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Fr. John J. Coughlin, O.F.M., Diploma Ceremony Address

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NOTRE DAME LAW SCHOOL
COMMENCEMENT ADDRESS
MAY 21, 2011

Fr. John J. Coughlin, O.F.M.
Professor of Law and Concurrent Professor of Theology

Thank you Danisha for those kind words of introduction, and thanks to all of you for this award.

I share this award with my esteemed colleague, Professor Tex Dutile. After more than 40 years of dedicated service as a law professor, Professor Dutile is retiring. Even if I were to continue teaching at Notre Dame for whatever remaining years God might grant me on this earth, it is highly improbable that I could come close to matching Professor Dutile's record of most admirable service—let alone duplicate his annual comic and witty performance at the Fr. Mike show!

You also voted for Professor Peter Alexander. He clearly contributed to the education of many of you. You have honored him as Distinguished Visiting Professor of Law.

So, I guess that means that I came in third place. You see I have reason for humility. But anyway, here I am giving this speech. Who says almost doesn't count? So, I accept this award not because I deserve it. Rather, I accept it as an understudy for Professors Dutile and Alexander and the many other fine scholars and teachers who are my colleagues here at the Notre Dame Law School.

Not only do I want to thank you, but I also wish to congratulate you. It is no small accomplishment to graduate from law school and especially from such a fine law school as Notre Dame. Therefore, I proclaim: Hip, Hip, Hurrah for the Class of 2011!

All of us here at Notre Dame Law School are familiar with the phrase a “different kind of lawyer.” To be honest, I must admit that even as a member of the law faculty, I am a bit

mystified by the phrase. In fact, I confess that I have once or twice heard the phrase greeted with a bit of levity and even sarcasm. In any event, I have been led to ask myself: What might the phrase “a different kind of lawyer” mean?

I think there is at least a partial answer in the Vatican II document, *Gaudium et Spes*, 24. To paraphrase: If you desire human flourishing, do not aggrandize yourself. Rather, give yourself away. This idea obviously did not originate at Vatican II. We all learned as children about sharing and not being selfish. Although I am relying upon *Gaudium et Spes*, a document of the Roman Catholic Church, the idea of making a gift of one’s self is not an exclusively religious idea. One might describe it as a truth integral to the better part of human nature. It is a truth about the possibilities for the human person. *Gaudium et Spes*, also known as the Pastoral Constitution on the Church in the Modern World, is addressed to the whole of humanity. (*Gaudium et Spes*, 2). The idea that human flourishing derives from the gift of self is an extraordinarily rich and deep one, and I would like to mention just three dimensions. The intentional practice of self donation tends to make one a more just, a more merciful, and a more hopeful human person.

First, when one gives one’s self away and declines self aggrandizement, it makes one more just. The regular practice of selflessness transforms one’s soul. In the transformation, one becomes more aware and respectful of others. For the lawyer who takes this path of human flourishing, it nourishes a deeper respect for each person’s fundamental human rights. The right to life is the most fundamental of human rights. All other rights depend on the right to life. The *Torah* contains many provisions about the right to life. In the development of Western culture, the Jewish respect for life stood in contrast to the pragmatic brutality of Greek and Roman antiquity. The *Talmud* famously states: “one who saves a single life, saves the world.”

(*Talmud, Sanhedrin*, 4:5). The way that a society treats the child in the womb, the severely challenged human being, and the elderly and infirm is the measure of that society's commitment to fundamental human rights. It follows that a different kind of lawyer serves as the advocate for society's poor and powerless and especially for those whose very right to life is questioned. Imbued with the sense of justice that derives from self-donation, a different kind of lawyer knows that there are no disposable human beings.

Second, to give one's self away for others makes one more merciful. In the *Quran*, we read that Allah is all merciful, and he tells the Prophet: "We sent thee as not but as a mercy for all creatures." (*Quran*, 21:107). Saint Thomas Aquinas distinguished between mercy as mere sentimental emotion (*misericordia passionis*) and mercy ruled by reason (*misericordia rationis*) because he understood mercy ruled by reason to be the perfection and fullness of justice. (*Summa Theologica*, II-II, 30, 3). In the immortal English prose of the bard Shakespeare, mercy "droppeth as the gentle rain from heaven . . .Tis mightiest in the mightiest. . . mercy is above this sceptered sway. . . It is an attribute of God himself; And earthly power doth then show like God's when mercy seasons justice." (*Merchant of Venice*, Act iv, Scene 1, Lines 180-192). The libertarian secular ethicist, Jacob Appel, observes: "One of the glaring -- yet too often overlooked -- failings of contemporary America is that we have become a nation obsessed with justice and retribution. . . .What a sea change it might be in our public discourse and our civic life if we focused instead upon mercy and forgiveness. A merciful and forgiving culture might find itself with less anger, less social disruption, and even less crime." (available at: www.huntingtonpost.com/jacob-m-appel). I neither agree with all of Appel's libertarian and secular views, nor do I necessarily think his quoted words are necessarily an adequate description of American social reality. Nonetheless, I think his words invite reflection by

attorneys. It seems to me that a different kind of lawyer would be concerned with mercy for the immigrant, the imprisoned, the isolated, and the broken. To be sure, I agree with Thomas Aquinas: “that mercy does not destroy justice, but in a sense is the fullness thereof.” (*Summa Theologica*, I, 21, 3). It strikes me that a different kind of lawyer understands that mercy perfects justice.

Third, intentionally making the gift of self on behalf of others gives one hope. By this point of my remarks, I can probably anticipate what some of you might be thinking: “OK, Father, this is all a very nice talk, but let’s get real. It’s a cruel world out there, and a lawyer has no choice but to function in a competitive environment focused upon status, power, and wealth.” Certainly, I am not unaware of this darker aspect of reality. However, I am reminded of Aristotle, who observed that human beings tend to become what they do. For Aristotle, the consistent practice of virtue makes one a virtuous person. (*Nicomachean Ethics*, II, 1, 1103b1).

What kind of person do you want to become? *Gaudium et Spes* expresses the paradoxical wisdom that by making a gift of the self, one actually becomes a larger more full human being. Our own Professor Thomas Shaffer distinguishes between optimism and hope. He observes that optimism can exist without truth, but hope must be grounded in truth. (*On Being A Christian and Being a Lawyer*, 191). What is the truth that grounds hope in the all too often cruel world? For a different kind of lawyer, human flourishing does not lie in stinginess, vengeance, dishonesty, greed, and more cruelty. Rather, the reality that grounds the hope of a different kind of lawyer stems from a commitment to the paradoxical wisdom that the path of human flourishing runs not through self-aggrandizement but through the generous gift of self on behalf of others.

I have been speaking in the voice of *Gaudium et Spes* with its appeal to our common humanity. By adopting this voice, I do not mean to diminish the importance of Catholic faith. For me, the whole point of this life is to cooperate with God's grace so that we can be with Him in the next life for eternity. There is no question for me that every grace flows through Jesus Christ. Christ is the primary and ultimate exemplar of self-donation. Perhaps, my ministry as a priest among you, with all its readily evident imperfections, nonetheless gives some small witness to the peace and glory of the Crucified and Risen Lord.

Thank you. Congratulations. And, God bless you.