on the front lines of making decisions. Through it all, however, we keep returning to an overarching and troublesome question: where do we go from here?

First, we are a community. We often may disagree with each other, but we always remember our ties and are mindful of our responsibilities to one another. Our debates, as spirited as ever, have taken on a compelling urgency. Theoretical arguments about restricting liberty are quite real to our international students, whose only crime is a nation of origin in the Middle East or dark skin. Debates are tempered by the stark reality that we are no longer engaging in theoretical academic exercises, but rather that real people are going to be deeply affected by real policies, and that people will look to our profession to help define the proper borders between liberty and security.

Second, our craft is more important than ever. With emotions on the surface, our passions are driving us to use law in novel and perhaps even dangerous ways. We know that in any legal system we can act first and justify later. Nonetheless, even in our most aggressively result-oriented moments, we also know that reason is better than reaction, that carefully crafted arguments and policies withstand the test of time, and that logic and proof provide better justifications for action than does raw power.

Third, more than ever, we are bridging the academy and the profession. Theories of justice may seem like indulgent abstractions in the face of the pressing needs of real clients in crisis situations. But theories of justice give us real justifications for altering ordinary rules to meet dire needs without unnecessary procedural delay. Working with practicing lawyers reminds legal educators that the best theory is one that in practice delivers what people need when they need it.

Fourth, the seemingly great divides—between teacher and student, administration and faculty, schools and their graduates—are indeed quite small. The shared imperative to get our school running again, communicate with each other, and start the process of restoring our spirits and regaining our equilibrium overwhelms differences and trivializes anyone's advocacy of narrow self-interest. Never have I seen more hugs, smiles, shared tears, and commitment, than when we returned to classes. Every member of our community understands that it's all about educating our students, and that they are on the front lines of constructing solutions for people whose lives were upended by terror.

Normalcy is now impossible because we are hyper-normal, acutely aware that many things we take for granted as citizens and as people now may be taken away. While our grief may be receding and our anger directed at more specific targets, we face a new challenge—to return to our educational missions, chastened by events, dedicated to offering the best teaching, scholarship, and service possible, open to the needs of our communities, and committed to constructing a new normalcy.¹⁰

My concern here is plain: despite the need to show solidarity with the security around us, the law school continued to have a responsibility to look at the critical legal issues around us—security versus privacy, civil liberties versus the need for information, etc. These same tensions exist to this day, and they are a source of friction in the law school and elsewhere.¹¹

*In Observance of the Six-Month Anniversary
Written March 11, 2002*

Colleagues,

On the way to work this morning I was struck with how ordinary the day seemed—commuters reading papers, drinking coffee, arguing about sports, and avoiding eye contact with each other. Outside the sky is as clear as I can remember, just another beautiful New York day. Yet, on another crystal clear morning just six months ago, similar morning rituals were shaken as never before. So, this ordinary day portends more than ordinary routines; it is a day to reflect.

10. Richard A. Matasar, *The New Normalcy*, in EIGHT BLOCKS AWAY: MEMORIES OF SEPTEMBER 11, 2001, at 152, 152-54 (N.Y. Law School 2002) (on the first anniversary of 9/11).

11. In retrospect, I am angry with myself for not publishing the second of these essays on the "New Normalcy." At the time, it seemed somewhat insensitive to question even in the slightest way the on-going security measures being taken. Following the public relations advice given by our advisors clearly had a short-term pay-off—preventing angry students and graduates from appearing on my doorstep. But, it seems like a failure of courage on my part to exercise real leadership. Over the next few months, I learned—writing more forcefully on these issues, appearing at fora and on television, and responding plainly to those angry with me and the law school, that we have a role in legal education to call them as we see them—a patriotic role as honest brokers of the rule of law.

Six months have passed since September 11. We have changed mayors, forgotten about contested presidential elections, gone to war, had the economy bottom (and begin rebuilding), seen baseball and football come and go, to be replaced by March madness, and have returned to the activities that give us pleasure and joy. Nonetheless, we pause to remember this day that our good fortune depends on much that is beyond our control, that our fate is entwined with others, and that all we take for granted is contingent upon events and people with motives we cannot understand.

Fatalism, however, is rarely a comforting philosophy. We mingle with those thoughts more positive visions—like living our lives to the fullest each day, utilizing our talents to bring value to others, knowing that ordinary citizens can be heroes, and selflessly sharing our lives with each other. We understand to the core that we will be knocked down, but that we can get up and move forward. We know that our voices cannot be silenced, that patriotism does not mean giving up cherished liberties, and that supporting our leaders means cheering them when they are right, questioning them when we do not understand, and criticizing them when they are wrong.

The last six months has given us lessons, but to me they can be summarized simply. We must grieve and learn from our grief. We must mourn and then rebuild. We must look forward with optimism, but never forget the past.

Six months has seen New York Law School respond to challenges that we never imagined—losing friends and family, closing our facilities, passing through checkpoints, dealing with questionable air quality, and coping with the ordinary pressure of legal education while dealing with extraordinary things around us. We have also seen our faculty, students, and graduates come together as never before, to support each other and help their community rebuild. Today, let's hold tight to our memories, keep looking forward, and always remember that ... we care for each other, that we demand the best of all of us, and that we require that we live up to our ideals.

By this point in the year, classes were proceeding more or less normally. However, not a day would go by without reminders of the fall. Our goal could not be to ignore September 11th, but had to be to honor the day and somehow move on. These concerns animated my remarks to the community—especially that we needed to control our own destiny. Although we could exercise little control of matters outside the law school, we had responsibility to do what we could within our home and in our careers. These themes ultimately have driven me to embrace New York Law School's broader mission.

*Remember, Rebuild
September 11, 2002*

One year, a measure of time. To children, it lasts forever, each week slowly ticking by, each month an eternity, and then in a flash, a year gone and a new one

begun. To adults, time rushes by, each year decreasing in significance, a small portion of the graceful aging process. But for all of us at New York Law School, September 11, 2001 to September 11, 2002 is the year when time stood still.

For one year, we have lived and relived the most horrific events of a national tragedy. For some of us, the memories are personal and anguished—lost family, friends, and colleagues. For others, we share in the pain ..., grieve our lost innocence, acknowledge our fears (some rational, others not), and look for meaning in senseless actions. For all of us in the law school community we remember: the frightened moments shared by us all, worry about safety, loss of our neighborhood, canceled classes, classmates in jeopardy, homes destroyed, poor air quality, threats to our security, heroes at school and working at ground zero, and uncertainty of what lies ahead.

Time has been standing still for a year, but around us life has gone on. Our country was paralyzed, only to respond with vigor to the challenges it was facing and then to raise new issues and respond to them. Our students have returned to school, taken tests, accepted jobs, joined law journals, competed in moot court, and resumed a student's life. Faculty and staff are back at their jobs stronger than ever, working as never before, and rededicated to their school. How is it possible that we see so clearly the tragedy and destruction that has taken place in the past year, and at the same time we can still look ahead to the future?

Today, we must remember. We look to the past and simultaneously see tragedy and heroic response. We mourn loss and rejoice in rebirth at the same time. Remember we must, but only as a prelude to what comes next—we rebuild.

Our students have committed to legal studies as never before, dedicated not only to achieve success for themselves, but to use their education to improve our society. Our faculty and staff have used their extraordinary talents to provide high quality service, inspire our students, and enlighten others about the rule of law. Our school has grown stronger, using untapped reserves to drive us forward to accomplish even more. Our city has rebounded and is planning to memorialize our losses and capture the essence of the loss in the new urban landscape that will arise from the ashes. While our nation struggles to balance security and freedom, it quests for justice in an unsettled time.

Rebuild we must, stronger than ever!

Throughout the prior year, we worried that the law school would face jeopardy. Either our students would not return, transferring to get away from bad memories and fears of the city, or we would not be able to entice new students to come to the law school. In discovering that fewer students than normal transferred and that we had record application numbers and enrollments, it became clear that our school had reached a new level. The challenge would be for us to fulfill the faith that our students had placed in us and to give them the level of service that they deserve.

*Looking Back and Looking Forward: Remembering 9/11/01
September 8, 2003*

... We mark [September 11] with solemn observance, displays, and commemorative events. We remind ourselves that the line between peace and war is thin, that law and lawless are on a continuum, and that issues that separate people around the world are much closer to home than we would like. For many of you, the events are always present, a reminder that our law school community pulled together as never before and gave us strength during the worst times.

Two years is not so long ago to be a mere memory, but the urgency of September 11th is fading. Instead we are forced to develop new perspectives, to place terrorism into a global context, to note that over the last two years we went to war and are now dealing with its aftermath, and to know that we still face a burning question: what will we make of our choice to join the legal profession during these troubled times?

More than ever, we lawyers will be tested in our commitment to our profession. Will our security needs override our commitments to the rule of law? To civil rights? To international organizations? To shared governance? To dissent? To difference? Should all within our country be entitled to equal rights? Is some speech too dangerous to tolerate? Are all accused of crimes entitled to vigorous defense?

It is not the role of the dean or the faculty to provide the answers to these burning issues that are of particular concern to lawyers. Rather, each individual must develop a coherent approach to these difficult matters, must justify his or her response, and must understand the stakes. The nation looks to us to provide guidance and we are uniquely advantaged to do so in a systematic way.

I envy the next generation of lawyers. You are armed with extraordinary tools—technology, information, skills, knowledge, and technique in the law. But, fundamentally, the guiding light for the next generation, as those before it, remains our commitment to the core values of our profession. This week let us be reflective and remember the past. Let us be contemplative of our new role in the future. And, let us be proactive, as we move forward to solve the great issues we will confront.

It's hard to believe that a year ago, 9/11/01 was already fading. It was becoming much more of a distant memory. It was also becoming part of our school's lore, our legend of survival. By the fall of 2003, both I and the law school had come far from our emotional low two years earlier. Our task was now to move forward and our task for the future would be grow even further.¹²

12. Fall of 2003 brought unexpected issues to the law school, issues that grew over the year. We had our best entering class in decades—high LSAT's throughout, outstanding undergraduate records, students from 29 states, eight non-U.S. countries, etc. However, it was a year in which students

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Looking back on the last three years, it is clear that 9/11 stripped away the veneer of skepticism and post-modern cool that we law professors sometimes carry. From the first communications I had with our community, the only real comfort I (and we) could share was in our commitment to the values of the field that we have embraced.

The Rule of Law Can Guide Us

We saw senseless violence around us and reactions that were primal calls to lash out. The ends of punishing transgressors immediately drove us. Yet, to have yielded to such temptations would have called into question our law school's very existence. What need is there for law if we resort to lawless resolution of disputes? For me, it was a reminder of basics. Law school is not about gaudy brochures, first-rate admissions numbers, a rising *U.S. News and World Report* ranking, prestige, faculty fame, or any of the other commonplace concerns that drive deans everywhere. It is about the rule of law and law school is about learning to live, practice, and spread law.

Ends Do Not Justify Means

What a revelation. 9/11 gave us every reason to forget about history, to treat this new threat as unique, to justify incursions into our freedoms as necessary to preserve those freedoms, to use military might as a substitute for negotiation, to sacrifice civil liberty for security. But on a daily basis, there were reminders at our law school of the courage it takes to stand up to popular pressure and to preserve our liberties. Lawyers and law professors can teach about the theory of civil rights and liberties, but within our lifetimes, the actual, real-life challenges to liberty have rarely arisen. I have learned a lot from my many colleagues on the front line of preserving liberty against expedient governmental policies. Moreover, we all have learned that over time, as the immediacy of perceived threats dies down, we return to our protections and regain our equilibrium. Although I do not consider myself a prognosticator of the future, it seems clear to me now that as early as 9/11/01, in looking for my stability, in searching for a touchstone while under attack, grabbing onto the law proved to be my solace.

questioned the patriotism of the law school—whose faculty members represented an accused terrorist, ran an organization opposed to official governmental positions on scores of issues, and wrote articles and op-eds critical of just about any issue of law. Further, two of the law school's graduates took a case to the U.S. Supreme Court challenging the detention of their client as a terrorist. Another of the law school's graduates became a member of Saddam's defense team. And the law school itself became a named member of FAIR, an organizational plaintiff in a lawsuit against our government challenging its policies regarding military recruitment on campuses. Suffice it to say, the lessons of 9/11 have morphed at New York Law School to living exercises in the rule of law in everyday life.

Adversity Is Only a Challenge That Can Be Overcome

It seems obvious now that in the aftermath of 9/11 most of us felt that the world as we knew it came to an end. Coupled with the immediate Anthrax scare and the weekly fear that another attack was imminent, we wondered if there would ever be a feeling of security again. It turns out that we are incredibly resilient. In our personal lives, we have managed to pick up the pieces. Even those who suffered incalculable personal losses have made peace with their pasts and gotten back on an even keel.

At New York Law School, the simple pleasures of the job have once again returned—we teach, we write, we fight, we make up, we debate, we practice passive aggression, slackers are slacking again, compulsives are obsessing, and life has moved on. After 9/11 we asked whether our students would come back to school, whether we would lose vast numbers of students as transfers, whether anyone would ever again want to attend New York Law School, or whether we could recruit faculty and staff. Now, we are a school whose transfers have gone down, whose applications have almost doubled, and who have had more new aspiring colleagues than we could handle. It seems that we have emerged from the deepest pessimism with optimism and “can do” as the only approach.

Since So Much Is out of Control We must Control the Things That Are in Our Control

Schools sometimes see themselves as fated to a destiny. They inherit their reputations. They are saddled with their histories (interpersonal and otherwise). They are tied to their place (physical and emotional). They are required by tradition or convention to act, teach, interact, and conduct themselves by unwritten rules. Failure to obey is certain to doom the school.

No one who came through New York Law School’s 9/11 journey can possibly believe in fate because there is too much evidence that our will can make a difference. We forced ourselves to overcome our fears and to return to school. Even now, as Orange Alerts abound and we are forced to close our school in anticipation of civil unrest at the Republican Convention, we persist and thrive. To our community, we know we are unique, forged into a bond by shared terror and joy at a return to normalcy. That does not go away and inspires us to do what we think is necessary, not what others expect us to do. As a school, we see our destiny in our own hands, regardless of what happens around us.

This year as we engage in our self-study and strategic planning, it is evident that our school sees itself as having an identity and a mission. Learning Law and Taking Action—we’ve been doing it for years and now we feel good about it. We *are* an activist faculty. Theory and practice *do* go together. Students *are* individuals who need the *right program*.

We Are a Community, Perhaps Even a Family

Metaphors of community and family are commonplace in legal education. I've used them for years. But, the 9/11 experience at New York Law School moved the metaphor to life. I will never forget the moments after we reopened, as I greeted each faculty member and student on the way into our buildings on their return. I can never forget the hugs our faculty gave to each other and the students. We will treasure every note or letter from every graduate who supported the law school, came back to volunteer with the faculty, or mentored the students.

And, our dysfunctions even seem quaint—sort of like good old eccentric Uncle Charley or daft Aunt Daisy—part of our fabric. I'm not living in la la land. We have the same deep divisions of other schools—ideology, ad hoc disagreements, gender and race divides, you name it. But fundamentally, we have a deeper commitment—to each other and to our school. We are driven to survive and prosper (in a world in which many schools cannot cooperate sufficiently to move at all).

The years to come will be a major challenge for New York Law School and all similarly situated schools—expensive, mid-ranked schools, with an average national reputation, high student debt loads, and modest employment possibilities for its graduates. But, unlike many schools, the bonds holding the New York Law School community together are strong and will continue to drive it to overcome inertia and move forward. That is community; it is family.

Now It's Personal

I've been at New York Law School for almost five years. In that time, we've experienced threatened transit strikes, a black out, a flood, a faculty member arrested for and then convicted of a felony, several student deaths, too many community tragedies to enumerate, and the same old same old that every law school goes through with internal fighting, grade disputes, bad computers, and such. But, nothing before, nothing since, and nothing imaginable compares to 9/11.

When I first got to New York Law School, I thought of the job as a five to seven year horizon—a school on the rise with a terrific faculty, the potential to draw great students, and the will to make radical change. There was a terrific project to anticipate in creating new programs and taking advantage of the community's undifferentiated, but powerful, urge to get better. There was a real sense of excitement that we could build a new building, start a fundraising campaign, expand our annual fund, host great symposia, and have a ball doing it!

All of that has come to pass. I see on the horizon an ability to reach many of our goals, to fulfill this project. The funny thing is that the original project just does not seem big enough any longer. It seems like just so much business as usual. It seems too modest and uninspired—inadequate to fulfill the responsibility that I sense among our community members. I can't get out of my head that this is a school that deserves much more—a reach by all of us to make it permanent and indelible in legal education. Our 113 years of existence are a testament to survival. Our responsibility is to go to the next level.

I know that we have a special mission. We created it together. To “Learn Law” is easy. The “Taking Action” is more difficult, but is well on the way to being firmly within the fabric of everything we do. More importantly, over the last three years, our core values have emerged:

- ▶ To Embrace Innovation. We recognize that our times demand that we adapt to changed circumstances as they occur. More fundamentally, we need to anticipate change and adjust our goals accordingly. It’s our destiny as a school to know that things will occur that we cannot control, but that we are so flexible and institutionally nimble that we can adapt. We must have a school whose faculty and students are comfortable changing course when needed. This mandates a school-wide commitment to lifelong, continual learning and change.
- ▶ To Foster Integrity and Professionalism. September 11 taught us that the best that lawyers offer is better than most and critical to allow our country’s prosperity. The extraordinary volunteer work done here and by other lawyers in the city reminded us of our civic responsibility. Without strength of character, what good could our school do, our graduates accomplish, and our faculty write. The legacy of New York Law School, our brand, is tied deeply to the kind of lawyers we wish to become—dedicated, caring, devoted passionately to the law.
- ▶ To Advance Justice for a Diverse Society. New York Law School consists of older and younger students and faculty. Our community is of the left and the right, of every religion, of many creeds, of many beliefs, of many races, men and women, gay and straight, and so on. But we are bound together by a shared understanding that law matters and that what we do as lawyers matters. Justice is not a dirty word. It is at the core of legal education here, beyond the mere craft of lawyering. If the last years have taught us anything, it is that we can make a difference and that the special kind of lawyer affiliated with New York Law School can make a large contribution to a more just world.

The project is still cool, but I’m no longer a cold, calculating, detached manager. I’m burning for my school because I’ve seen it in the best and worst of times. I am confident that the next decades will bring about major changes in law schools. Many will not survive the dual challenges of maintaining quality and doing so at a price that warrants the value of what is delivered.¹³ I have no fear for New York Law School. We’ve learned to do what it takes to survive and prosper. We know how to dig deep to make it happen. We know it’s more than a job. We care. It’s personal.

13. See Richard A. Matasar, *The Rise and Fall and American Legal Education*, 49 N.Y.L. SCH. L. REV. (forthcoming 2004).