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## DEPAUL LAW: STAYING IN SHAPE FOR SHAPING THE FUTURE

*Fred R. Garzino\**

Much has changed in legal thought and practice in the past fifty years. The list of advancements is long and impressive. Looking back, the DePaul College of Law and the DePaul Law Review are living testaments to the change and adaptiveness that invariably come over the course of half a century. We have come a long way. No surprises there. After all, change is inevitable.

But looking ahead to the next half century, the exact shape of the changes in legal end points may not really matter. What will matter is the process followed in arriving at those end points. The process in legal education to which DePaul commits itself during the next half century will determine whether DePaul continues to influence the shaping of future legal thought and practice, or is merely shaped by those forces.

The rules governing any human endeavor undergo transformation as time passes. This is true in all areas of the law: criminal, constitutional, torts, etc. Even etched-in-stone, blackletter law changes with time. Unswerving, blackletter law is relatively easy to apply.<sup>1</sup> But such law does not always mean justice has been served. The same basic tenets are applied to simple and complex cases alike. At times, such law is applied to real-world fact patterns that could benefit from a more individualized and thoughtful application of legal principles. Perhaps the classic example resides in tort law. If you do not have a specific, legal relationship with another person, then there is no legal compulsion to come to the aid of anyone in need, even a drowning neighbor. Walking away is legal, but is that the kind of law that truly supports society?

What is missing from such an approach is an appreciation of the essential soul of the law. The need to change the law often comes wrapped in the community's shared sense that compassion is missing and the rules no longer serve us as they should. But for these neces-

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\* Mr. Garzino served as the Editor-in-Chief of the DePaul Law Review from 1997-1998.

1. Although blackletter law is used as a convenient example, the following comments pertain equally to almost all facets of the law

sary changes to occur there must be a continuing connection between society and its legal guardians. This is where DePaul's approach to legal education can continue to make a decided difference.

For many attorneys, questions concerning the need for legal changes are first formulated in law school, where differences are clearly defined between the layperson's concept of justice and its precise legal reality. Later on, these questions get tested as the alumni assume active roles on bar organization committees. The alumni can then restate those questions in an effort to maintain a close connection between legal thought and social need. Throughout this process an underlying question needs to be continually restated and reexamined: Although the activity may be the legal thing to do, is it the right thing to do? DePaul's legal education process, and those of us who have participated in it and whose thinking has been influenced by it, must continue to ensure that the human element is never lost in anything to which the law is applied. This does not occur automatically. Rather, it is a mind set that must be exercised as often as the practice of law itself.

DePaul can remain a unique force for responsible change by striving to ensure that legal education, and the profession itself, remain connected to the society they serve. We lose sight of this when we treat ethics as something outside the law and its application. We lose sight of this when we only teach and follow professional rules of conduct that do not address and discuss common ethical considerations, considerations that society, both laypeople and lawyers, understands to be ethical. In practice, though, we attorneys have our own set of "legal ethics," while society has a separate set.

Ethical choices and moral questions need to be addressed as integrated parts of legal questions. We in the legal community should not feel protected by the artificial shield afforded by classes in "legal profession" and allegiance to the precepts of "legal ethics." Unfortunately, complying with professional ethical standards alone may not always mean that society's fundamental ethical needs are being satisfied. Adopting professional standards too easily allows us to divorce our actions from the real needs of the people who participate in the legal system as plaintiffs, defendants, victims, jurists, and legislators. Relying only on external guidelines fashioned by professional committees, we begin a dangerous dance of following guidelines that we in the profession set for ourselves. It then becomes easy to be disconnected from the ethical guidelines that society requires. Instead of one integrated set of guidelines that support one another, the profession subtly sets itself apart from the society it purports to serve. In

effect, the legal profession has for years practiced its own version of *Plessy v. Ferguson*'s<sup>2</sup> infamous "separate but equal"<sup>3</sup> rationale—a version that continues to persist in the legal profession long after the application of such logic to the community's shared need for education was recognized as absurd.<sup>4</sup> Yet, we attorneys fail to see that we apply the same logic in our dealings with everyone outside our profession. But why should the legal profession's moral compass be a different instrument from the one that guides society's other needs? Don't we all share a common set of ethical aspirations, regardless of the forum?

Not allowing society's needs to be pried apart from the needs of the legal profession is a small step that DePaul can continue to assert in its approach to legal training. Yes, DePaul will continue to teach the profession's separate shield known as "legal profession." But DePaul can also continue to direct class discussion to include the larger ethical issues that do not disappear when we raise our hands and take our oaths as attorneys. Teaching this broader perspective in sync with teaching the law is what DePaul can continue to do as it charts a course for completing its first full century. The DePaul community should not lose sight of the moral cement that joins lawyer to client, legal profession to society.

None of the above considerations constitute any real change for the DePaul College of Law. DePaul's educational process and committed faculty speak to these values, to connecting the classroom with the legal issues and realities of our times. As we prepare to step into the next fifty years, now is the moment to pause and ensure that the DePaul legal community—alumni, administration, faculty, and students—renew their commitment to applying the litmus test of social reality to the conceptual progress of the law. Those involved with the DePaul Law experience are ideally positioned to continue sending out students and alumni with this charge: Do not just make a living—make a difference.

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2. *Plessy v. Ferguson*, 163 U.S. 537 (1896).

3. *Id.*

4. See *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

