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REFLECTIONS ON A MORE “CATHOLIC” CATHOLIC LEGAL EDUCATION

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I am grateful to Professors Breen and Strang for their thoughtful book about Catholic legal education in the United States. It is an important topic, and their work promises to be a significant contribution to the conversation about the mission of Catholic law schools. My reflections here will focus on Chapter Five.

All of us participating in this symposium are engaged in the collective enterprise of thinking through and implementing what it means to be a Catholic law school. As a historian, personally I am well aware of the value of studying where we have been as part of the conversation about where we should be going, so I welcome this enterprise.

However, in this short reflection I would like to highlight two points of disagreement that I have with Professors Breen and Strang. These points grow out of many aspects of my personal experience—as a Catholic, as someone who has been dean of two Catholic schools for a total of almost twenty years, who taught at a Catholic law school for ten years before “deaning,” and who served as a board member of a Catholic high school. In addition, from childhood I am privileged to have had numerous occasions to be immersed in conversations about Catholic education, with my aunt, a Sister of Charity who taught at a grammar school, and my uncle, a Benedictine Priest who taught at a high school, who spoke with me often about their work.

My first point of disagreement is with Breen and Strang’s principal focus on what they see as “distinctive” about a Catholic law school. I believe a better focus would be on the traits that

[†] Dean and Paul Regis Dean Leadership Professor, Georgetown University Law Center. In addition to Professors Breen and Strang, I would like to thank my fellow participants in this program, particularly Professor Amy Uelmen. Professor Uelmen’s path-breaking scholarship and our many conversations over the course of almost two decades have profoundly influenced me, and this essay in large part springs from my reflections on those conversations and her writings.

define a Catholic law school, a broader topic. As we think of the future, we should embrace all the elements of our mission, even those that we share with non-Catholic schools.

The second point of disagreement is with the position that they seem to take: that there is only one type of Catholic law school. I think there are different models. I do not reject the model they offer. But perhaps I have a more “catholic” view of what it means to be a Catholic law school.

To begin with the first point: In discussing potential defining elements of Catholic legal education, Breen and Strang mention access and commitment to justice, but they dismiss both. They recognize that Catholic law schools were once in the forefront of providing access to a legal education, not just for Catholics, but for working-class students generally. They note, however, that Catholic law schools are, in fact, often behind our peers, both in terms of racial diversity and economic diversity. And they say that we were never very committed to justice, pointing to the fact that their historical work has uncovered little concern for justice in the rise of clinical education. Thus, they conclude, there is little evidence that a commitment to justice or to access is a core commitment of Catholic legal education.

There is, to begin, a logical flaw with their approach: they say that, because we are not advancing access or pursuing justice very well, we should not try to be good at it. They also say that we are not very good at teaching the Catholic intellectual tradition, yet, for some reason, they feel that this is an end we should pursue. In other words, we are failing at part of our mission, and so should abandon it, but when it comes to failures with another part of our mission, we should redouble our efforts. This is inconsistent. I think we should try to pursue all elements of our mission, even when they are difficult.

I see our commitment to justice and our concern with access as linked and as fundamental. As the Catholic Bishops have stated, “A basic moral test is how our most vulnerable members are faring. . . . [We must] put the needs of the poor and vulnerable first.”¹ Our commitment to access grows from our commitment to justice.

¹ *Option for the Poor and the Vulnerable*, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, <http://www.usccb.org/beliefs-and-teachings/what-we-believe/catholic-social-teaching/option-for-the-poor-and-vulnerable.cfm> (last visited June 14, 2020) [<https://perma.cc/3F4V-K2W8>].

The Catholic law schools where I have taught are explicit in their commitment to justice. Georgetown Law’s motto is “Law is but the means, – Justice is the end.”² Articulation of the commitment was equally powerful at Fordham. One of my associate deans at Georgetown, Jane Aiken, had previously taught at four law schools and had attended another. She often reflected that until she came to Georgetown, she had never been at a school where it was permissible to speak of the institution as committed to justice, but that at Georgetown it was simply a given. As dean, I mention it in virtually every speech to students.

And I can testify from personal experience that our schools’ commitment to clinical education flows not just from a pedagogic commitment, but from the belief that clinical education helps to advance the goal of educating lawyers with the tools and the skills to work to make this a more just world. I know about this vision of experiential education from working closely with Dean John Feerick, who brought clinical education to Fordham. I never tire of emphasizing this connection. And I hear it from my fellow Catholic law school deans. This emphasis may not show up in the formal accreditation documents submitted to the ABA that Breen and Strang have studied, but this does not mean that it is not an animating principle.

It is true that there are other law schools—schools that are not Catholic law schools—that also have strong commitments to justice and to access. But that does not mean that these two commitments cannot also be hallmarks of the mission of a Catholic law school. If we are not doing as well as other schools in pursuing these commitments, the answer should be: we must rededicate ourselves to educating for justice and to opening doors. These are core elements of Catholic legal education.

Turning to the second point: I believe we should be catholic about what it means to be a Catholic law school.

It is important to recognize our common journey includes distinct spaces that require distinct approaches. The landscape of Catholic law schools manifests different ways to approach Catholic education, informed by different spiritualities—not just one model, and not just one way of communicating.

² *Georgetown Law Timeline*, GEO. L. LIBR., <https://www.law.georgetown.edu/library/special-collections/archives/georgetown-law-timeline/> (last visited June 14, 2020) [<https://perma.cc/G9ZV-B76S>]; GEO. UNIV. LAW CTR., <https://www.law.georgetown.edu/admissions-aid/connect-with-georgetown-law/visit-our-campus/> (last visited July 18, 2020) [<https://perma.cc/2X4J-Y43F>].

When Fordham University had a building in lower Manhattan, the President of the University had inscribed over the front door a translation of the Latin: “Bernardus valles, colles Benedictus amabit, Oppida Franciscus, magnas Ignatius urbes.”³ Translated, it read: “Bernard loved the valleys, Benedict the hills; Francis loved the towns, and Ignatius the great cities.”⁴

He put those words over the door because the location was consonant with the Jesuit mission: the university was fully of the city, immersed in the world. Together with a recognition that there were other equally valid paths to a Catholic education, there was room to acknowledge how much Ignatius loved the great cities. When I think of the model of legal education at a Catholic law school, this immersion in the world and an openness to discourse among people of different backgrounds and faiths—and no religious faith—resonates with me as a Jesuit path.

At Fordham and at Georgetown, we offer opportunities for students and faculty to learn about and engage with the Catholic intellectual tradition and to reflect on the relationship between their faith and their work as a lawyer. When I was dean at Fordham, we initiated the Natural Law Colloquium, “dedicated to encouraging reflection on the natural law tradition in law, politics, and public discourse.”⁵ In 2001, shortly before I began my tenure as dean, we launched the Institute on Religion, Law, and Lawyer’s Work, which Amy Uelmen brilliantly headed, with the goal of “integrat[ing] faith values and perspectives in the context of the challenges of legal practice.”⁶

³ Fordham Univ., Blessing of the House of Scholars—Program (Jan. 16, 1945), https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1003&context=vincent_building [<https://perma.cc/9HDD-56GF>].

⁴ Joseph P. Daoust, *Legal Education in a Catholic University: Mission and Possibilities*, 78 U. DET. MERCY L. REV. 27, 36 (2000) (emphasis omitted) (translating “the renaissance ditty”).

⁵ *Natural Law Colloquium: Legal Interpretation and Natural Law*, FORDHAM UNIV. (Sept. 16, 2019), https://www.fordham.edu/download/downloads/id/13635/natural_agenda.pdf [<https://perma.cc/GL4F-43GD>].

⁶ *Institute on Religion, Law, and Lawyer’s Work*, FORDHAM UNIV. SCH. OF LAW, https://www.fordham.edu/info/20694/institute_on_religion_law_and_lawyers_work (last visited May 25, 2020) [<https://perma.cc/RZR7-AX6J>]. On the launch of the Institute, see Avery Cardinal Dulles, *Catholic Social Teaching and American Legal Practice*, 30 FORDHAM URB. L.J. 277 (2002) (inaugural lecture of Institute on Religion, Law & Lawyers’ Work Catholic Lawyers’ Program); John D. Feerick, *Response to Avery Cardinal Dulles*, 30 FORDHAM URB. L.J. 291 (2002).

Georgetown offers numerous opportunities for students, faculty, and staff to learn about and immerse themselves in the Catholic and Jesuit heritage of the university. For example, we offer the various paths for spiritual exercises for faculty members who express interest, as well as shorter courses in Jesuit spirituality. I recently had a terrific conversation with a faculty member whose faith is outside the Judeo-Christian tradition who shared how much she valued this exposure.

We welcome the active contributions of Jesuits and other clergy in our law school’s Campus Ministry office, as well as the in-depth expertise of a former law professor who runs our programs on Jesuit mission and reflections on faith and justice. In terms of the curriculum, we have several courses that help students to reflect on how a faith perspective might be integrated into their work as lawyers and their reflection on the great questions of our time. Offerings include a practicum on law and religion, and seminars in Catholic Social Thought and the Law; Religion and the Work of a Lawyer; and Religion, Morality and Contested Claims for Justice. Father Les Orsy, a Jesuit who is a revered theologian, teaches courses in law and philosophy, and our faculty recently put together a marvelous *festschrift* on his work.⁷

Some of this dovetails with Breen and Strang’s proposal to integrate the Catholic intellectual tradition into curricular and cocurricular offerings, but we certainly do not have a majority of Catholic law professors at Georgetown. Nonetheless, we do foster serious discussion about faith and give our students the resources to reflect on the relationship between their faith and their lives as lawyers. As the examples I offered above reflect, our Jesuit and Catholic identities very much define us.

When I was in college, I wrote a junior year thesis on Cardinal Newman and his conversion. In thinking about Newman, I was very struck by the title of his book, *The Idea of a University*.⁸ Not “The Idea of *the* University,” but “The Idea of *a* University.” Cardinal Newman acknowledged that there were other models—other visions of a university. And the same is true of Catholic

⁷ *Celebrating Georgetown Law Professor Ladislav Orsy, S.J.—at 96 Years Young*, GEO. UNIV. L. SCH. (Jan. 23, 2018), <https://www.law.georgetown.edu/news/celebrating-georgetown-law-professor-ladislav-orsy-s-j-at-96-years-young/> [https://perma.cc/P5U6-G7RJ].

⁸ JOHN HENRY NEWMAN, *THE IDEA OF A UNIVERSITY* (Assumption Press 2014) (1852).

legal education. For the project going forward, my suggestion would be to devote a little bit more space for diverse models and paths to arrive to a similar goal. In their effort to describe “the” Catholic Law School, Professors Breen and Strang end up missing much of what is happening on the ground that does in fact advance the aims that they hold dear.