LIBERTY UNIVERSITY

Liberty University Law Review

Volume 1 | Issue 1 Article 2

January 2006

Ends and Means in Legal Education: The Founding of Liberty University School of Law

Bruce W. Green

ENDS AND MEANS IN LEGAL EDUCATION: THE FOUNDING OF LIBERTY UNIVERSITY SCHOOL OF LAW

Bruce W. Green[†]

I. INTRODUCTION

In October 2002, the Liberty University Board of Trustees made the historic decision to establish a law school. Like Icarus,[1] a university runs the risk of seriously overreaching when it undertakes such an educational challenge. It is no small decision to choose to devote the extraordinary time and resources necessary to build a sound and principled program of legal education. More than a few institutions of higher learning, having initially envisioned such a project with great enthusiasm, eventually found themselves, like the mythological Icarus, melting down from trying to reach too far. So, it was not without serious consideration that Liberty University decided to expand its reach into legal education.

Shortly after the vote by the Liberty Board of Trustees to establish the new law school, I was invited to become the founding dean. Given the tremendous outlay of resources necessary, the rigor of the accreditation process, and the absence of a recognized shortage of lawyers and law schools,[2] I found it reasonable to inquire whether a legitimate need existed for a new law school. I was pleased to learn that the desire to start a law school was not a new or passing consideration for the University. In fact, the decision itself was the result of a vision by the University's Chancellor, Dr. Jerry Falwell, dating back over twenty years. The vision of Dr. Falwell was not, however, to establish just another law school within a region already well represented by schools providing excellent legal education for their students.[3] The vision was to

---

† Founding Dean of Liberty University School of Law. The following Essay was compiled from material that originated as oral presentations on the founding and development of Liberty University School of Law within the first nine months of the law school's planning phase. Although this essay was organized in written form several years subsequent to that time, every effort has been made to credit the sources of the many ideas that went into formulating the law school's educational philosophy and approach.

1. In Greek mythology, Icarus was the son of Daedalus, who with his father escaped from a tower on the island of Crete, where they were imprisoned by Minos, by making wings of feathers fastened with wax. Icarus plunged to his death when, reaching for heaven, he flew too near the Sun and the wax melted.

2. In 2002, there were some 187 ABA-approved law schools in the United States. http://www.abanet.org/legaled/approvedlawschools/year.html (ABA historical statistics) (last visited Nov. 30, 2006).

3. Liberty University is in central Virginia, an area surrounded by well-respected law schools.

establish a law school committed to the highest standards of academic and professional excellence, with a distinctive mission rooted in the Western legal tradition, which historically maintained that truth, justice, human dignity, and other such universals have an independent objective existence.

II. THE NEED FOR A DISTINCTIVE APPROACH

We began with the firm belief that legal education occurs in a particular cultural context, through the lenses of an identifiable metanarrative,[4] and with certain presuppositions or assumptions about reality, law, and legal institutions. The concern shared by all those involved in the founding of Liberty University School of Law was that the dominant metanarrative of modern law[5] could benefit from Liberty's distinctive approach.

The common arguments one hears in defense of the nature of law and legal institutions today derives from moral relativism—from the denial of objective truth about right and wrong, good and evil.[6] Bereft of these transcendent propositions, the nature of modern law finds its defense in utilitarianism, instrumentalism, pragmatism, power, and the like—all of which are rooted in moral relativism. There is no commonly shared sense of a transcendent, objective truth to guide and direct the practice of law and legal institutions, thus

---

4. A metanarrative is a "grand theory" or overarching paradigm that gives unity to historical particulars. *See generally* JEAN FRANCOIS LYOTARD, THE POSTMODERN CONDITION: A REPORT ON KNOWLEDGE (1984) (maintaining that metanarratives or grand narratives provided the principle society used to legitimate knowledge through the Enlightenment. He describes metanarratives as total philosophies of history that regulate decision-making and the adjudication of truth. He sees the current age of Postmodernism as having brought about an erosion of confidence in grand metanarratives.).

5. By "modern law," I do not mean law tied to a specific time. Rather, the term "modern law" refers to the demonstrable and currently common view of law characterized by the pre-philosophical belief that the universe is ordered by indubitable scientific laws that are indifferent to man, requiring human beings to assert their own dignity, and the validity of the laws and legal institutions that preserve it, by a raw assertion of their own autonomy. This view of law is not by any means universal, but it is common, and as reflected in a growing body of professional literature, has negatively impacted American legal education. *See, e.g.*, ROBERT GRANFIELD, MAKING ELITE LAWYERS: VISIONS OF LAW AT HARVARD AND BEYOND (1992); Roger Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247 (1978); Arthur A. Leff, *Unspeakable Ethics, Unnatural Law*, 1979 DUKE L.J. 1229; Joseph William Singer, *The Player and the Cards: Nihilism and Legal Theory*, 94 YALE L.J. 1 (1984). *See also* MARY ANN GLENDON, A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY (1996); ANTHONY KRONMAN, THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION (1995).

6. This is so even though there is much talk about "human value," "human dignity," "justice," and other moral-laden concepts.

opening the door for easy manipulation of ideas and practices for purposes of power.[7]

In this surreal[8] intellectual climate, it is helpful to return to fundamentals—to first principles—and to rethink the entire justification for law—first by identifying the essential moral claims of modern law, and then by asking whether they are defensible on rational and principled grounds.[9] Furthermore, in such a climate, it is advisable for law schools to rethink modern assumptions and presuppositions regarding the nature of law and to ask whether those assumptions necessarily support any legitimate obligation to obey the law. If no objective support can be found, law schools have nothing better to tell their students than that they *ought* to obey the law because failure to do so will incur the raw power of the State.

III. COMMITMENT TO A DISTINCTIVE CONTRIBUTION

In the discussion and foundational stages of the law school formation, we were united in the desire to make a real and lasting contribution to legal education. Consistent with this desire, and the mission of the parent university, we set out to create an academic context in which both students and faculty could approach law with a deeper level of understanding.

In the context of a Christian law school, the approach to the study of law is not an attempt to identify a different content of legal subjects so much as it is to look at the discipline of law through lenses provided by the historic Christian faith and the Christian intellectual tradition. Humans view life and reality through their paradigms, metanarratives, and worldviews, and they interpret data through those lenses. They do not, as a rule, analyze those lenses. In that sense, no one pursues purely "objective" learning.

We came to the planning stage of Liberty's law school with the recognition and acknowledgement that learning often occurs at a deeper level. Furthermore, we believed that a law school should factor this deeper level of education into the process of teaching and learning, and develop an approach to public truth in light of it. Nowhere is this more significant than in the process

---

7. *See, e.g.*, Leff, *supra* note 5, at 1229–30 (asserting "that there cannot be any normative system ultimately based on anything except human will" and tracing some of the scars left on recent jurisprudential writings by this "growing, and apparently terrifying, realization").

8. The term "surreal" is appropriate because it so significantly departs from the history and development of the Western legal tradition. *See generally* HAROLD J.BERMAN, LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION (1983).

9. The essential moral claims or assumptions of modern law are indefensible without appeal to historic principles of transcendent objective truth. *See infra* note 39.

of theory-making—the development of the cognitive grid through which humans filter the myriad of data that comes their way.[10]

It is true that there are practical tasks of a lawyer that require no religious belief to perform effectively. Such tasks take place at a level of experience where activities and acquaintance with the world around us are remarkably the same for all lawyers. For example, it requires no particular religious belief to conduct a skillful deposition, cross-examine a witness, or draft a technically sound will or contract.

Nonetheless, there is a deeper level of understanding at which the nature of law and its implications are interpreted and explained. Teaching and understanding at this level is attained through theories.[11] It was our contention that this process of developing theories cannot fail to be influenced by moral or metaphysical belief of some kind.[12] A theory is a hypothesis or guess that is proposed in order to explain something. Lawyers cannot rationally form guesses, speculations, or suppositions to explain the definition, source, and nature of law without reference, undetected or otherwise, to a belief in something as ultimate.[13] These ultimate beliefs control theory-making in such a way that the contents of the theories differ depending on the contents of the ultimate belief they presuppose.

It is at this level of theory-making that Liberty, as a Christian law school, determined to offer a distinctive contribution to legal education. Serious consideration into such foundational matters as the source and nature of law, how a person can truly know anything, what presuppositions drive our theory-making about these matters and, ultimately, the very nature of authority itself, are at the core of what it means to study and understand law. Admittedly, such matters have little to do with the technical proficiency of a lawyer conducting a deposition or other similar tasks. Nevertheless, law touches society most deeply at the level of theories about its nature and function, not at the level of its technical proficiency in legal tasks. Therefore, Liberty University School of Law determined to formulate a model of legal education that provides a curricular context in which discussion and deliberation may occur on the great questions and theories necessary for a deeper understanding of law.

---

10. *See generally* ROY A. CLOUSER, THE MYTH OF RELIGIOUS NEUTRALITY: AN ESSAY ON THE HIDDEN ROLE OF RELIGIOUS BELIEF IN THEORIES (rev. ed. 2005) (arguing that theoretical thinking must ground itself in a metaphysical framework.).

11. *Id.* at 2–3.

12. That is, there will necessarily be a belief in something or other as *ultimate*, similar to Leff's "extrasystemic premises." *See infra* note 43.

13. For example, transcendent principles of the natural law or the authority or power of a sovereign state.

IV. THE FOUNDATIONAL PRINCIPLES

In the earliest stages of planning, the University deemed the establishment of a new law school as the perfect opportunity to address the critical issues and questions facing law and the legal academy today, as well as provide a context for achieving a deeper understanding of law. In a climate of moral relativism, like the climate so prevalent today, the University perceived that a faith-based law school, particularly a Christian law school,[14] could make a thought-provoking and distinct contribution to legal education.

Many months of planning ultimately led to a model of legal education rooted in the history of the Western legal tradition.[15] We determined that Liberty University's approach to legal education would not be novel or original, but traditional and rooted in the mainstream of the Western legal tradition. The goal was not to say something new about law, but to say something worthy and to say it well. In keeping with this goal, within the first few months after the decision by the University Board of Trustees to establish the law school, we determined that the curriculum would be built on certain foundational principles.

A. The Principle of Universals and the Connection between Law and Morality

Central to an understanding of law in the Western legal tradition is the definition and nature of law. The question of the definition and nature of law is a subset of questions related to the broader question of universals.[16] Simply stated, early philosophizing about the nature of law was general.[17] Following

---

14. This is because the Christian faith and the Christian intellectual tradition are a vital and historic part of the Western legal tradition. *See generally* BERMAN, *supra* note 8. The University envisioned a return to the historic principles of the Western legal tradition as a powerful antidote to moral relativism in law.

15. The "Western legal tradition" is a description of a particular legal tradition within the broader context of Western civilization. The "West" is not to be found with a compass. "West," in this context, is a particular historical culture or civilization. There is a "Western" civilization that developed distinctive legal institutions, values, and concepts. These institutions, values, and concepts were consciously transmitted from generation to generation over centuries. In this Western legal tradition, law is conceived to be a coherent whole, an integrated system built upon antecedent principles, a *corpus juris*, a "body," and this body is conceived to be developing in time, over generations and centuries. *See* BERMAN, *supra* note 8, at 5, 7-10 (summarizing the principal characteristics of the Western legal tradition).

16. The historic philosophical debate surrounding universals focuses on the problem of whether universals have any status outside the mind, first clearly recognized and addressed by Plato in the *Euthyphro*.

17. *See, e.g.*, Plato, Aristotle, and Cicero.

the thirteenth century, two distinct theories developed—one grounded in the intellect and one in the will. The former followed and built upon the early Western thinkers and was based on the primacy of the intellect;[18] the other departed from earlier thinkers and was based on the primacy of the will.[19] The former held that there are transcendent and universal principles that exist, while the latter denied the existence of universals outside the mind. At the risk of oversimplifying a very complex philosophical debate, proponents of the existence of universals recognize the existence of natural law and see a necessary connection between law and morality.[20] Those who deny universals assert that the law is whatever the authority wills, and consequently deny any *necessary* connection between law and morality.[21]

This philosophically rooted "battle over universals," appearing on the surface to be entirely a speculative and dry technical question without practical value, abounds with implications for law and legal education. For example,

---

18. *See ,e.g.*, Albert the Great, St.Thomas Aquinas, and Robert Bellarmine.

19. *See ,e.g.*, Henry of Ghent, William Ockham, and Gabriel Biel.

20. This group has been historically known as "realists." As represented in its moderate form by St. Thomas Aquinas, realists believe in the existence of universals and natural law. *See generally* ST. THOMAS AQUINAS, SUMMA THEOLOGICA, I–II, QQ. 90–97 (Benziger Bros. 1948) ("Law then pertains to the intellect, and obligation has its source in the necessary relation of means to the end. The legislator may decide whether a law should be established or not, but it is not in his power to decide whether or not it will oblige."). *See also* THOMAS E. DAVITT, THE NATURE OF LAW 225 (1953) ("All laws, if they are true laws, oblige in conscience because it is their nature to do so.").

21. This group has been historically known as "nominalists," from the Latin *nominalis*, "of or pertaining to names." Arising from medieval Scholastic philosophy, nominalists denied the reality of universals. SIMON BLACKBURN, THE OXFORD DICTIONARY OF PHILOSOPHY 264 (1994). "Conceptualism" is midway between nominalism and realism. It is "[t]he theory of universals that sees them as shadows of our grasp of concepts." *Id.* at 72. Particularly influential nominalists in the formative Middle Ages debate include William Ockham and Gabriel Biel. According to Ockham, universals have no objective reality; they are only symbolic terms. EUGENE G. BEWKES ET AL., THE WESTERN HERITAGE OF FAITH AND REASON 481 (1963). Moreover, Ockham's rejection of universals allowed him to dispense with any natural law that is in essence immutable. All that is necessary for a moral act to be right is that it is ordered by the divine will. "Hence, if God were to order fornication, the latter would not only be licit but meritorious." 3 FREDERICK COPLESTON, S.J., A HISTORY OF PHILOSOPHY 105 (1953) (citing WILLIAM OCKHAM, 3 SENTENCES 12, AAA). "Hatred of God, stealing, committing adultery, are forbidden by God. But they could be ordered by God; and, if they were, they would be meritorious acts." *Id.* at 105 (citing WILLIAM OCKHAM, 2 SENTENCES 19, O). Although professing adherence to the Christian faith, Ockham and Biel did not comprehend the profound detrimental impact their view would later have on moral philosophy in general and, particularly, on its undermining of any necessary connection between law and morality.

those who deny universals are consequently legal positivists.[22] In legal positivism, the law is a matter of what has been legislated, ordered, decided, or practiced.[23] Moreover, if this "nominalistic" approach, in whatever form, is correct, civil law is purely, or merely, penal.[24] The will of a human being is not placed under any necessity by essences or ends. In other words, neither the essence (nature) of law nor the end (purpose) the law is designed to achieve places a person under any necessity to obey. All that is needed is will, that is, a command from a sovereign. Thus, whether the law has a moral end or not is not *necessarily* related to whether it should be obeyed.[25]

In contrast to the view of the Western legal tradition, which historically maintained that truth, justice, human dignity, and other such universals have an independent, objective existence, nominalists (legal positivists) believe such categories are created by the mind—mere ideas—and do not originate in objective realities.[26] It should not be difficult to imagine the shaping impact each of these conflicting views of law may have on the minds and practices of young students and lawyers. Under one view, there is never a *necessary* connection between law and morality—all that is needed is authority and power. Under the other, the end (purpose) of every law must be universally moral and the means to achieve each and every end must also be moral.

---

22. This is true whether one asserts that the obligation to obey human law originates with the majority vote of citizens backed by a threat of force or with a divine proclamation from God. Secular positivism and divine positivism are alike in the sense that all that is necessary for obligation is a command from a sovereign. There is no *necessary* connection between law and morality. A law *need not* be moral; it only needs to be commanded. *See, e.g.*, RICHARD A. POSNER, THE PROBLEMS OF JURISPRUDENCE 234 (1990) ("[B]ut positive law, on the positivist view, has no necessary foundation in morals and is not in a realistic sense consented to by those who are subject to it.").

23. Lon Fuller calls legal positivism "that direction of legal thought which insists on drawing a sharp distinction between the law *that is* and the law *that ought to be*." LON L. FULLER, THE LAW IN QUEST OF ITSELF 5 (1966). In essence, positivism is the jurisprudential theory that law is what is "posited." A legal system is a fact. It is something that exists. The way to identify its existence is to discover in fact what rules are enacted or obeyed. In this system, the term "law" describes not *good* behavior or *right* behavior, but behavior. The central problem with this system is that it equally validates every legal system.

24. It need not conform to any transcendent principles of right or wrong, justice or injustice, because none exist.

25. As Gabriel Biel held, the fact that killing others, stealing, and other such acts are of their objective essence opposed to the form and essence of man, and therefore necessarily against the attainment of his end, does not necessarily make them bad actions. Rather, they are bad merely because they are forbidden by the command of the divine will. DAVITT, *supra* note 20, at 63 (discussing Biel's view).

26. *See* BERMAN, *supra* note 8, at 176.

In today's law schools, legal positivism (in all its varied forms), while demonstrably a departure from the historic Western legal tradition, is the dominant view. The belief in universals (known commonly as the natural law tradition), while rooted in the historic Western legal tradition, is highly underrepresented in the legal academy. Ironically, however, all law schools, legal institutions, and lawyers are forced to act *as if* concepts such as truth, justice, human dignity, and other such things are universals. Otherwise, there would be nothing to teach or practice. For example, if a law school did not act *as if* justice really exists as an objective and universal concept, rather than merely as a subjective thought in each individual mind, of what would the law be in pursuit? Indeed, why would law schools exist at all?

Admittedly, these are complex issues and much work remains to be done. Nevertheless, Liberty University, as a distinctively Christian institution, maintains that universals exist and are knowable.[27] The differences between disorder and order, between right and wrong, between justice and injustice are not determined merely by the command of a sovereign, otherwise there would be no *necessary* connection between command and morality. Rather, a sovereign is under an obligation to command that which is universally right and just by its nature, and humans are thus obligated to obey as a matter of conscience. Obligation to obey has its foundation in the objective relation of the means ordered to the common good. A command or law obliges because what it commands is objectively and universally for the common good.[28] Although foundational to the Western legal tradition, this view is now underrepresented in law and legal institutions. The absence of its presence in every discussion about the nature of law in the legal academy today is a profound loss to American society, as well as a virtual deconstruction of the history of law and the Western legal tradition. In significant part, the birth of faith-based law schools, particularly Christian law schools, is a vital attempt to re-introduce into discussions about law and legal education the history of the Western legal tradition and natural law thought.

At the outset, Liberty University determined to foster an enlightened commitment to the historic understanding of the nature of law and the natural

---

27. In the form of the natural law tradition, this was a common view throughout the history of the Western legal tradition. *See, e.g.*, BERMAN, *supra* note 8, at 12 ("In the formative era of the Western legal tradition, natural-law theory predominated. . . . Thus natural-law theory is written into the positive law of the United States."). *See also* HEINRICH A. ROMMEN, INTRODUCTION TO THE NATURAL LAW xv (1998) ("It is a historical fact that the ideas of natural law and natural rights shaped the Founding of the United States and in the 1860s its refounding.").

28. ST. THOMAS AQUINAS, SUMMA THEOLOGICA, I–II, Q. 90, art. 2.

law tradition.[29] In furtherance of this commitment, the law school firmly embraced the natural law tradition as the answer to the age-old problem of universals and the only theory of law that affirms a *necessary* connection between law and morality.[30]

B. The Integral Role of Religion and the Christian Intellectual Tradition

The second foundational principle of the Liberty law school model is the integral role of religion and, specifically, the Christian intellectual tradition in the development of the Western legal tradition. Almost forgotten today in legal education is the formative role religion, particularly the Christian faith and the Christian intellectual tradition, played in the development of the Western legal tradition. A convincing case can be, and has been, made that "[i]t is impossible to understand the revolutionary quality of the Western legal tradition without exploring its religious dimension."[31] Yet, it is rare in American law schools to hear "that basic institutions, concepts, and values of Western legal systems have their sources in religious rituals, liturgies, and doctrines of the eleventh and twelfth centuries . . . ."[32]

The American common law system has its roots in ecclesiastical law and is firmly grounded in the thought of St. Augustine of Hippo and St. Thomas Aquinas. A need exists today in American legal education for faith-based law schools not only to address the conventional presuppositions underlying modern law, but also to re-introduce the next generation of legal thinkers to the historic roots and justification of law in the Western legal tradition. Otherwise, frustrated law school students may graduate from three years of legal education only to conclude that "many parts of the law appear to lack any underlying source of validity."[33]

Concerned with the trends in modern law and the loss of historic roots and first principles in much of legal education, Liberty sought to make a

---

29. There are differing theories of natural law and reasonable minds differ on its many applications. By "historic understanding," we mean the contribution to legal philosophy and the Western legal tradition first made by St. Augustine and adopted and built upon by medieval scholars, particularly by St. Thomas Aquinas. It was St. Thomas who developed the first systematic treatment of legal philosophy. *See* Anton-Hermann Chroust, *The Fundamental Ideas in St. Augustine's Philosophy of Law*, 18 AM. J. JURIS. 57, 57–79 (1973).

30. Historically, there are two major theories of law: positivism and the natural law tradition. While there are varied forms of positivism, all the variations share the tenet that no *necessary* connection between law and morality exists. The natural law tradition recognizes that law and morality are distinct, but a *necessary* connection exists between the two.

31. BERMAN, *supra* note 8, at 165.

32. *Id.*

33. *Id.* at 166.

contribution to law and legal education by self-consciously determining to bring about a return to an emphasis on the sources of the Western legal tradition.[34] Our inspiration was the Christian intellectual tradition and its indispensable contribution to the development of the *corpus juris* of that tradition.[35]

The Christian intellectual tradition is not an external imposition of an orthodoxy of belief, religious or otherwise.[36] It is not religious worship or particular theological teaching. It is, however, more than a history of scholarship engaged in by people of Christian faith. It involves a search for truth, embracing the relationship between faith and reason. Specifically, it is a reflection on human knowledge about any discipline in light of Christian faith, in fidelity to the authority of the Holy Scriptures, and a commitment to serving humanity. It involves a profound appreciation for honest investigation, reflection, and intellectual inquiry.[37]

A law school that approaches its educational task from the perspective of the Christian intellectual tradition is a community of scholars and students united by a love for truth and a desire to integrate faith and reason in the search for the truth about law. It is not merely a collection of individuals interested in a professional vocation, but a *community* grounded in a particular view of the world as expressed through the lens of the varied and historic Christian intellectual tradition. All educational communities ground their dominant viewpoints in something. If not Christian faith, such communities commonly

---

34. Hence the law school adopted *ad fontes* ("back to the sources") as its educational philosophy.

35. *See generally* BERMAN, *supra* note 8. *See also*, CHRISTOPHER DAWSON, THE CRISIS OF WESTERN EDUCATION 3–25 (1989) (providing an overview of the impact of Christianity on Western education and universities).

36. Although a Christian law school is animated and guided by Christian faith, it is welcoming of those who do not share that perspective, but nonetheless respect the mission and express an interest in the program of legal education. This is due in large measure to the Christian emphasis on respect for and service to all mankind. From an academic perspective, a Christian law school requires a critical mass of committed scholars dedicated to the search for truth from a Christian point of view. It should be a place of dynamic, rigorous, and open discussion, and the discussion ought to be guided by the historic rules for demanding intellectual investigation. Neither scholars nor students should ever be insulated from differing viewpoints, nor from the requirement that their own views survive the most exacting scrutiny and analysis.

37. As one Christian thinker and educator has observed, "all branches of knowledge are connected together, because the subject-matter of knowledge is intimately united in itself, as being the acts and the work of the Creator." JOHN HENRY NEWMAN, THE IDEA OF A UNIVERSITY 76 (Frank M. Turner ed., 1947).

turn to the surrounding culture and end up absolutizing a particular social or political concept.[38]

We believed, and still do, that the diversity of the legal academy is greatly benefited by the existence of dynamic faith-based law schools. The value of the contribution to be made to the larger legal community by faith-based law schools depends not upon the fragility and feebleness of their views, but upon their institutional vibrancy. Without belief in the soundness of Christian truth claims, for instance, a Christian law school will fail to ensure integration of faith and reason. In its dialogue with wider culture, such a law school will be a weak contributor to the larger academy, having little of its own to offer, and still less that it believes to be critical to making a better legal system.

It is a formative belief shared by Liberty University that a Christian law school exists to engage the wider culture but always in accord with the truth of the Christian faith. A Christian law school should never be constricted, narrow-minded, or in any way closed in on itself; rather, it must participate in a dialogue with the wider culture and legal community. In particular, it contributes to that dialogue by explaining the profound role of the Christian intellectual tradition in the development of Western legal institutions and the Western legal tradition. It contributes by revealing how modern law and legal institutions need the faith and morals of Christianity to sustain their deepest assumptions about the experience of responsible freedom, human dignity, and social justice.[39] It contributes by offering and advancing the only reasonable and reliable answer to the question of why mankind is *obligated* to obey human laws—the natural law.[40]

---

38. Law schools, in rejecting the Christian faith, often ground their dominant viewpoints in the pursuit of justice grounded in naturalistic or materialistic premises or the pursuit of justice grounded in political means.

39. If one looks closely at the distinctive features of modern law and legal institutions, one finds a notion of justice whose fundamental assumptions are concepts like personal responsibility, freedom, human dignity, and the sanctity of human life. It is doubtful, however, that modern law is able to vindicate those fundamental assumptions either at a theoretical level or in argument. The assumptions upon which the Western legal tradition grew and prospered are necessary for that vindication—and they are distinctly Christian assumptions. For example, man has human dignity because he is created in the image of God. Man thus possesses personal freedom, as to other humans, and should exercise such freedom responsibly, because to do anything less is to act in a manner inconsistent with true humanity (as one created in God's image). On the other hand, utilitarianism, instrumentalism, pragmatism, and power are all fueled by moral relativism. Thus, they may be *assumed* adequate bases for responsible personal freedom, human dignity, and sanctity of human life, but they cannot be vindicated as such through rational argument.

40. At the risk of oversimplification, the two answers to the question of obligation are: (1) man is obligated by the exercise of external and superior force (obligation depends upon the will

C. The Relationship between Faith and Reason

The third foundational principle upon which Liberty's law school model was based is the connection between faith and reason. We believe that a commitment to academic and professional excellence is greatly enhanced by the recognition that Christian faith and reason are necessarily connected. In simple terms, this means that the data of reality—facts about the world and all that happens within it, including history and law—are realities to be observed, analyzed, and evaluated by the faculty of reason, but from the perspective of Christian faith.[41] Faith and reason, far from contradicting each other, aid each other. Reason, being prone to error, is illuminated by the light of faith. Faith does not in any way suppress the free faculty of reason nor reduce its scope of action. Faith does, however, clarify the understanding that in all the events of human history and in every discipline, it is God who is at work.[42] And thus, neither the events of human history nor the discipline of law can be properly understood without reference to the God who transcends human history.

All efforts to know must begin with something given, including educational efforts.[43] We decided early on that Liberty University School of Law would be forthright about its "givens," which are the historic foundational principles that animated the Western legal tradition, including the vital connection between faith and reason.

V. CONCLUSION: THE FUNDAMENTAL PREMISE OF LIBERTY'S APPROACH TO LEGAL EDUCATION

The need for a distinctive approach to legal education, the intended contribution of Liberty's model, and the foundational principles upon which the law school is based all presuppose a more fundamental premise undergirding the founding of Liberty University School of Law. That premise is that

---

of the lawgiver); or (2) man is obligated by the objective nature of acts and their relation to the end (obligation depends upon an objectively proper end accompanied by objectively proper means). The first answer is positivism, in whatever variation it appears; the second answer is a natural law approach.

41. John Paul II, *Fides Et Ratio*, ¶¶ 100–08 (1998), http://www.vatican.va/edocs/ENG0216/__PI.HTM (last visited Nov. 30, 2006) (encyclical letter to the Bishops of the Catholic Church).

42. *Id.* at ¶¶ 36–48.

43. Everyone and every system has a "given," or an "ultimate starting point." At root, legal philosophies and legal systems are based on some sort of extra-systemic premises. *See* BERMAN, *supra* note 8, at 16 ("Moreover, law—in all societies—derives its authority from something outside itself. . . ."). *See generally* Leff, *supra* note 5.

instruction in the narrow, technical aspects of law practice is not, by itself, the solitary end for legal education.

In founding the law school, we began with the premise that education, irrespective of the specific discipline, is a conditional good: knowledge or education is not an end in itself but must serve the end of truth about God and the dignity of man.[44] If education does not serve the truth about God and man, then it tends toward relativism and amorality or immorality. Thus, in approaching the task of legal education, we embraced the idea that an institution that seeks to make a meaningful contribution to the legal profession must have a qualified view of education: education has an end beyond itself prescribed by natural and divine law.[45] In order for tomorrow's lawyers to effectively serve the common good of society, instruction in the proper ends and means of legal education and law is necessary.

Institutions of higher learning, too numerous to cite, have been founded upon this qualified view of education.[46] From the perspective of Liberty University, legal education is a means and not an ultimate end; its moral value is not automatic, but depends upon conformity to higher law and the morality of the end it pursues.

Christian educational institutions have historically sought to integrate faith, learning, and service prescribed by natural and divine law, for ends beyond

---

44. Pope John Paul II articulates this concept in *Veritatis Splendor* ("The Splendor of Truth"), in which he addresses the moral life. *See* John Paul II, *Veritatis Splendor*, ¶¶ 31-34 (1993), http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor_en.html#top (last visited Nov. 30, 2006) (encyclical letter to the Bishops of the Catholic Church). He describes freedom as a conditional good and holds that it must serve the truth about God and the truth about man. John Paul II's analysis was helpful to me in clarifying that nothing could be more fundamental in the task of developing a program of legal education than serving the truth about God and the truth about man in relation to law and legal education. John Paul II previously alluded to this kind of application when he stated in his 1990 Apostolic Constitution on Catholic Universities, *Ex Corde Ecclesiae* ("Out of the Heart of the Church"), that a Catholic ("Christian") university is distinguished from its secular counterpart by its "free search for the whole truth about nature, man, and God." *See* John Paul II, *Apostolic Constitution Ex Corde Ecclesiae*, ¶ 4 (1990), http://www.vatican.va/holy_father/john_paul_ii/apost_constitutions/documents/hf_jp-ii_apc_15081990_ex-corde-ecclesiae_en.html (last visited Nov. 30, 2006). This principle applies equally to Catholic and Protestant educational institutions.

45. *See* John Paul II, *Veritatis Splendor*, ¶¶ 80–83 (1993), http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor_en.html (last visited on Nov. 30, 2006) (encyclical letter to the Bishops of the Catholic Church).

46. Among these are the Jesuit universities, Baylor University, Catholic University of America, Brigham Young University, Ave Maria School of Law, and Regent University School of Law.

knowledge itself. Historically Protestant institutions have long been founded upon such a viewpoint and approach.[47] These institutions, as well as historically Catholic schools, recognized that the human quest for knowledge is an exercise in something beyond the accumulation of information in a particular field of study—even a quest for knowledge that transcends human life and experience.

Many of the students in the inaugural class of Liberty University School of Law testified to the fact that they came to the law school not simply because they wanted to be corporate lawyers, politicians, or constitutional litigators, but because the particular mission of the law school resonated with them in such a way that it exposed a longing or yearning in their hearts for knowledge—specifically, the truth about law and its relationship to transcendent principles. Some witnessed to a longing or desire for a community of like-minded people in search of what is right and good and true—and the source from which those things derive.[48]

However, in keeping with the conditional nature of legal education that serves God and the dignity of man, a Christian law school will address this sense of longing by telling its students that these deep longings can never be fulfilled in the context of legal education. Humans simply cannot find their ultimate fulfillment in a torts class, because human beings want more fulfillment than what the knowledge about law offers. Much can satisfy the human heart for a time, but nothing, including a legal education, will truly quench human thirst for knowledge or fulfill human longing.[49]

Consistent with its mission, Liberty University maintains that one of the tasks of a Christian law school is to tell its students the truth about their longings. The sense of yearning and longing to understand, to know, to express, is rooted in what it means to be a human created in the image of God. It must be straightforwardly stated that those longings will not be satisfied at law school, whether at Liberty University or elsewhere. That is because legal education—even Christian legal education—is a conditional good; it has an end beyond itself, part of which is to serve the truth about God as the ultimate fulfillment of our longings—even the yearning for knowledge about justice and the truth about law.

---

47. Universities such as Harvard, Yale, and Princeton.

48. CORNELIUS PLANTINGA, JR., ENGAGING GOD'S WORLD: A CHRISTIAN VISION OF FAITH, LEARNING, AND LIVING 1–16 (2002) (explaining the idea of "longing" as it relates to the quest for knowledge, which is rooted ultimately in the desire to know God).

49. As St. Augustine acknowledged, "because you made us for yourself and our hearts find no peace until they rest in you." ST. AUGUSTINE, CONFESSIONS 21 (R.S. Pine-Coffin trans., Penguin Books 1961).

It is sometimes easy to forget that law schools are ultimately aimed at the instruction of *human* students. While the teaching of law is designed to enlighten students in one particular discipline or field of study, it must do so by teaching the whole person. The dignity of the human person in the context of education is a paramount consideration. This is particularly true of the field of law, where the use of responsible freedom must be guided by a sense of internal duty and conscience if government and society are to function without constant external pressure and coercion.

It takes little observation to conclude that the average law student, these days, often appears jaded, lackluster, bored, and world-weary. As Robert Granfield points out, a pattern of cynical disengagement from a student's ideals occurs with frequency in law schools these days.[50] Indeed, students internalize this cynicism at very early stages within their training and adopt it as their central intellectual orientation.[51] Roger C. Cramton, former Dean of Cornell Law School, even more forcefully states that modern dogmas that entangle legal education today include "a moral relativism tending toward nihilism," "a pragmatism tending toward an amoral instrumentalism," and "a realism tending toward cynicism."[52] A growing body of professional literature indicates that separating faith from morals, law from morality, and substituting cynicism for idealism promotes lethargy, desensitizes, creates apathy, and ultimately dehumanizes.[53] In short, it makes a desert of the soul.

Legal education that fortifies the mind and heart against faith, morals, and idealism will not affirm the dignity of man. The belief that legal education is a conditional good—that it must serve the truth about God and the truth about man—motivated Liberty University to seek to construct a program of legal education that does not undermine student idealism by making a desert of the soul. Instead, its founders sought to irrigate, nurture, and mold idealism into a realism that understands the historic discipline of law and emphasizes academic and professional excellence, while affirming the truth about God and the dignity of man.

---

50. GRANFIELD, *supra* note 5, at 61–64.

51. *Id.*

52. Cramton, *supra* note 5, at 262–63. In his classic article, Cramton pointedly describes the culture of legal education in America and its negative consequences for students.

53. *See, e.g., id.*