

In Memoriam to Professor Fred C. Zacharias

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I would like all lawyers to be heroes and statesmen—and to engage heavily in public interest and pro bono practice—but I do not expect it of them. I hope that lawyers will act as good citizens and support consensus democratic values, such as universal enfranchisement, but I have the same hope for all persons who are in a position to positively affect these matters. – Fred C. Zacharias¹

When I first joined the University of San Diego School of Law (USD) faculty five years ago, I was hoping to make good friends, intellectual mentors, and senior colleagues who would help me navigate the institutional life of a faculty member. I was not expecting to find all these qualities in one person, and I think a lot of us have had the fortune of knowing how Fred was that person: someone who is a true scholar, teacher, colleague, and friend—reflecting what we aspire to be.

I would like to briefly share two personal stories that reflect these qualities. Last year, Fred and I participated at a conference at Fordham University in New York City. The conference was entitled, “The Role of Lawyers in a Democracy.” Fred of course was happy to be in New York partly for the opportunity to visit his mother. But at the conference, I was fortunate to be the second USD participant, having Fred there as my senior buddy, where he so very naturally introduced me to all his friends and his nationwide fans in the field of professional responsibility. Before the conference, he helped me think about formulating my presentation

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1. Fred C. Zacharias, *True Confessions About the Role of Lawyers in a Democracy*, 77 *FORDHAM L. REV.* 1591, 1607 (2009).

and read my drafts, and his own talk stood out in how it combined deep insights, with humor and heart, in that signature Zacharias way.²

In his talk, and the paper published in the *Fordham Law Review* symposium, he recounts being a public interest litigator before becoming an academic. He describes himself as a young lawyer dedicated to using law to make a difference, and being inspired by “the important contributions of attorneys in American history, starting with the Founding Fathers and culminating in the lawyer heroes of the labor and civil rights movements, such as Clarence Darrow and Thurgood Marshall.”³

He continues and writes, “I had read all the right books—ranging from Darrow’s biographies to *To Kill A Mockingbird*. My professional career was built on the belief that attorneys usually are the catalysts for progressive reforms in the legal and social structures of the nation.”⁴

Fred’s article proceeds to critically reflect on the role of lawyers in preserving a democratic climate in society and mobilizing social reform.⁵ It gives us a glimpse into Fred’s important scholarly contributions. But more than that, to all of us who knew him, it represents some of the qualities we loved most about Fred: theoretically sophisticated and professionally grounded; significant for both the scholar and the practitioner; honest, deeply moral, along with the right touch of humor, humility, and a bit of skepticism.

The second story goes back a bit earlier, just a bit after I joined the faculty, and I was working on the very first drafts of a new article.⁶ I gave it to Fred to read even though it was not directly within his fields of study, and all I could hope for were a couple of general reactions, usually in the form, “Why you are you not writing the article that I would have written?” But that was not Fred’s style. Fred was incredibly generous with his time and with his thoughts, and even though he was so productive with his own writing, he somehow found the time to return my draft with the most detailed comments I received from anyone on that paper, all handwritten in pencil, sometimes erased and written over, on every page of a very long law-review-style article. I often think back at how much it meant to me to receive those lengthy reactions when I am feeling overwhelmed in my own life and I get an e-mail from a colleague

2. Fred’s paper was later published. *See id.* Fred helped me with my paper, which came out in the same symposium. *See* Orly Lobel, *Lawyering Loyalties: Speech Rights and Duties Within Twenty-First-Century New Governance*, 77 *FORDHAM L. REV.* 1245 (2009).

3. Zacharias, *supra* note 1, at 1592 (internal citations omitted).

4. *Id.*

5. *See id.* at 1596–1603.

6. Orly Lobel, *Citizenship, Organizational Citizenship, and the Laws of Overlapping Obligations*, 97 *CALIF. L. REV.* 433 (2009).

about their work. I remind myself of the “Zacharias Way.” And I know this generosity—of heart and mind, in all aspects of Fred’s life—is something that has affected and infected our institution, Fred’s friends, and family. He will be greatly missed.

