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ADDRESS

THE POPE JOHN XXIII LECTURE

March 20, 1997

*His Eminence Bernard Cardinal Law
Archbishop of Boston and Chairman, Board of Trustees
The Catholic University of America*

Thank you very much, Brother Patrick. I would prefer if you would just keep standing here, and give the talk, because I like the way you approached the topic. Dean, I am very grateful for the invitation. It might be helpful if I acknowledge at the beginning that this presentation is not scholarly, at least in the academic sense of that term. It is not buttressed by research, nor is it carefully footnoted. It would not do too well as the product of a law student. My principal source, more often than not, is an overworked apperceptive mass. These words of St. Patrick from his *Confession* brought me particular consolation as I searched for a way to begin this presentation. Speaking of his ministry in Ireland, Patrick wrote in about the year 450:

God showed me how to have faith in Him forever as one who is never to be doubted. He answered my prayer in such a way that in the last days, ignorant though I am, I might be bold enough to take up so holy and so wonderful a task, and imitate in some degree those whom the Lord had so long ago foretold as heralds of his gospel, bearing witness to all nations.¹

These words console me not because I believe delivering this lecture is as holy and wonderful a task as was Patrick's in bringing the faith to Ireland. Nonetheless, I do see it as both a holy and a wonderful task—to begin a conversation or, perhaps better, to enter into a conversation on what it should mean to be a law school of The Catholic University of America today. That is what I have set as my task.

I present myself as a participant in what I consider to be an ongoing and necessary conversation. My participation in this conversation is, in these environs, as a layman, if you will. In spite of my name, I am not now, nor have I ever been, a lawyer, much less a legal scholar. I plead in truth and there-

1. NEWPORT J. D. WHITE, A TRANSLATION OF THE LATIN WRITINGS OF ST. PATRICK 16-17 (Society for Promoting Christian Knowledge ed., 1918).

fore in humility my ignorance of much that is the daily life of this place. At the same time, it is with confidence in the enduring truth which faith illumines and to which the Church has borne witness for twenty centuries that I make bold to speak.

Yours is an awesome responsibility in this place. Any society, but with a particular intensity, our society, is ordered by its laws. The uniqueness of this nation is the way we have self-consciously forged a national unity through a system of law. "Citizen" and "law-abiding" are synonymous terms, or at least the one illustrates the other. The cohesion of other nations is often driven by a formative culture. We started as an uprooted people, except for the Native Americans who were themselves uprooted by the nation's European founders. Our nation is not finished. We face the new and frightening task of being a world empire, far more vast than Rome ever was. The perennial national fascination with isolationism simply is not an option anymore. Our influence as a nation is global, and I would submit, frightening.

Within this nation, our fabric continues to be knit by the enactment of laws and the interpretation of laws. Internationally, new relationships through laws must be established. Law is the question in Northern Ireland, Zaire, Rwanda, among Palestinians and Israelis, in the Balkans. Law as it is constitutive of order within and among nations is the place where the law school of The Catholic University of America should focus.

America. What kind of a people do we want to be? What should drive our law, both in its formulation and in its interpretation? In what is law rooted? Have we anything to say to these questions as the law school of The Catholic University of America? Is there a point of meeting between the resources of Catholic faith and the task of a law school in this nation's capital at a Catholic university?

The Catholic Church found an unlikely fresh voice in Pope John XXIII, whose name lends honor to this lecture. "An interim Pope," some called him, as he ascended the Chair of Peter almost into his eighth decade. On December 25, 1961, he convoked the Second Vatican Council, and he said on that occasion, and I quote:

Today the Church is witnessing a crisis under way within society. While humanity is on the edge of a new era, tasks of immense gravity and amplitude await the Church, as in the most tragic periods of its history. It is a question in fact of bringing the modern world into contact with the vivifying and perennial energies of the gospel, a world which exalts itself with its conquests in the technical and scientific fields, but which brings

also the consequences of a temporal order which some have wished to reorganize excluding God.²

In that convoking of the Council, the Pope spoke of a contemporary “weakening in the aspiration toward the values of the spirit.”³

Quite simply and directly, the Pope set before the Church and the world his hopes for the Second Vatican Council. In the event that anyone needs to be reminded what that was, it was a meeting involving all the bishops of the Catholic Church. On an average, although in the early parts of the Church’s life they came more quickly, there has been a council every hundred years. The Second Vatican Council brought together Bishops from the entire world to reflect on the mission of the Church. These are the words the Pope used to express his hopes for the Council that he had convoked:

In the face of this twofold spectacle—a world which reveals a grave state of spiritual poverty and the Church of Christ, which is still so vibrant with vitality—we, from the time we ascended to the supreme pontificate, despite our unworthiness and by means of an impulse of Divine Providence, have felt immediately the urgency of the duty to call our sons (that is, the bishops of the world) together, to give the Church the possibility to contribute more efficaciously to the solution of the problems of the modern age.⁴

That was his hope for the Council. In going back to these words after some years, I am struck by the Pope’s reference to humanity as on the edge of a new era, and even more by his prophetic words that “tasks of immense gravity and amplitude await the Church, as in the most tragic periods of its history.”⁵

We are there. The new era is unfolding. The challenge which the Church faces is immense. I refer not to the perennial challenges of inner conversion, for those who are the Church, as well as her institutional life, which must continually be renewed, but rather to the unique challenge which this new era presents to the Church in her task of bringing light to a world so often shrouded in darkness. “The Church knows,” Pope John the XXIII said, thirty-six years ago, that “by vivifying the temporal order with the light of Christ it reveals men to themselves; it leads them, therefore, to discover in themselves their own nature, their own dignity, their own end.”⁶

2. THE DOCUMENTS OF VATICAN II 703 (Walter M. Abbott, S.J., ed., 1996).

3. *Id.* at 703-04.

4. *Id.* at 705.

5. *Id.* at 703.

6. *Id.* at 707.

There is a myth about Pope John XXIII which can lead to a caricature of the Pope as a sort of cheerleader for the new era that was coming into being. His confidence was not in the world, however. His confidence was rather in the ability of the human person to come, with the light of faith, to a better understanding about the nature, the dignity, and the end of human beings. That Council which Pope John XXIII convoked was to say, in fulfillment of its convener's hopes:

[W]hatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia, or willful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; whatever insults human dignity, such as sub-human living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where people are treated as mere instruments of gain, rather than as free and responsible persons; all these things and others of their like are infamies indeed. They poison human society, but they do more harm to those who practice them than those who suffer from the injury. Moreover, they are a supreme dishonor to the Creator.⁷

Pope John Paul II has written in the same vein that:

[W]e are facing an enormous and dramatic clash between good and evil, death and life, the "culture of death," and the "culture of life." We find ourselves not only faced with, but necessarily in the midst of this conflict: we are all involved, and we all share in it, with the inescapable responsibility of choosing to be unconditionally pro-life.⁸

Laws are formulated and laws are being interpreted in our courts by legislators and judges in the grip of this culture of death. The rhetoric of welfare reform and immigration reform, I would submit, is steeped in the culture of death. How can a law school communicate a better vision? How can a law school mediate a culture of life, a civilization of love? That, it seems to me, is the specific task of a Catholic law school. Presuming, which is already a leap in some contemporary circles, that truth, an objective order of truth, exists, and that it is attainable by the human mind, and presuming that moral truths bind us to standards of conduct, it is obvious that law should be rooted in truth—truth about the human person, truth about the family, truth about human solidarity. Faith does

7. Second Vatican Council, *Gaudium et Spes* (Dec. 6, 1965), reprinted in THE DOCUMENTS OF VATICAN II, *supra* note 2, at 226-27.

8. Pope John Paul II, *Evangelium Vitae* (Mar. 30, 1995), reprinted in 24 ORIGINS 689, 700 (1995).

not invent these truths. It does, however, illumine them.

Let me explain what I mean in a very personal way. When I was a high school student in the Virgin Islands, I was very much at home in a society that was predominantly black. News of race riots on the United States mainland was painful and difficult for me to comprehend. Most of my friends, most of my teachers, the family physician, the governor of the islands to whom my father was accountable, were all black. As my adolescent mind wrestled with this, my pastor led me to the teaching of Pope Pius XII on the Church as the Mystical Body of Christ. The rich Pauline doctrine of the Church as a communion of Christ and the baptized was opened up to me. As a teenager, the resources of faith reinforced the convictions borne of my experience that color does not matter, or should not matter, that every human being is sacred as an image of God, and that Christ came that we might be reconciled to God and to one another. That conviction nurtured my ministry as a priest in Mississippi in the 1960s. It nurtured my advocacy for freedom for Vietnamese refugees in the camps that I visited in Thailand and Hong Kong. It inspired my appeal on the steps of the United States Capitol for a ban on partial-birth abortion. It inspired my testimony before a Massachusetts legislative hearing against capital punishment, and my testimony before a United States congressional committee two weeks ago on physician-assisted suicide.

There is a coherent Catholic vision about the dignity and inviolability of the human person, about the fundamental importance of the family for society, and about the implications of human solidarity, particularly with the poor. This vision is desperately needed today by those who frame our laws and those who interpret our laws.

The challenges faced by our society are enormous. There is, brooding over all else, the awful reality that our nation is the dominant world power. In so many things, as we go, so goes the world. How are we going? Today's legislative focus, not too far from here, on partial-birth abortion and the Supreme Court's consideration of the Ninth and Second Circuit courts' decisions on physician-assisted suicide present the macabre legal *iter* of our culture of death.

Peter Edelman's recent article in *The Atlantic Monthly* on what is euphemistically called welfare reform is a sober exercise in facing up to the reality of a culture of death in which we find ourselves.⁹

Mary Ann Glendon, who teaches at Harvard Law School and led the Holy See's delegation to the Beijing conference, addressed the question of

9. See Peter Edelman, *The Worst Thing Bill Clinton Has Done*, ATLANTIC MONTHLY, Mar. 1997, at 43.

social justice and human rights in a talk at St. John's University in New York on January 30th of this year. In that talk she said:

The fact is that, for the past thirty years, the single most consistent champion of human freedom and solidarity in international settings has been the Catholic Church. The idea that social justice can and must be harmonized with political and civil liberties has been the touchstone of the Holy See's advocacy in the United Nations, and the social encyclicals of John Paul II.¹⁰

Amidst the cacophony of special interest groups and power politics, it has been the Church, and often only the Church that has stood clearly, consistently, and unmistakably for all the freedoms that flow from the common principle of the innate dignity of creatures made in the image and likeness of God. She repeats the question that Pope John Paul II put to the United Nations in a speech marking its fiftieth anniversary. The Pope asked: "Can we not recommit ourselves also to taking the risk of solidarity—and thus the risk of peace?"¹¹

The risk of solidarity. That, it seems to me, is the only way to build a more humane society. We must be willing to take that risk. It is a risk that binds us to every other human being, particularly the weakest and most vulnerable. It is a risk which binds us to other nations, particularly those that are in greatest need. It is a risk which demands that we redefine the national self-interest to include the implications of human solidarity. It is a risk which demands that we realize we *are* our brothers', our sisters' keeper. It is a risk that demands we heed Isaiah when he says, "Turn not your back on your own flesh." (*Isaiah* 58:7).

That, it seems to my pastor's heart, is what a law school at The Catholic University of America should be about. It should be helping our society, with all the resources of law, to take the risk of solidarity.

Let me give three examples. The first is the risk of solidarity as we face the issue of physician-assisted suicide and euthanasia. Here we must begin with a premise of the inherent value of every human life. A human life in itself has sufficient value to call forth our individual and collective respect and support. A human life presents us with the mystery of God's presence. We cannot control the life of another. We cannot presume to be the arbiters of the life and the death of another human being. We must be willing simply to acknowledge the mystery that is life in its beginning, in its end, and throughout its course.

10. Mary Ann Glendon, Address at the St. John's University Founder's Week Convocation (Jan. 30, 1997) (transcript available in the St. John's University public relations office).

11. *Id.*

I have been moved by the concern of disabled persons with the persistent advocacy for physician-assisted suicide. When the oral arguments were presented at the Supreme Court not too long ago on the review of the Ninth and Second circuit courts' decisions on physician-assisted suicide, the disabled were there in greatest numbers on what was an exceedingly cold Washington day. They were there because they were frightened. They see this advocacy by a cultural elite for physician-assisted suicide and euthanasia as a threat to themselves.

Implicit in the move toward physician-assisted suicide and euthanasia is the judgment that some lives are not worth living. The chilling devolution that has taken place in the Netherlands should provide ample proof of the devastating consequences of this movement. Suffice it to quote the Orwellian words of the Dutch Minister of Health, Else Borst-Eilers: "There are situations in which the best way to heal the patient is to help him die peacefully. The doctor who, in such a situation, grants the patient's request acts as the healer '*par excellence*.'"¹²

This is an Alice in Wonderland, upside-down world if ever there was one. The doctor *par excellence* is the doctor who kills the patient. The Netherlands already has moved to euthanasia of terminally ill, competent patients without their consent. The request for physician-assisted suicide by a patient depressed over the death of family members resulted in the physician's cooperation in her suicide. The case has opened up new killing fields in the Netherlands.

In our courts, the Ninth Circuit distorts the noble concept of compassion, and the Second Circuit dismisses distinctions which have long served the medical profession in determining what is and is not acceptable morally and ethically in the care of the terminally ill.

The risk of solidarity with the terminally ill is the call to risk to be with another in loving service as together we stand before the mystery that is death. The loving service must include the transparent expression of respect that is not diminished by the weakness or helplessness that the other might suffer. It includes the control of pain, and does not demand that every possible technology must be employed to postpone a death that is medically indicated from the disease.

Above all else, the risk of solidarity demands that we not kill.

The second example is the risk of solidarity in viewing the poor of our society. Here, it seems to me, we must revisit the welfare and immigration re-

12. Else Borst-Eilers, *Euthanasia in the Netherlands: Brief Historical Review and Present Situation*, in *EUTHANASIA: THE GOOD OF THE PATIENT, THE GOOD OF SOCIETY* 68 (1992).

form debates of recent years. Mary Ann Glendon speaks of this as “the challenge of bringing together the two halves of the divided soul of the modern human rights movement: its dedication to human freedom and its acknowledgment of common responsibility for [the poor, the weak, and the vulnerable].”¹³

This is not to argue that reform is out of order in a moral calculus of welfare and immigration law. It is to say, however, that a blind faith in our economic system’s ability to address the immediate needs of the poor is, to say the least, misplaced.

Third, and most quickly, the risk of human solidarity with other nations. What does this mean, for example, with regard to Northern Ireland, Cuba, Iraq, Iran, China, Rwanda, and Zaire? What judgment does this lead us to on economic embargoes of one nation with regard to another? What does it say to the fact that a nation is inhibited from purchasing medicines, as is Cuba?

My hope is that the law school and The Catholic University of America will help to clarify what the risk of human solidarity means in legal terms.

While I have spoken of the specific mission of a Catholic law school, I am not unmindful that ours is a world of many religions and none. The transcendent value of the human person and the power of God to unify was movingly imaged for me in a photograph on the front page of *The New York Times* last Monday, showing King Hussein of Jordan reaching out to the father of Sivan Petihi, one of the Israeli girls killed by a Jordanian soldier. Sivan’s mother said to the King, “If you would have seen her today, you would have hugged her and kissed her.”¹⁴ The King responded: “She will always be alive in our hearts, and I hope you will always consider me a brother.”¹⁵ As the King rose to leave, Nisim Petihi, the slain girl’s grandfather, and an immigrant from Yemen, blessed the King in Arabic.¹⁶

That is what the risk of solidarity is all about.

Let me close with words that Pope John Paul II addressed to this nation as he departed from Detroit after his pastoral visit of 1987. These words, it seems to me, provide a good starting point for the task that is yours. He said:

America the beautiful! So you sing in one of your national songs.
Yes, America, you are beautiful indeed and blessed in so many ways:

—In your majestic mountains and fertile plains.

13. Glendon, *supra* note 10.

14. Serge Schmemmann, *A Time to Mourn: King Hussein Comforts Israelis*, N.Y. TIMES, Mar. 17, 1997, at A1.

15. *Id.*

16. *See id.*

—In the goodness and sacrifice hidden in your teeming cities and expanding suburbs.

—In your genius for invention and for splendid progress.

—In the power that you use for service and in the wealth that you share with others.

—In what you give to your own and in what you do for others beyond your borders.

—In how you serve and in how you keep alive the flame of hope in many hearts.

—In your quest for excellence and in your desire to right all wrongs.

Yes, America, all this belongs to you. But *your greatest beauty and your richest blessing is found in the human person*: in each man, woman and child, in every immigrant, in every native-born son and daughter.

For this reason, America, your deepest identity and truest character as a nation is revealed in the position you take toward the human person. *The ultimate test of your greatness is the way you treat every human being, but especially the weakest and most defenseless ones.*

The best traditions of your land presume respect for those who cannot defend themselves. If you want equal justice for all and true freedom and lasting peace, then, America, defend life! All the great causes that are yours today will have meaning *only to the extent that you guarantee the right to life and protect the human person*:

—Feeding the poor and welcoming refugees.

—Reinforcing the social fabric of this nation.

—Promoting the true advancement of women.

—Securing the rights of minorities.

—Pursuing disarmament, while guaranteeing legitimate defense.

All this will succeed only if respect for life and its protection by the law is granted to every human being *from conception until natural death*.

Every human person—no matter how vulnerable or helpless, no matter how young or how old, no matter how healthy, handicapped or sick, no matter how useful or productive for society—is a being of inestimable worth created in the image and likeness of God. This is the dignity of America, the reason she exists, the condition for her survival—yes, the ultimate test of her greatness: to respect every human person, especially the weakest and the most defenseless ones, those as yet unborn.¹⁷

Thank you.

17. Pope John Paul II, *America, Defend Life!*, POPE SPEAKS, Spring 1988, at 30, 31-32.