

OPENING REMARKS

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The first thing I want to do is thank everyone for attending, but I should say, pizza will not be served at this event. So if you want to discreetly leave, you may.

I don't know how to express my feelings about this. It was my brother that once said to me that when you are the object of a completely unmerited act of generosity the best thing to do is just to accept it, but to accept it as more of a reflection on the giver than on the one to whom it is given. And I think about that with regard to this institution. It is particularly appropriate that we are here celebrating public interest law at the Washington College of Law, because as my colleague Mike Tigar likes to say, this is one of the few places where people come to work asking how can I do justice, how can I make this a better world?

But I also think that it's appropriate because of the protests that are going on,¹ that whatever we think of the intentions or the goals of the protestors, there is at least some sense that we are evermore tied together as a world community, and that what happens in Washington, D.C. or New York City cannot be divorced from what happens in Sao Paolo or Calcutta, or in Paris.

I also have to say that there are three names that may not mean something to everyone here, but recently there were three deaths, of James Vorenberg, Gary Bellow, and Abe Chayes. One of them was a professor of mine when I was in law school, another was a professor there and a friend, and another a former dean; three men who

* This comment is based upon remarks that Professor Cicchino delivered at a ceremony held on April 17, 2000 at the American University, Washington College of Law in Washington, D.C. The ceremony honored Professor Cicchino and established a new award dedicated in his name. The Peter Cicchino Award for Outstanding Advocacy in the Public Interest recognizes students and alumni whose devotion and creative service to the public interest exemplify the highest ideals of the Washington College of Law.

1. See, e.g., Judy Mann, *Standing Up for the Victims of Globalization*, WASH. POST, Apr. 26, 2000, at C13 (discussing the protests that surrounded the World Bank meetings in Washington, D.C.).

devoted themselves in different ways and varying degrees to public interest law. The fact that they have died so recently also, to me, adds a special poignancy to this.

But we are an academic institution, so even our celebration is somewhat critical. That is what academics do; they like to criticize and amazingly, they get paid for doing it. And so what I wanted to do to help orient this discussion is to investigate a number of questions concerning public interest law. And what I thought I would do is go through those questions and then say something about how the Essay² attempts to address them. And I will just go through the questions, as lawyers like to say, *seriatim*. I will just go through them in order.

The first question is, what is public interest law and what does public interest law consist of most fundamentally and how do we define the boundaries of public interest law?

The second related question is, what are the most effective means of carrying out a career in public interest law and how do we encourage students in doing that?

Thirdly, and this is of particular interest to the Essay, what is the connection between leading a good human life and working in the public interest as a lawyer? I don't think we think enough about what it means to be a good human being and the way in which our work, work from which so many people are alienated or to which they are coerced, might contribute to that.

Fourthly, and also related, what's the connection between leading a happy human life and doing public interest work? That is to say, is public interest work a kind of martyrdom, the way it's often depicted, that you come out of school with a law degree, which in many contexts is a license to print money in this country, and then you go to a low-paying job and devote yourself to working in the trenches and you may be serious and angry, but you're not really happy. Is that true? I hear my friend Ricky Blum chuckling. Or, as was so frequently said of Hubert Humphrey, can we be happy warriors, can we embody the Ghandian spirit of nonviolence in our work even when we confront the most vicious forms of exploitation and oppression, so our work is motivated on love and not by hate?

Fifthly, how do we balance other human concerns, particularly economic concerns, like paying the rent, like going on vacation every now and then, like maybe sending your kids to a decent school? How

² Peter M. Cicchino, *Defending Humanity*, 9 AM. U. J. GENDER SOC. POL'Y & L. 1 (2001).

do we balance those other human concerns with doing public interest law? All too often it seems to me that students particularly are given the impression that it's either St. Francis of Assisi or Ivan Boesky. You're either a saint or a total sellout.

Sixthly, what are the theoretical tools, if any, that public interest lawyers need to develop in carrying out the work most effectively?

Now the Essay *Defending Humanity* takes up some of those questions. I should say the context of it—I am working on a book of essays of which it is a part—I was asked a couple of years ago to give a keynote address at the Robert Cover conference. Robert Cover was a marvelous public interest lawyer, activist, and a scholar who put forth the idea, shortly before he died an all too early death from cancer, that a gathering of public interest lawyers and students interested in public interest law would be held each year. And it was for me particularly—I don't know, providential—that I was asked to give the address, and the essay covers several issues.

The first is my contention that public interest law, like most progressive movements, and I do think that public interest law is a kind of movement, is a good practice in search of an adequate theory. My speaking and my writing has been an attempt to entice or interest progressives in what may seem a very conservative, or at least traditional, ethical theory. It's an ethical theory associated with Plato and Aristotle in the Greek classical tradition, but also to some extent has roots in medieval Catholicism; it's a nonrelativistic but thoroughly human-centered account of right and wrong. I have sometimes been teased that I have the ethical theory of Pat Buchanan or William Bennett and the politics of Karl Marx, and that is not too far off the mark.

Part of that enticement is also a criticism of the dominant, it seems to me, ethical theories or quasi-theories to which most of my progressive friends subscribe, whether it's post-modernism or pragmatism. To put that dilemma in its simplest terms, every public interest lawyer to whom I have ever spoken, when asked about that great dichotomy that Nietzsche gives us in *Thus Spoke Zarathustra*, "is it God or is it the abyss," thinks, in fact, that it's the abyss, that when it comes right down to it, all we have is our opinions and there's no way of showing, outside of any particular contingent historical human predilection that throwing people into the street because they can't afford a home, or denying them medical care is wrong, that somehow you cannot demonstrate that or prove that rationally, that the best we have is our own convictions and the practice to back that up. I just don't think that's an adequate theory.

The second issue is one of human rights. One of the contentions I make in the essay is that public interest law must broaden itself beyond our domestic legal regime to a regime of international human rights. This is nothing new. But it seems to me we have to take this most seriously, that even such seemingly and eminently domestic concerns like eviction hearings, might helpfully be concerned as part of a human right to housing.

Thirdly, the issue of happiness. One of the central preoccupations of classical Greek moral thought, but also a major preoccupation of later ethical theorists in both the utilitarian and Kantian traditions is the connection between happiness and virtue. Now Kant, you may know from reading the *Second Critique*, which I'm sure everybody was reading last night, thought you needed God to re-establish that link. The Greeks thought otherwise, and I take my stand with the Greeks, that is to say I argue in the essay, and I firmly believe, that happiness is to be found in leading a good life, in fighting for justice, that if you do what is good, you will be happy.

On the most practical level, I want to make public interest lawyering and appeals to engage in public interest lawyering, particularly to students, matters of human happiness. This is a great life. And since law professors, I think, are always seeking for sources of moral authority, I will shamelessly say that as I approach the end of my own life, I have no greater consolation than the work to which I devoted myself professionally and personally. Immersing yourself in a life where you defend the weak, where you help out the poor, where you do what you can to relieve human suffering and resist those that impose that suffering, is one hell of a good time.

Fourthly, Defending Humanity, and here I will conclude. The title of the essay has several referents and I want to point out two. One of which is the most fundamental, that public interest lawyers are all united in the same struggle to defend the humanity of our clients, to demand that the poor and oppressed people we serve are human beings and ought to be treated as such. Second, by "Defending Humanity" I was also thinking of our own humanity as lawyers, that one of the best ways of holding onto your soul, of keeping true to yourself as a human being is to devote your legal career to making the world a more just place, to the relief of human suffering, and to increasing the happiness or at least the potential for happiness of the weak, the poor and the despised.

And with that, I will turn it over to our distinguished panel.