

# AND GOD'S JUSTICE SHALL BECOME OURS: REFLECTIONS ON TEACHING LAW IN A CATHOLIC UNIVERSITY

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During the last twenty years, our respective lives have undergone dramatic transformation. One of us left the active practice of law to become a member of the Society of Jesus; a religious order of the Catholic Church historically known as a teaching order. The other of us left the Presbyterian Church to enter the Catholic Church. At first, our respective stories sounded strange to many of the people with whom we had gone to school or with whom he had practiced law. They asked, "why would you do this?" Why would a successful lawyer leave the practice of law to become a Jesuit? Why would an individual who had become accustomed to comfortable living, to vast travel opportunities (necessitating commodious lodgings and splendid dining opportunities), and to the finest in transportation, leave these certainties for the uncertainties of religious life in an apostolic order? Why would one leave family and friends in the church where one was raised to become a Catholic? We can understand why one would want to become a law professor, but why a law professor in a Catholic University?

The answers to all of these questions rest in our understanding of the purpose of legal education and the profession for which it prepares its pupils. This purpose involves the seeking and obtaining of justice in this world—justice not just for one or for some, but for all. If God created each of us in His image, then are not each of us entitled to one's due, the *sum cuique*? The answer to this last question has, slowly but certainly, evolved for both of us. As disciples of Christ, we both realized that the justice we assumed existed at the heart of our profession and our lives—the two seemed indistinguishable—was not ultimately man's, but God's. Thus, the realization that everything depends on God's transcendent truth lies at the heart of seeking and doing justice.<sup>1</sup>

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<sup>1</sup> "Then Jesus said to the Jews who had believed in him, 'If you continue in my word, you are truly my disciples; and you will know the truth, and the truth will make you free.'" *John* 8:31-32 (Revised Standard Version).

To the skeptic, these discoveries may appear as proselytizing by religious fanatics, rather than the explanations of mild-mannered university professors. However, the more we have sought to understand who we are and what our lives in the law should be, the more we have encountered the freeing truth that is God and His ultimate, true justice. We view and embrace this justice from a different perspective than many of our teaching colleagues and practitioners—a perspective that considers some of the oldest law known to mankind.

We eventually realized that we, like so many others, were disciples of Christ called to share in the mission ordained for Him by the Father. This mission is to practice and proclaim God's justice in this world. Prayer helped us understand our mission as legal educators. God's voice is not necessarily found in thunder, earthquake, or fire, rather it is often found in the quietest of places.<sup>2</sup> Thus, in the quiet of prayer, we found comfort and consolation in God, the source and the sustenance of our discipleship in the academy.

As Christians and Catholics, we find ourselves, layman and priest alike, teaching at a Jesuit university. Consequently, the framework of the Jesuit apostolate of higher education and the teachings of the church should guide much of our work. The recent Thirty-Fourth Congregation of the Society of Jesus, conducted in Rome, reminded Jesuits and their lay colleagues that they are united with Christ on His mission.<sup>3</sup> In his Allocution to the members of the Congregation, the Holy Father, John Paul II, specified that the Society of Jesus must address its contribution to the "new evangelization."<sup>4</sup> Our work in evangelization, like apostolic orders throughout the Church's history, is not new, but rather a continuation of Christ's labor. Decree One of the Congregation also declares that "the mysterious work of God," carried on by St. Ignatius and those who have followed him, identifies the Society of Jesus.<sup>5</sup>

As lawyers, academics, laymen, and priests, our participation in this "mysterious work of God" calls us, along with all Christians, to be servants of Christ in His ongoing mission. We, as God's disciples, must make "the family of man and its history more human."<sup>6</sup> We are also re-

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<sup>2</sup> *I Kings* 19:11-14.

<sup>3</sup> 34th General Congregation of the Society of Jesus, Decrees of the 34th General Congregation of the Society of Jesus, ¶ 8 (Sept. 27, 1995) (Institute of Jesuit Sources, St. Louis, MO) (visited Feb. 21, 1999) <[http://web.lemoyne.edu/~bucko/c34\\_indx.html](http://web.lemoyne.edu/~bucko/c34_indx.html)> [hereinafter, Documents of the 34<sup>th</sup> General Congregation].

<sup>4</sup> *Id.* ¶ 12.

<sup>5</sup> *Id.* ¶ 14.

<sup>6</sup> Pope Paul VI, Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes* ¶ 41 (Dec. 7, 1965), in SECOND VATICAN COUNCIL, CONSTITUTION ON THE CHURCH IN THE MODERN WORLD ¶ 41 (1965) [hereinafter *Gaudium et Spes*].

minded that, as Christians, we must "discharge [our] earthly duties conscientiously and in response to the Gospel spirit."<sup>7</sup> In executing these duties, we must constantly determine the kind of world we face. Pope John Paul II has noted that the culture of the late twentieth century is one of death rather than life.<sup>8</sup> If this is true, Catholic Christians must seek additional ways to convert the culture from one of death to one of life.

Most of our work in this regard is indirect. As teachers, we spend most of our time working with those who will make decisions that shape the future, not the present. However, Jesus, as teacher, acted similarly. He devoted a great deal of his work to informing the mind and touching the hearts of others so they might live in right relation with God by treating their neighbor justly. After all, the decision-making process and the shaping of public values often determine how members of society live with one another. Do the public policies and values developed by public institutions foster or hinder the right relationship between members of society regardless of their roles and level of participation in the decision-making/value-shaping process? This question repeatedly confronts us as we engage the law students of today who will become the practitioners, judges, and legislators who will make decisions and shape values for tomorrow.

As teachers of the law, we also share many responsibilities with most of our colleagues in the profession of teaching law. Regardless of religious or secular affiliation, all law teachers prepare tomorrow's law-makers, power brokers, and ministers of justice. However, as Christian teachers, we also serve Christ, humbly engaged in His divine mission to ensure "that God's kingdom may come, and that the salvation of the whole human race may come to pass."<sup>9</sup> We share this duty with a small number of our teaching colleagues. Also, we are mindful that Professor Mark Tushnet expresses the views of many of our other teaching colleagues when he suggests that, "Not only is Catholic legal education primarily legal [i.e., secular] education; . . . if a law school associated with a Catholic university seeks to become or becomes a national law school, it will find it extremely difficult to sustain activities in a strong way that either signal or embody its Catholic affiliation."<sup>10</sup> Does this

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<sup>7</sup> *Id.* ¶ 43.

<sup>8</sup> Pope John Paul II, Encyclical Letter *Evangelium Vitae* Addressed by the Supreme Pontiff John Paul II to the Bishops, Priests and Deacons, Men and Women Religious, Lay Faithful, and All People of Good Will on the Value and Inviolability of Human Life ¶ 12 (Mar. 25, 1995), in POPE JOHN PAUL II, *Evangelium Vitae*, in THE ENCYCLICALS OF JOHN PAUL II 792, ¶ 12 (J. Michael Miller ed., 1996) [hereinafter *Evangelium Vitae*].

<sup>9</sup> *Gaudium et Spes*, *supra* note 6, ¶ 45.

<sup>10</sup> Mark Tushnet, *Catholic Legal Education at a National Law School: Reflections on the Georgetown Experience*, in GEORGETOWN AT TWO HUNDRED: FACULTY REFLECTIONS

mean that our differing view of legal education is doomed to failure, or, at best, tolerated as long as it remains outside of the mainstream? Our response is a vigorous "No!" Our view, which promotes God's Kingdom, possesses considerable strength if one considers the traditions which conceived the notions of law and justice, and how those traditions relate to the formation of lawyers—whether that formation occurs at a "national" or "local" school.

The late legal scholar and Oxford faculty member J. M. Kelly, commenting on law examinations at Oxford and how one might achieve first class honors, said, "it would have been possible for the candidate . . . to write first-class answers even if suffering from the delusion that the world began around the year 1930."<sup>11</sup> Professor Kelly correctly noting the error of this prevalent attitude, lamented that "[t]he jurisprudence [the students] are taught ought, therefore, to give a humane foundation to what will be their life's profession; instead of which, it seems to me, they are nowadays mostly given a sort of course in mental and moral athletics, sweating around a cinder-track of mid-twentieth century legal analysis and late twentieth-century political issues."<sup>12</sup> When we consider the long tradition guiding the growth of western law [beginning with the Decalogue, the Roman tradition, the natural law tradition, and the codification of canon law], we share Professor Kelly's lament.

The inscription over the U. S. Supreme Court building in Washington suggests that the legal profession is involved in the search for and practice of justice for all.<sup>13</sup> If this is indeed true, then what justifies the exclusion of the pre-1930 contributions made to the concept of justice beginning with the Biblical tradition? After all, a quick perusal of the Pentateuch, the prophets, and the New Testament reveals an ongoing admonition to seek justice in this world—both God's and man's.

As twentieth century pilgrims and disciples, we realize that God's justice intersects our own. In the promulgation of the *Pastoral Constitution on the Church in the Modern World*, the Church's leadership addressed the subject of justice on at least twenty-four occasions.<sup>14</sup> This frequent acknowledgment of justice in the *Pastoral Constitution* carries the Great Commandment into contemporary law. When the first century lawyer asked Jesus which was the greatest commandment, Jesus re-

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ON THE UNIVERSITY'S FUTURE 321, 322 (William C. McFadden, ed., 1990) [hereinafter Tushnet].

<sup>11</sup> J. M. Kelly, *Foreword to A SHORT HISTORY OF WESTERN LEGAL THEORY* at xi (1992).

<sup>12</sup> *Id.* at xii.

<sup>13</sup> The inscription over the main portico reads: "Equal Justice Under Law"

<sup>14</sup> *Gaudium et Spes*, *supra* note 6, ¶¶ 9, 21, 26, 29, 30, 34, 35, 38, 39, 55, 63, 66, 69, 72, 73, 75, 76, 77, 78, 81, 83, 86, 90, 93.

plied, "you shall love the Lord your God with all your heart, and with all your soul, and with all your mind, and with all your strength . . . [and] you shall love your neighbor as yourself. There is no other commandment greater than these."<sup>15</sup> Jesus articulated a connection between the first commandment concerning love of God, and the second, concerning love of neighbor. Indeed, the two are inextricably related—one cannot love God without showing concern for one's neighbor. What better way to do this than treat one's neighbor justly as the *Pastoral Constitution* commands?

Clearly, Christians must appropriate the Great Commandment through all apostolic work. We know that Jesus also instructed us "that the new command of love was the basic law of human perfection and hence of the world's transformation."<sup>16</sup> However, the members of any culture form its values. Therefore, those who comprise the Christian culture must adopt God's justice in their own hearts and minds so that their lives and their culture reflect God's justice. And how might our culture incorporate God's wise ways, especially those ways concerning justice? One avenue is through the process of education. Legal education is strategically situated to cultivate God's concept of justice and related Gospel values.

Some of our teaching colleagues, both those who believe in God and those who do not, often suggest that the mission of legal education at a Jesuit University includes the following: rigorous academic work that cultivates and challenges the mind, care for the whole person; and, a commitment to service and social justice. While these elements are applaudable, they are really no different than the educational mission of many other secular schools.<sup>17</sup> As Christian, Catholic, and Jesuit, the le-

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<sup>15</sup> *Mark* 12:30-31 (Revised Standard Version).

<sup>16</sup> *Gaudium et Spes*, *supra* note 6, ¶ 38.

<sup>17</sup> By sampling a variety of Law School Web Sites, we came across the following selection of mission statements that reflect this common concern: Boston College states that "We believe that the practice of law stands for something beyond detached analysis and neutral professional skills. We seek to train not only students who will be good lawyers, but students who will lead good lives." Boston College, *The Law School Mission* (last visited Feb. 10, 1999) <[http://www.bc.edu/bc\\_org/avp/law/lwsch/Geninfo.html](http://www.bc.edu/bc_org/avp/law/lwsch/Geninfo.html)>. Duke claims that its mission "is to prepare students for responsible and productive lives in the legal profession. As a community of scholars, the Law School also provides the leadership at a national and international level in efforts to improve the law and legal institutions through teaching, research, and other forms of public service." Duke University, *The Mission of the Law School* (last visited Feb. 10, 1999) <<http://www.law.duke.edu/gen/info/lsmisio.html>>. Creighton University is "committed to providing a comprehensive legal education . . . Faculty and students are also encouraged to serve the community through charitable activities, which are an important part of the Law School's mission." Creighton University, *Creighton University School of Law* (last visited Feb. 10, 1999) <<http://www.creighton.edu/CULAW/CULAW/>>. Georgetown's mission is quite explicit: "It is an educational institution dedicated to the principle that law is but the means, justice is the end." Georgetown Uni-

gal education we provide must produce "not only men and women of refined talents, but those great-souled persons who are so desperately required by our times."<sup>18</sup> If "the vision of justice which guides us is intimately linked with our faith [by being] deeply rooted in the Scriptures, Church tradition, and our Ignatian heritage. . . ." <sup>19</sup> so, too, must legal education which claims the modifier "Jesuit" as part of its *raison d'être*, be linked with our faith.

Although other legal educators may offer similar claims about challenging academic work, concern for people, and the commitment to service, we disciples recognize that, while we share some mutual interests with our secular colleagues, the Christian understanding of justice "is not just a matter of economic production or of juridical or social organization, but also calls for specific ethical and religious values, as well as

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versity, *A Message from the Dean* (last visited Feb. 10, 1999) <<http://www.law.georgetown.edu/dean/index.html>>. Harvard, the "oldest existing law school in the United States" provides "comprehensive and enlightened training to prepare its graduates for law practice, for public service... [and] seeks to make substantial contributions toward solving complex social and international problems." Harvard, *Dean Clark's Welcome* (last visited Feb. 10, 1999) <[http://www.law.harvard.edu/About\\_HLS/welcome.html](http://www.law.harvard.edu/About_HLS/welcome.html)>. Loyola of Chicago recognizes "that lawyers are not only litigators, but must be trained to serve as counselors, mediators, arbitrators, and policy makers, we have instituted an innovative curriculum which seeks to draw upon the interdisciplinary strengths of our larger university" Loyola University, *Message from the Dean*, (last visited Feb. 24, 1999) <<http://www.luc.edu/schools/law/message/index.html>>. Marquette generously addresses both its mission and the mission of other Jesuit University-affiliated law schools by asking the question "why not consider a Jesuit Law School?" Marquette University, *Why not Consider a Jesuit Law School* (last visited Feb. 10, 1999) <<http://www.mu.edu/law/academic/doc/jesuit.html>>. The answer Marquette supplies is this: "To meet the complex challenges of the 21<sup>st</sup> century, lawyers must be prepared to serve their clients with a high degree of professional competence, an enduring commitment to social justice, and a deep devotion to public service. The 14 Jesuit law schools in the United States are especially able to offer their students a legal education rooted in the values that produce such lawyers. Our programs of study share a distinct Jesuit heritage, one which values the pursuit of academic excellence, acquisition of knowledge for the betterment of society, care and concern for the individual, and preparation for public service." *Id.* Yet, as the literature of secular institutions demonstrates, so do non-Jesuit and non-religiously affiliated law schools. One ought to be wary of phrases like "Jesuit heritage" and "Jesuit tradition" often found in the catalogues of the law schools affiliated with Jesuit universities. To our knowledge, none of these schools elaborates on what this tradition and heritage are. It is not some relic from the past brought out to entertain loyal alumni and benefactors, it is a vibrant alternative to higher education both for today and the future. As Margaret Steinfelds has argued, "A tradition is not a browned and dried-up certificate of deposit in the bank of knowledge, but a locus for questioning a framework for ordering inquiry, a standard for preferring some sets of ideas over others; tradition is the record of a community's conversation over time about its meaning and direction." Margaret Steinfelds, *The Catholic Intellectual Tradition*, 25 *ORIGINS* 169, 172 (1995).

<sup>18</sup> *Gaudium et Spes*, *supra* note 6, ¶ 31.

<sup>19</sup> Documents of the 34<sup>th</sup> General Congregation, *supra* note 3, ¶ 53.

changes of mentality, behavior, and structures.”<sup>20</sup> For some, justice constitutes embracing those ideologies, philosophies, and political movements that give comfort to abortion and euthanasia—elements of the culture of death the Holy Father identified in his encyclical *Evangelium Vitae*.<sup>21</sup> As Pope John Paul II correctly noted, “[t]he dignity of this life is linked not only to its beginning, to the fact that it comes from God, but also to its final end, to its destiny of fellowship with God in knowledge and love of him.”<sup>22</sup> Therefore, it is particularly urgent that disciples everywhere devote their apostolic energies to the “culture of life” which emulates God’s justice.

At the heart of the western legal tradition and its conception of justice is the notion of human rights, developed by political philosophers such as John Locke. However, while the Christian disciple shares some of Locke’s notions, the disciple must simultaneously acknowledge that respect for the dignity of the human person and protection of human rights is not simply a product of the Enlightenment, it is also the command and wish of God who created each of us in His image. As the Holy Father further noted, “the value of democracy stands or falls with the values which it embodies and promotes. Of course, values such as the dignity of every human person, respect for inviolable and inalienable human rights, and the adoption of the ‘common good’ as the end and cri-

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<sup>20</sup> Pope John Paul II, Encyclical Letter *Centesimus Annus*, Addressed by the Supreme Pontiff John Paul II to his Venerable Brothers in the Episcopate, The Priests and Deacons, Families of Men and Women Religious, All the Christian Faithful, and to All Men and Women of Good Will on the Hundredth Anniversary of *Rerum Novarum* ¶ 60 (May 1, 1991), in POPE JOHN PAUL II, *Centesimus Annus*, in THE ENCYCLICALS OF JOHN PAUL II 588, ¶ 60 (J. Michael Miller ed., 1996) [hereinafter *Centesimus Annus*].

<sup>21</sup> As the Pope stated at ¶ 12 of this encyclical:

This reality is characterized by the emergence of a culture which denies solidarity and in many cases takes the form of a veritable ‘culture of death’. This culture is actively fostered by powerful cultural, economic and political currents which encourage an idea of society excessively concerned with efficiency. Looking at the situation from this point of view, it is possible to speak in a certain sense of a war of the powerful against the weak: a life which would require greater acceptance, love and care is considered useless, or held to be an intolerable burden, and is therefore rejected in one way or another. A person who, because of illness, handicap or, more simply, just by existing, compromises the well-being or life-style of those who are more favoured tends to be looked upon as an enemy to be resisted or eliminated. In this way a kind of ‘conspiracy against life’ is unleashed. This conspiracy involves not only individuals in their personal, family or group relationships, but goes far beyond, to the point of damaging and distorting, at the international level, relations between peoples and States.

*Evangelium Vitae*, *supra* note 8, ¶ 12.

<sup>22</sup> *Evangelium Vitae*, *supra* note 8, ¶ 38.

terion regulating political life are certainly fundamental and not to be ignored.”<sup>23</sup>

As educators who teach the law, how can we and our colleagues, who also call themselves disciples, ensure that human law reflects more of God’s Great Commandment and the social teachings tradition of the Church? Although many elements of the postmodern world skeptically question the existence of disciples who (due to their faith and reason) search for God’s objective truth, the late twentieth century disciple must meet, counter, and dispel this skepticism. As the Holy Father recently stated in his encyclical *Fides et Ratio*, “human beings attain truth by way of reason because, enlightened by faith, they discover the deeper meaning of all things and most especially of their own existence. Rightly, therefore, the sacred author identifies the fear of God as the beginning of true knowledge: “The fear of the Lord is the beginning of knowledge.”<sup>24</sup> One forum for establishing God’s objective truth is the forum where skepticism and disbelief have taken root: the American university.

The university apostolate is particularly well suited for the opening of the mind that leads to the conversion of heart. The Catholic academy adopts a “basic mission of . . . a continuous quest for truth through its research, and the preservation and communication of knowledge for the good of society”<sup>25</sup> By engaging the skeptical intellect in dialogue about justice, the Catholic scholar, teacher, and intellectual can easily use the shared awareness of contemporary circumstances “to examine and evaluate the predominant values and norms of modern society and culture in a Christian perspective.”<sup>26</sup>

When kindred intellects come together to debate the great issues confronting the human family at the academy, the Christian educator, through his or her participation in the academy, ultimately shares in the molding of how individuals and societies address the problems hindering the common good of mankind. As legal educators, in a Catholic University, our work focuses on how the legal profession and legal education will implement “the promotion of justice for all, the quality of personal and family life, the protection of nature, the search for peace and politi-

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<sup>23</sup> *Id.* ¶ 70.

<sup>24</sup> Pope John Paul II, Encyclical Letter, *Fides et Ratio*, of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship between Faith and Reason ¶ 20 (Sep. 14, 1998), in *Fides et Ratio* (last visited Feb. 24, 1999) <<http://www.ewtn.com/library/ENCYC/JP2FIDES.HTM>> (Biblical citation omitted) [hereinafter *Fides et Ratio*].

<sup>25</sup> Pope John Paul II, Apostolic Constitution on Catholic Universities of the Supreme Pontiff John Paul II, *Ex Corde Ecclesiae* ¶ 30 (August 15, 1990), in Pope John Paul II, “Born from the Heart of the Church, CATHOLIC INTERNATIONAL, Dec. 1990, at 202, ¶ 30 [hereinafter *Ex Corde Ecclesiae*].

<sup>26</sup> *Id.* ¶ 33.



cal stability, a more just sharing in the world's resources, and a new economic and political order that will better serve the human community at a national and international level."<sup>27</sup>

We recognized that the Catholic University must "unite existentially by intellectual effort two orders of reality that too frequently tend to be placed in opposition as though they were antithetical: the search for truth and the certainty of already knowing the font of truth."<sup>28</sup> The search for truth must be a "free search for the whole truth about nature, man and God."<sup>29</sup> Yet, this truth is Christ, for He is "the way, and the truth, and the life."<sup>30</sup> As John Paul II recently stated, "The wisdom of the Cross, therefore breaks free of all cultural limitations which seek to contain it and insists upon an openness to the universality of the truth which it bears."<sup>31</sup> While this search for truth has, in part, properly addressed academic excellence, it has also greatly modified the Catholic soul of some universities. This modification has had its good qualities such as the incorporation of lay men and women into positions of responsibility. Consistent with the spirit of *Gaudium et Spes*, the laity have responded to the call to "secular duties and activities" that are properly theirs.<sup>32</sup> For the lay, law teachers, "it is generally the function of their well-formed Christian conscience to see that the divine law is inscribed in the life of the earthly city . . ."<sup>33</sup> The unity of the human person is such that this duty exists because God invested everyone with a faith-related moral conscience which cannot be divorced from his participation in the daily events of worldly existence.<sup>34</sup>

Many diverse lives intersect at Catholic universities, but, although they require the participation of Catholic, Christian, and other religious believers, we must never abandon the underlying spirit of these universities. The Catholic academy exists, in part, "to institute an incomparably fertile dialogue with people of every culture."<sup>35</sup> Yet, the adjective "Catholic" and the noun "University" must remain compatible with each other. While the "University" is "animated by a spirit of freedom and charity" that is "characterized by mutual respect, sincere dialogue, and

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<sup>27</sup> *Ex Corde Ecclesiae*, *supra* note 25, ¶ 32.

<sup>28</sup> *Id.* ¶ 1, quoting Pope John Paul II, Discourse to the Catholic Institute of Paris (June 1, 1980).

<sup>29</sup> *Id.* ¶ 4.

<sup>30</sup> *John* 14:6 (Revised Standard Version).

<sup>31</sup> *Fides et Ratio*, *supra* note 24, ¶ 23.

<sup>32</sup> *Gaudium et Spes*, *supra* note 6, ¶ 43.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Ex Corde Ecclesiae*, *supra* note 25, ¶ 6.

protection of the rights of individuals,"<sup>36</sup> it must also be "Catholic," which means that its Catholic members "are also called to a personal fidelity to the church with all that this implies" and non-Catholic members "are required to respect the Catholic character of the university, while the university in turn respects their religious liberty."<sup>37</sup> Thus, if the university commits to the freedom of healthy inquiry, then the institution and the its members must also commit to the proposition that the truth sought and the knowledge gained are the transcendent and the objective—which is God.<sup>38</sup>

As legal educators who labor to cultivate both faith and reason, we attempt to combine practical wisdom with spiritual development.<sup>39</sup> In doing this, we better understand the particular challenges confronting the legal academy that claims to be Catholic. Dealing with teaching colleagues presents one obvious challenge. If a law school affiliated with a Catholic university aspires to national prominence, according to Georgetown Law's Mark Tushnet, then the members of the faculty "will be drawn predominantly from other, primarily secular, national law schools. . . ."<sup>40</sup> Consequently, Professor Tushnet also suggests that these faculty who pass on the tradition of the law to future generations of lawyers "are unlikely to be comfortable if their institution defines its mission as providing Catholic leadership."<sup>41</sup> Because Professor Tushnet holds the view that "Catholic legal education is primarily legal education,"<sup>42</sup> his solution for the Catholic university law school that wishes to achieve and maintain national status, is to create a separate institute where "academically qualified" Catholics could teach and write specifically in areas where the Church's interests coincide with secular specialties.<sup>43</sup> Tushnet hastens to add, however, that such a program could very well lack appeal, therefore interfering with national-status ambitions. He suggests that a program failing to generate appeal will likely "confirm the narrowness of the law school's aspirations, thus confining it to the same status as local law schools, which are thought to have similarly narrow aspirations."<sup>44</sup> On the contrary, we do not see why the public endorsement of the compatibility of faith and reason should preclude any

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<sup>36</sup> *Id.* ¶ 21.

<sup>37</sup> *Id.* ¶ 27.

<sup>38</sup> *Id.* ¶ 4.

<sup>39</sup> See *Fides et Ratio*, *supra* note 24, ¶ 41 (discussing the early Church fathers' willingness to embrace reason and practical knowledge as well as spiritual truths).

<sup>40</sup> Tushnet, *supra* note 10, at 326.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 322.

<sup>43</sup> *Id.* at 330.

<sup>44</sup> *Id.*

academic from teaching any subject from a Catholic perspective. After all, one need only consider the many law courses presently taught from the "outsider" narrative perspective.<sup>45</sup> Moreover, we raise the same question Professor Tushnet confines to the Catholic perspective regarding the appeal of the variety of programs which many so-called "national" schools seem to be pursuing today. As Judge Harry Edwards of the U. S. Court of Appeals for the District of Columbia Circuit has noted:

our law schools and law firms are moving in opposite directions. The schools should be training ethical practitioners and producing scholarship that judges, legislators, and practitioners can use. The firms should be ensuring that associates and partners practice law in an ethical manner. But many law schools—especially the so-called "elite" ones—have abandoned their proper place, by emphasizing abstract theory at the expense of practical scholarship and pedagogy. Many law firms have also abandoned their place, by pursuing profit above all else. While the schools are moving toward pure theory, the firms are moving toward pure commerce, and the middle ground—ethical practice—has been deserted by both . . . . My view is that if law schools continue to stray from their principal mission of professional scholarship and training, the disjunction between legal education and the legal profession will grow and society will be the worse for it.<sup>46</sup>

An initial response to Professor Tushnet's view and the concerns raised by Judge Edwards is this: if law schools which call themselves Catholic are true to their mission of producing good lawyers—who are first of all good people—then they must clearly identify who they are, where they have been, and where they must go.

The first charge of who we are raises the question of identity. In identifying what constitutes a Catholic legal education, we must be certain that we teach and seek God's justice—a justice which can be incorporated into man's if we accept the premise that law is both objective and transcendent, and seeks to obtain the *sum cuique* for each and every person at whatever stage of life. For we know that because God created us in His image, we have "a mandate" to "govern the world with justice and holiness"—a mandate to relate ourselves and all things to God "Who was to be acknowledged as the Lord and Creator of all."<sup>47</sup>

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<sup>45</sup> See Richard Delgado, *The Imperial Scholar: Reflections On A Review Of Civil Rights Literature*, 132 U. PA. L. REV. 561, 566 (1984) (discussing how civil rights scholarship is dominated by white males or outsiders).

<sup>46</sup> Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 41 (1992).

<sup>47</sup> *Gaudium et Spes*, *supra* note 6, ¶ 34. The Pastoral Constitution continued by stating that "For this reason the Church down through the centuries and in the light of the Gospel has worked out the principles of justice and equity demanded by right reason both for individual and social life and for international life, and she has proclaimed them especially in recent times." *Id.* ¶ 63.

Second, Catholic universities must distinctly identify where they have been. To have a sense of history means that we acknowledge proudly the tradition that the law is an institution designed to promote the Great Commandment of living in right relation with God by living in right relation with the neighbor.<sup>48</sup> Both our culture and our norms should acknowledge that the truest form of justice incorporates both God's will and our own.

Third, Catholic universities must clearly identify their destiny. The view of much of the academy in the late twentieth century holds that all beliefs and cultures are equally valid. As a result, a strong form of relativism encroaches upon the universities, including the law schools. However, neither a university nor its law school can afford in this day to hold onto the view that all human perspectives are equal in quality and legitimacy. Indeed, by the norms of many contemporary cultures, as we have noted earlier in this essay, threaten precious human interests at the antipodes of life. The university claiming a Catholic heritage must be willing to discuss such views but, ultimately, cannot afford to adopt them as its own. Such action would negate the reality that each person is precious because each reflects the image of his or her Divine Maker.

The call to discipleship in the Catholic legal academy and in other Christian vocations remains strong today. Yet the challenges to seeking and observing God's justice in this world are becoming increasingly potent. Nonetheless, it is through our holy desire and openness to God's leading spirit that His justice and truth shall prevail. We might take courage from another disciple of an earlier age, Thomas More—the patron saint of the common law legal profession. More died King Henry's "true subject," but God's first.<sup>49</sup> Might it be said of us that while we conclude our earthly lives as loyal subjects [and members] of our legal profession, we are and remain God's first.

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<sup>48</sup> See *Luke* 10:25-37 (Jesus' explanation of the meaning of the Great Commandment through the Parable of the Good Samaritan).

<sup>49</sup> ROBERT BOLT, *A MAN FOR ALL SEASONS*, 92-93 (1962).