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BACCALAUREATE MASS REFLECTION THE CATHOLIC LAWYER: JUSTICE AND THE INCARNATION

JOHN M. BREEN*

I deeply appreciate being given the opportunity to share my thoughts with you today at this Baccalaureate Mass. In offering this reflection, I would like to say something that is worth hearing for everyone here, but in particular I would like to address the members of the graduating class.

This is a truly joyful occasion: The day you graduate from law school. I hope you know that everyone here, your family and friends, the faculty, staff, and administration of the Law School and the University, are proud of you and of your accomplishments. We are happy to be with you and to share your joy as we celebrate this day.

This celebration begins here, with our celebration of the Mass. We are commemorating and celebrating the learning you have gained and the sacrifices you have made during the past three or four years of law school by celebrating and commemorating the sacrifice of the Lord Jesus, the Divine Teacher who fulfilled the law perfectly by embracing the Cross. In the life and person of Jesus, given to us in the Gospel and in the Eucharist, we have someone to whom, no matter how educated we become, no matter how many degrees we accumulate, we can always return and learn something new, and meaningful, and wonderful to behold.

I think it would be fair to say that you see some connection between your faith and your legal education, otherwise you would not be here today. You certainly weren't required to come

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to the Baccalaureate Mass. You could have skipped it and stayed home this morning and slept in, or you could have gone to brunch with your parents or friends. But you chose to come here because you see that your faith and your chosen profession are related. They are connected in some fashion.

This morning I would like to share with you some of my reflections on this connection, on the relationship between the practice of the Catholic faith and the practice of law.¹ The first thing that can be said about this relationship is that it is multi-faceted. Indeed, there are so many connections that we couldn't discuss them all even if we had the time. I would like to focus, therefore, on two connections that I think are especially pertinent to your future work as attorneys.

The first of these connections is your responsibility to see that justice is done within our legal system.² Justice is of course concerned with matters of right and wrong, good and evil. Justice is the right ordering of things, the right relationship among people within society, and between human beings and God. Ultimately the justice that each of us owes to one another is love,³ and the justice to which God calls us is communion with Him in heaven.

The justice of our legal system is a little different. It doesn't set its sights quite so high. It is still concerned with right and wrong, but it conceives the question almost entirely in procedural terms. Thus, justice in our legal system is primarily concerned with ensuring that the proper rules have been followed.⁴ This emphasis on rules and procedures might lead

¹ See generally JOSEPH G. ALLEGRETTI, *THE LAWYER'S CALLING: CHRISTIAN FAITH AND LEGAL PRACTICE* (1996); Grace M. Walle, *Doing Justice: A Challenge for Catholic Law Schools*, 28 ST. MARY'S L.J. 625, 632-34 (1997).

² See, e.g., Teresa Stanton Collett, *Speak No Evil, Seek No Evil, Do No Evil: Client Selection and Cooperation with Evil*, 66 FORDHAM L. REV. 1339 (1998); Walle, *supra* note 1, at 625-26, 632-34; see also Cohen v. Hurley, 366 U.S. 117, 123-24 (1960) (describing members of the bar as being responsible for the proper administration of justice); Eugene R. Gaetke, *Lawyers as Officers of the Court*, 42 VAND. L. REV. 39 (1989) (discussing how the professional codes governing attorney conduct describe lawyers as having a decidedly public function and responsibility that goes beyond the private duties they owe to individual clients).

³ See John 15:12 ("This is my commandment: love one another as I love you."); Leviticus 19:18 ("You shall love your neighbor as yourself. I am the LORD."); Matthew 19:19; Romans 13:9.

⁴ See, e.g., Geoffrey C. Hazard, Jr., *The Future of Legal Ethics*, 100 YALE L.J. 1239, 1266 (1991) ("[T]he legal profession's traditional ideal viewed the lawyer as the protector of life, liberty, and property through due process. The profession has

you to believe that justice really isn't your concern, that it is an ethereal, other-worldly concept which you may have talked about in law school, but which has no bearing on the "real world" of practicing lawyers.

Make no mistake, nothing could be farther from the truth. Every day when you go to work as a lawyer, justice should be on your mind. For some of you this will be easy: for the prosecutor seeking to incarcerate a brutal rapist, or the defense attorney representing an individual wrongly accused of a crime or whose rights have been violated by the state. But justice is also at stake even where the competing interests in public safety and individual freedom aren't so acute. When you, as a civil litigator in private practice, serve an overly broad discovery request on your opponent, justice is called into question. When you, as a business lawyer, advise a corporation whether to purchase a competing business, or to treat a certain item as a deduction on its taxes, justice is at stake.

Indeed justice touches upon virtually everything you will do in your professional life, even the most boring and routine, like keeping track of your billable hours at the end of the day.⁵ It's easy to lose sight of this, but your Christian faith requires you to be mindful of justice even where it isn't readily apparent.⁶

The second connection between the faith and the practice of law that I would like to share with you today is the Mystery of the Incarnation, a belief which is at the very heart of our Catholic faith.

Simply put, our belief in the Incarnation is this: Some two thousand years ago, Jesus Christ, who is truly God, entered into human history as a man.⁷ He did not come in all the overwhelming splendor of the Divine, but in a way that made the glory of God intelligible to human beings. As St. John so

sought to define this function in procedural terms, without express commitment to questions of distributive or social justice."); see also ALLEGRETTI, *supra* note 1, at 105 (remarking that "[l]awyers in general see justice as mostly a matter of procedures, of due process, or impartial rules impersonally applied").

⁵ For accounts of how lawyers often take advantage of clients in the billing process either through fraud or conduct that approaches fraud, see Symposium, *Unethical Billing Practices*, 50 RUTGERS L. REV. 2151 (1998).

⁶ See CATHECHISM OF THE CATHOLIC CHURCH ¶ 1807, ¶¶ 1928–33 (1994); Walle, *supra* note 1, at 628–30.

⁷ See *id.* ¶ 461, ¶ 464 ("[Christ] became truly man while remaining truly God. Jesus Christ is true God and true man."); see also *Luke* 2:1–20 (recalling the virgin birth of Jesus which bears witness to his divinity); *Matthew* 1:18–25.

beautifully writes in the prologue of his Gospel: "The Word became flesh, he dwelt among us, and we saw his glory, the glory as of the Father's only Son, full of grace and truth."⁸ And so it is that Jesus Christ, the Word of God, took on our human nature and became incarnate. He came as one of us, as a human being who was nurtured in the womb of his human mother and taught the value of human work by his human adoptive father, a carpenter.⁹

We are treated to a glimpse of this mystery in the Gospel reading for today, taken from the end of St. John's Gospel. Here the Crucified and Risen Christ appears to the apostles by the Sea of Tiberias. After seeing Him suffer and die on the Cross, the apostles now enjoy the company of Jesus once again, revealing the glory of God. They know that as God Jesus is the master of all existence, of time future and time past. He knows when and how St. Peter will die and give glory to God.¹⁰ Moreover, as St. John makes clear, because Jesus is the Son of God, the world could not contain all the books that could be written about Him.¹¹ He is the Word of God which mere human words cannot fully capture or express.

Our belief in the Incarnation is not belief in a myth or a story, let alone a feeling as to how the world ought to be. It is, instead, belief in an historical event, an event in human history of such singular and universal importance and ultimate meaning that its true significance can never be overstated.¹² As such, it has a direct, immediate, and intimate bearing on what you will do as lawyers everyday. What is this connection?

Everyday you are in practice as an attorney, you will deal with the real concrete legal problems of real human persons. For most of you, this will be a drastic change from your experience in law school. This is because for the past three years you have, as

⁸ *John* 1:14.

⁹ See SECOND VATICAN COUNCIL, PASTORAL CONSTITUTION ON THE CHURCH IN THE MODERN WORLD, GAUDIUM ET SPES § 22 (St. Paul. ed., 1965) [hereinafter GAUDIUM ET SPES] ("[T]he Son of God has united Himself in some fashion with every man. He worked with human hands, He thought with a human mind, acted by human choice and loved with a human heart. Born of the Virgin Mary, He has truly been made one of us . . .").

¹⁰ See *John* 21:18-19.

¹¹ See *John* 21:25.

¹² See CATHECHISM OF THE CATHOLIC CHURCH, *supra* note 6, ¶ 464 (referring to "[t]he unique and altogether singular event of the Incarnation of the Son of God").

it were, lived in the land of the hypothetical, where one “party A” sued “party B” over the sale of some parcel of land called Blackacre, and where XYZ Corporation manufactured faulty widgets which injured plaintiffs John Doe and Mary Roe. This was all imaginary and you knew it, but it served its pedagogical purpose. The unreality of the hypothetical gave you the critical distance you needed to see the point of law, to abstract the principle at work and to see how it might apply in other generically similar situations. Throughout your legal education you also surely read many real cases from the past that involved the lives of real people, but even these had an air of unreality about them. They were someone else’s cases, a history already lived, not something to be touched here and now.

Today, in graduating from law school, you have in a sense “graduated” from the hypothetical reality of the classroom to the incarnate reality of legal practice, and life will never be the same. Now you will be dealing with real companies that manufacture real products, not widgets—companies that engage in real transactions with real consequences not only for the buyer and seller, but for all of society. There will be no more party A’s and B’s or John Does and Mary Roes. Instead, everyday you will come face-to-face with a real flesh-and-blood human being with a real name, with a real history, and with real problems to be solved.

This concrete reality that you will soon experience as lawyers has a profoundly religious and spiritual dimension to it, a dimension whose meaning becomes clear only in light of the faith and in particular, the Mystery of the Incarnation. From the revelation that God shared with our Jewish brothers and sisters long ago, the descendants of Abraham, our father in faith,¹³ we know that every human person is formed in the image and likeness of God.¹⁴ In the Mystery of the Incarnation the profound dignity of human nature is fully realized, and “the incomparable value of every human person” is made manifest.¹⁵ Indeed, the Second Vatican Council teaches us that by the “very fact” that Christ assumed a human nature, He raised it up “to a divine dignity in our respect too. For by His incarnation the Son

¹³ See *Romans* 4:16–17 (discussing how Abraham is the father of all believers).

¹⁴ See *Genesis* 1:26–28 (“God created man in his image.”).

¹⁵ JOHN PAUL II, ENCYCLICAL LETTER, *EVANGELIUM VITAE* § 2 (1995).

of God has united Himself in some fashion with every man.¹⁶ This unity with Christ is not a unity with human nature in the abstract. Indeed, in reflecting on this passage from the Council at the beginning of his pontificate, Pope John Paul II made clear: "We are not dealing with the 'abstract' man, but the real, 'concrete,' 'historical' man. We are dealing with 'each' man, for each one is included in the mystery of the Redemption and with each one Christ has united himself for ever through this mystery."¹⁷

Thus, the significance of the Incarnation for you as lawyers could not be more profound. The reality of God having become one of us for our sake means that in your work as attorneys you must strive to find Christ in other people.

Again, for some of you this will be easy. Because Christ was Himself a victim who wrongfully suffered at the hands of others, you should be able to find Him in those who are victimized today—the personal injury plaintiff who was crippled by the negligence, greed, or indifference of another, the worker who was not hired because of the color of her skin, and the child who was abandoned, abused, or neglected by his parents. The dignity of Christ Himself can be found in each of these persons, and you as a lawyer must work to serve this dignity through the instruments of law.

But you must go beyond this. You must also see Him where you least expect Him. You must find Him not only in the innocent client who is a sympathetic victim, but in the guilty person whom the state would condemn to death. You must see Him in the attorney who is your opponent, and in the judge who oversees your case. This, I can assure you, will not always be easy. Indeed, sometimes it will be very difficult because sometimes your opponent will treat you unfairly, and sometimes judges make decisions that are wrong or even unjust. As a Catholic lawyer you need not simply accept this unfair treatment, but you must remember that incivility, mistakes in judgment, and even criminal guilt, cannot erase the dignity that every human person enjoys by virtue of God's love revealed in the wonder of the Incarnation.¹⁸ It will not always be easy to see

¹⁶ GAUDIUM ET SPES, *supra* note 9, § 22.

¹⁷ JOHN PAUL II, ENCYCLICAL LETTER, REDEMPTOR HOMINIS § 13 (1979).

¹⁸ See EVANGELIUM VITAE, *supra* note 15, § 9 ("Not even a murderer loses his personal dignity, and God himself pledges to guarantee this.").

the world in this way, but this is the demand of your faith, this is the call of your baptism.

It is your baptism that continues to bind you to Christ even today.¹⁹ During your time at Loyola when you were hard at work in studying for exams, when you set out to learn some arcane point of law dealing with federal taxation, the Uniform Commercial Code, or the law against perpetuities, or when you toiled away revising your moot court brief or your research paper by poring over the tedious and insufferable rules of the Blue Book, you may have thought that you were isolated and alone.

But you were not alone. Christ was there with you shouldering your burden, holding you up, and leading you on.²⁰ And Christ, the Incarnate Son of God, will continue to be there with you through all the challenges you will face in your professional life. You have only to ask for His help.

* * *

Some two thousand years ago the Son of God became Incarnate, and history will never be the same. Soon, you will be lawyers, and life will never be the same. May God give each of you the grace to live your vocation as a lawyer in the service of justice and in authentic witness to the Gospel. Amen.

¹⁹ Cf. *Romans* 6:3–4 (“You have been taught that when you were baptized in Christ Jesus you were baptized in his death. In other words, when we were baptized we went into the tomb with him and joined him in death so that as Christ was raised from the dead by the Father’s glory, we too might live a new life.”); see also CATECHISM OF THE CATHOLIC CHURCH, *supra* note 6, ¶¶ 1272–74 (commenting on the indelible mark of baptism).

²⁰ See *Deuteronomy* 1:31 (“[T]he LORD, your God, carried you, as a man carries his child, all along your journey until you arrived at this place.”).

