

A DEFENDER OF HUMANITY: IN HONOR OF PETER CICCHINO

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It is such an honor to have been asked to be on this panel—I am very grateful to be at this celebration with Peter, with our students, friends, colleagues, and last, but not least, Peter’s family, including Jonathan.

The first time I ever encountered Peter—other than by reputation, which was quite considerable in public interest circles, even among students aspiring to do public interest work—was in 1995. There is an annual “Skadden Day” in April for the incoming, current, and outgoing Skadden Fellows who have been awarded two years of support to provide legal services to the poor. At this event, several Fellows in the final year of their projects give talks about their work. The remarks are informal, sometimes off the cuff. But there was this man in a suit, with a prepared, typed-out text—like the future academic he was—which he proceeded to read. This, of course, was Peter. His remarks, like in his essay “Defending Humanity,”¹ the subject of our panel today, began with the story of *Horton Hears a Who!*² In the story, the Whos, microscopic people who live on a dust speck on a flower, are so small, that no one, other than Horton, the elephant with huge ears, recognizes the Whos’ existence. But Horton persists in asserting the Whos’ humanity and protects them, in the face of much abuse. At the last fateful moment when Horton is imprisoned and the Whos face death—the Whos manage to organize themselves to shout together: We are Here! We are Here! And the others suddenly realize Horton was right all along.

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1. Peter M. Cicchino, *Defending Humanity*, 9 AM. U. J. GENDER, SOC. POL’Y & L. 1 (2001).
2. DR. SEUSS, *HORTON HEARS A WHO!* (1954).

The Whos, said Peter in 1995, were like his clients—gay and lesbian youth, whose existence was denied, leading to epidemic rates of suicide and homelessness. What I do *not* recall Peter saying was that he was like Horton—someone whose enhanced auditory ability lent him an enhanced moral sensitivity. But I think, in considering Peter’s life and work, it is no leap to say that such enhanced moral sensitivity has led him to do public interest work in rural Pennsylvania, in poor neighborhoods in Guadalajara, the Bronx, and Johannesburg, as a Jesuit and a public interest lawyer, over a space of almost twenty years. He has chosen to live his life in a way that exemplifies the possibility of human interconnections, which he writes about in his piece.

I had the great fortune of coming to WCL with Peter where, despite his diagnosis, he has repeatedly said he has spent two of the happiest years of his life. One of the most remarkable things about being here with Peter has been to witness how he models a good and happy human life. As a colleague and a teacher, Peter functions as a moral voice and a builder of community. I know that, strangely, being a moral voice is often correlated with the notion of being devoid of humor. But Peter is anything but. One of the most enjoyable points of our time together has been teaching the same first-year section last year, section 3. We were able to play our very different pedagogical styles and personalities off of each other so that, in Peter’s words, he thought the students saw us as a version of the 1950s family (the stern dad and the loving mom), or, reflecting his religious training, as an angry God and the Virgin Mary.

Because I know that Peter wants a discussion about the substance of his piece, much as I would want to instead share more stories, let me make some brief remarks. And since I know Peter, I know that my critically engaging his essay is mind candy to him, and I proffer this to him in that spirit.

His essay, “Defending Humanity,” is an exhortation and an encouragement to those engaged in public interest work. What he does is to name the work so many of us do as defending human rights, which, he argues, rests on the notion of a shared human nature, presumes the non-commodification of people, and is a kind of work that is part of leading a good and happy human life.

In reflecting on Peter’s essay, it is important to note and to name the resistance to using both human rights mechanisms and human rights discourse in the U.S. context. Resistance to both is connected to the fact that the United States refuses to recognize international human rights standards, and flouts them, even while priding itself on

being the utmost protector of such, and claiming to export human rights around the globe. This inconsistency is linked to the U.S. prioritization of civil and political rights over the economic and social. There is an immense *lack* of moral sensitivity to the everyday violation of economic and social rights that occurs in this country. And these violations are precisely what Peter has devoted much of his life to combating.

That thousands of protestors could be galvanized about global economic inequities is not something I would have believed two years ago. The presence today in Washington of these demonstrators, and the connections they feel to the subordinated and disenfranchised whose humanity is routinely denied, is striking. Watching the arrests on TV, I was reminded of calling Peter for help last year. I had received a desperate phone call from New York—a friend had attended a peaceful vigil on behalf of Matthew Shephard and was swept up from the sidewalk and arrested. I thought Peter might have served as a legal observer for protests in New York City, and might know something about the process people go through when arrested in Manhattan. So I called. Peter told me in precise detail what would occur at approximately what time, and then modestly mentioned that, in fact, he had been arrested in New York City dozens of times.

In thinking about the protest this weekend, and Peter's essay, we have to consider the question of identity, for we must grapple with the question of race within this nascent movement and its overwhelming whiteness. In his essay, Peter asks us to transcend identity politics and find genuine connection with and build lasting alliances with others who struggle for justice. Many of us have called for the shift from identity politics to a politics of political identity. But how we make that shift is a difficult question that deserves careful attention.

Peter seeks to make that shift by, in part, calling for the recognition of a shared human nature in direct contradiction to both identity politics and postmodernism. Peter associates identity politics with a postmodern critical approach that he says has exhausted itself. I would disagree, both about this association, and with a totalizing criticism of postmodernism. First, identity politics in the academy descends from a very different genealogy—cultural feminism, third world studies, ethnic studies—than postmodernism. And second, I think there is much that deconstructive approaches have given us, or at least me personally, in my work as a public interest lawyer. Postmodern theory has helped me to understand the ways in which bifurcated thinking about the citizen and the illegal immigrant, for example, have shaped perceptions of my clients. It helps me to

understand the risks and benefits of being strategically essentialist on behalf of clients—for example, in seeking to deploy myths about what “America” is, or about what particular “cultures” stand for. And identity politics has been useful too. Organizing around identity has been beneficial in many ways in creating communities of interest—even while I am critical that the very fact of this organizing elides differences, and creates the perception of alliances where sometimes none exist. Nonetheless, a call to abandon identity politics has the effect, I am afraid, of destroying what can serve contingently as communities of interest, for example, along the lines of race.

In exhorting us to make the shift to defending a common humanity, Peter relies on the idea of a shared human nature from which universal values can be identified. It may seem that I fall within what Peter calls the critique on the left, where he writes, “sensitivity to cultural diversity, opposition to anything that smacks of essentialism, and an at times excessive form of social constructionism make the idea of a shared human nature singularly unwelcome.” My questioning what are developed as universal values and understood and implemented as human rights norms does not stem from a commitment to cultural relativism. It should not be heard as such. Rather, my critique comes from concern that, for one, assumptions made about the origins of universal values are culturally shaped. For example, the universal values—at least the civil and the political—are generally understood to be the implementation of a great Western, or American tradition. But we could look to the work of Amartya Sen, who, in his piece, “Human Rights and Asian Values,”³ identifies precisely the same commitment to individual liberties in the work of thinkers who are generally recognized in shaping culture in India, China and Japan. We cannot merely call for a universalizing project without recognizing the role assumptions stemming from colonial and imperial encounters have played in considering who are the purveyors and true inheritors of the tradition of liberal rights—and who are the violators. Of course, the response could be: well, that is precisely the reason to apply these rights universally, and apply them to those who are not historically thought to have been entitled to those rights. But, while fighting for human rights, we need to be simultaneously attentive to histories of global divides in power and be honest and self-critical about what actually works.

Thus, I would ask Peter to think about these criticisms—and I am fully prepared to be crushed by the force of his intellect!

3. Amartya Sen, *Human Rights and Asian Values*, NEW REPUBLIC, July 14, 1997, at 33.

I want to turn to the question of what makes a good and happy human life—and Peter’s claim that defending the rights of others is itself a constituent part of such a life. This is a claim I also embrace. To be a public interest lawyer is to exist in a community and to engage in a collective struggle where the relationships you forge through fighting adversity are truly uncommon bonds. This, in fact, is how I became friends with that fearless advocate, Julie Su. But there is another aspect to being a public interest lawyer that is worthy of note—to be a public interest lawyer is to do something beautiful. And to talk about this, I want to quote from something written by none other than Peter Cicchino.⁴ In his words:

[This] is a story about the continuing struggle for justice in very discouraging times. It was 1983, and I was a Jesuit novice. After spending thirty days in silent prayer, I had been shipped off to St. Francis Inn, a shelter and soup kitchen in Philadelphia. It was winter, and the Reagan administration, committing one of its many sins, had thrown thousands of people off the Social Security Disability rolls. The day was brutally cold, and a severe storm had buried the city in snow. We had served nearly five hundred people that day in the soup kitchen, and we had nothing left.

I remember coming home that evening to the other sisters and brothers and saying “What will we do? We have nothing left for tomorrow, and it also looks like the kingdom of God, as we call it, is going nowhere.” In response, one of the brothers said to me, “That’s not true. We just spent a whole day giving food to hungry human beings. So the kingdom of God is advancing *inside us*.”

I tell that story because, even now, thirteen years later, it gives me some consolation. You see, even if I am completely wrong—if our work has no efficacy, if we have no hope of understanding, explaining, or bringing under some degree of rational human control the economic and social forces that now dominate our lives and the lives of so many suffering peoples—we should at least take joy in the aesthetic project we have undertaken. The project of becoming and being a political lawyer is something beautiful. It is something that should make us happy and proud.⁵

I want to close by sharing something that I think presents Peter’s main message in “Defending Humanity.” This is a song that Peter had told me he thought about playing at the last meeting of his Constitutional Law class, because it was the message he most wanted to impart to his students. I see this as the message of Peter’s spirit.

4. Peter M. Cicchino, *To Be a Political Lawyer*, 31 HARV. C.R.-C.L. L. REV. 311 (1996).

5. *Id.* at 314.

What the world needs now, is love, sweet love
It's the only thing that there's just too little of
What the world needs now, is love, sweet love
No not just for some but for everyone.
Lord we don't need another mountain
There are mountains and hillsides enough to climb
There are oceans and rivers enough to cross
Enough to last till the end of time
What the world needs now is love, sweet love,
It's the only thing that there's just too little of
What the world needs now is love, sweet love,
No not just for some, but for everyone.⁶

6. Dionne Warwick, *What the World Needs Now Is Love*, on HIDDEN GEMS (Rhino Records 1992).