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TO BE A POLITICAL LAWYER

*Peter M. Cicchino**

The following Essay is an edited version of remarks made at the concluding plenary session of the Political Lawyering Conference held at Harvard Law School on November 18, 1995.

What does it mean to be a “political lawyer?” I have decided to address the topic by reflecting on the question: how does one become and continue to be a political lawyer? These remarks, therefore, are not analytic. Rather they are unapologetically homiletic.

As a former member of a Roman Catholic religious order and an openly gay man, I have decided in these remarks to draw upon both my religious tradition and my experience as a gay man in reflecting on what it means to be, and in exhorting us to remain, political lawyers. In doing so, I fear that I may commit both sins of religion: being dogmatic and being self-righteous; nevertheless, I will earnestly try to avoid both.

Let me begin by saying something about being “political,” because as anyone who has any familiarity with what lawyers actually do knows, the word “lawyering” encompasses so many things as to be almost without definition. When I think, however, about the word “political,” I think about it in the classical sense, the way that Plato and Aristotle used it—that is, politics as the art concerned with what it means to be a human being; what is the best life for a human being; and, since we are social beings, the ways in which we can order our living together so that good human lives will emerge.

Now much is made of Socratic ignorance, but I want to make something of Socratic arrogance. Socrates knew something important, and he knew that he knew something important. That is the theme of what I want to say briefly today. We know something important—something many, perhaps most, other people in our society do not know. We know something about what it means to be a human being and to be a happy human being; and we should know that we know it.

In making this assertion about what we know, I want to challenge, with respect and affection, a few of the orthodoxies I have heard expressed by my comrades and colleagues. The first of these orthodoxies is the idea that our clients know what is best for them. Of course, only someone completely ignorant of Marx and Freud would assume that the poor, impoverished, and often physically brutalized people whom lawyers

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like us represent have the keenest insight into their own legal problems and understand the best ways of dealing with them. The fact is, as Marx told us, most people do not understand their oppression; and as Freud taught, even those who understand their own oppression frequently love that oppression.

We do our clients no favor by romanticizing them. For that reason, effective political lawyering demands that we be realistic about the limits of our clients' self-understanding and about client autonomy. The strategies of advocacy that we employ must be designed not only to vindicate a client's legal rights, but also to challenge the client to see herself with the full human dignity that is hers.

Secondly, I reject the counsel, so prevalent in contemporary progressive circles, that we should exhibit a profound epistemological humility about understanding people different from ourselves because of their sexual orientation, race, gender, economic class, or social or physical attributes. My only point here is that—having spent the last fourteen years doing public interest work in rural Pennsylvania, poor neighborhoods in Guadalajara, the Bronx, and Johannesburg under apartheid, and having worked with poor people, rich people, gay people, straight people, black people, and white people—connection is possible. The thing that is shocking about human reality is not that we misunderstand one another, but conversely, that we are so capable of understanding each other, and therefore of coming to each other's aid.

The third idea I want to challenge is at the heart of what I believe to be the current lamentable state of political marginalization and irrelevancy of the progressive academy. The articulation of this idea goes something like this: Given the rich texture and complex nature of social reality, one ought to be suspicious of broad and confident generalizations, of architectonic systemic explanation, of the sort of comprehensive narrative sometimes called "high theory."

Anyone who saw the second part of Tony Kushner's brilliant play *Angels in America, Perestroika*, will remember the opening monologue by Aleksii Antedilluvianovich Prelapsarianov, the world's oldest Bolshevik. In reminiscing about how glorious it was to stand on the heights of theory, Prelapsarianov pleads for a new theory to be articulated and admonishes those who resist that articulation to remain silent:

Change? Yes, we must change, only show me the Theory, and I will be at the barricades, show me the book of the next Beautiful Theory, and I promise you these blind eyes will see again, just to read it, to devour that text. Show me the words that will reorder the world, or else keep silent.¹

¹ TONY KUSHNER, *ANGELS IN AMERICA: A GAY FANTASIA ON NATIONAL THEMES, PART TWO: PERESTROIKA* 14 (1994).

The old man's pining away for a comprehensive explanation of social reality, an explanation that will inspire and guide political praxis, strikes me as poignant. The "Beautiful Theory"—beautiful because it is comprehensive and confident and renders reality meaningful—is something we have rejected in this postmodern age.

It is ironic that at the very moment when, among progressive intellectuals, there is widespread hostility toward comprehensive, systemic narrative, there is a lack of confidence about normative claims of any sort; there is an exaggerated awe of the complexity of social reality that makes even the most modest and empirically well-founded generalizations about that reality meet with resistance and suspicion; there is an emphasis on difference to the point of undermining the principle of empathy itself and its necessary correlate—the idea that all *Homo sapiens* have identifiable common needs and interests, what was once called "human nature." At this moment, at this very moment, when all that is true, the globalizing, collectivizing, and totalizing effect of that system of economic justice we call capitalism is reaching its apex.

In other words, at precisely the time when we most need analytic storytelling communicated in comprehensible narratives that incorporate broad generalizations about cause and effect relationships in the world and are expressed in the appealing language of transhistorical right and wrong, we find those who dominate the production of theoretical discourse to be disinterested in, or unable to generate, such narratives.

What, then, is to be done? Here is where I make the turn to religious tradition. If we are to revitalize doing law in a political way, if we are to persevere and eventually prevail in political lawyering, then we need the two things that all viable religious movements have—certainly the two things the religious right has. First, we need a faith story, an account of a rational hope that provides people with an image of and principles for realizing the sort of lives they ought to live, lives that will make them happy. It is not enough to say that it is wrong to have children who are in the streets and hungry. We should tell people clearly, because it is true, that you cannot be happy in your Mercedes Benz passing children begging in the streets. We need good news, what the Christian tradition calls "gospel," and what many religious traditions have in the sense of a canonical story, an "encyclopedic compendium" that explains and inspires.

The second thing we need is called, in religious terms, "church"—a better term for this might be "community." We need a sense of union, not only among ourselves, but with all people of good will. That union, however, must be more than sentimental. We need structures of organization that allow us to witness effectively to the sort of world we are trying to create—one that is egalitarian, respecting the human rights of all people, and in which the operative principle of social reality is not violence or greed, but love.

Finally, I want to conclude with a story about my own experience. It 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 we're failing, like we're making no progress. 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, and 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.