Q & A with the Experts: Frank Alexander

Professor of Law and Founding Director of the Center for the Study of Law and Religion

Q: How did the Law and Religion Program get started?

A: The earliest discussions about law and religion occurred with Jim Laney. At the time that I first started working with Jim, he was Dean of Candler Divinity School. I was a recent college graduate working with a civil rights organization here in Atlanta. I went to Dean Laney and said which should I do? Should I go to law school or should I go to divinity school, and Dean Laney very calmly and straightforwardly replied, “Well you should do both,” and then five years later, having finished both law school and divinity school, I was practicing law here in Atlanta. I had the occasion to visit with then-President Jim Laney and he said, “Isn’t it time for us to start a Law and Religion Program here at Emory?”

Part of President Laney’s commitment and vision for this university was to build a university which is interdisciplinary in nature, to knock down the isolation of the graduate schools and to build on the strengths of the schools in interrelated fashion, and part of that was to promote the work in law and religion, law and economics, and multiple disciplines and disciplinary programs. So in the summer and fall of 1982, I agreed to come out and help create the Law and Religion Program here.

At that time virtually no law school in the country had serious scholarship or teaching in law and religion. Indeed, most law schools were hostile to the study of theology or religion or church-state issues. So we were nervous about the success of it. We were nervous about the receptivity in legal education to the possibility of law and religion.

Q: Why was it important to bring law and religion together?

A: Well the best context for understanding the times was when I was a student at Harvard Divinity School and Harvard Law School both in the early 1970s, and I was told by my professors then of the story of a student long before me who had gone to the law school and asked, “Well where in the midst of all these rules and regulations, where will I find discussions of justice?” And the professor said, “If you want justice go to divinity school.” And the student then went to the divinity school and took courses in New Testament, exegesis, patristic, systematic theology. And the student said, “Where in the midst of all of this am I going to have discussions of justice?” And the professor of theology said to him, “If it’s justice you’re after go to the law school.” So that is very much the context of the time where we were trying to find the
common place for discussion of the relationship of issues in theology, moral philosophy, legal history, professional responsibility.

**Q: How did Harold Berman’s arrival at Emory impact the program?**

A: We had started the program in the fall of 1982 and the first step we did was to create the joint-degree program to make it possible for students to pursue both degrees simultaneously. Within two years we discovered the possibility of Harold Berman coming to Emory, and that itself really is providential. I and others here at the law school nominated Hal Berman for a Woodruff, the very first Woodruff professorship in the university. Completely unbeknownst to us, the professors in Soviet studies across campus in political science had submitted Hal Berman’s name to the president for a Woodruff. Thus, President Laney received nominations for the very first Woodruff professorship from two entirely separate divisions of the university for this one person. His response to me at the time was, "That’s exactly what I was after in a Woodruff Scholar to be a professor." And yes, that is what made our Law and Religion Program suddenly become a national program.

**Q: Why was Professor Berman so important to the Law and Religion Program?**

A: He was one of the few legal scholars in the country willing to write about both law and religion. He had made his reputation in Soviet law and administrative law, international law. But beginning in the late 1960s and early 1970s, he began to write and talk about the interaction of law and religion, and the series of lectures he gave at Boston University were published in 1973, called the *Interaction of Law and Religion*, and that laid the foundation for us to begin our work here.

I think there are two reasons that Hal Berman came here ultimately. One is the fact that Emory was committed to doing serious scholarship in law and religion and to building a program. He had the commitment of then-Dean Tom Morgan of the law school and President Jim Laney of the university. But I think it was also because Harvard showed very little tolerance or patience for doing it. I and a number of others had done joint-degree programs or other simultaneous degrees at Harvard over the years but neither the divinity school at Harvard nor the law school at Harvard were interested in encouraging the kind of scholarship, study, research that we do here at Emory, and that’s what Hal was in the mood to take on.

**Q: Besides the arrival of Professor Berman, what else put the program on the map?**

A: I think the mark that was made by 1992, 10 years after the program was created, was a mark that is exemplified by our Christianity and Democracy Conference as that signified and symbolized our commitment to do serious scholarship. Our commitment to be not just local and national but international, our commitment that we look at tough questions of policy, of professionalism, and that we look at very tough questions inside the legal profession, inside the conceptions of ministry and church history, and we do so with our students, our joint-degree students and a broad range of students from theology, law, and throughout the practicing sector in both disciplines.
Q: Why was John Witte, Jr., brought to the program?

A: John Witte came to Emory largely unknown. He had just graduated from Harvard Law School a year or two after we persuaded Hal Berman to come as our Woodruff Professor, and Hal Berman brought John down as his research assistant. During his first year or second year when John was working as Hal’s research assistant, we got to know him as an individual and he began to teach a course in church-state relationships and First Amendment issues. John then left Emory and went into the private practice of law here in Atlanta for a year and then we persuaded him to come back and begin to serve administrative functions in the Law and Religion Program and actually become a full-time tenure-track faculty member at the time. That was roughly in the period of ’86 to ’89, and in those early years John was doing multiple things. He was meeting all of the expectations of being a tenure-track professor teaching a full load of courses and then working with us in the Law and Religion Program. You know, from that very quiet, simple beginning John’s gifts are immense. John has the phenomenal gifts of being the best professor in the classroom that Emory Law School has ever known. He’s got the phenomenal gift of being able to do the kind of scholarship, of research, of intellectual inquiry that his mentor, my mentor, Hal Berman does in tracing common themes across a thousand years, except unlike the rest of us, John can do it any of six languages. John is able to write in a way that speaks to scholars and to laity. John is able easily to be in a discussion group of academic theologians, of parish ministers, of students in the classroom and converse with any group with equal facility. So John is the one whose vision took the program from what it was in roughly 1990 and made it what it is today.

Q: What kind of student pursues a joint degree in law and religion?

A: Our students, joint-degree students, are characterized primarily by their passion to push the tough questions. There’s no single thing that characterizes them in terms of religious tradition. We have them across the traditions, across the Christian traditions as well as religious traditions of the book, the Jewish joint-degree students or the Indian religion joint-degree students, the Islamic joint-degree student. What characterizes them is a passion for pursuit of questions of faith and practice, of faith and law, of their religious tradition and the legal difficulties and religious difficulties. They have gone into the full-range of vocational options, whether it’s a full-time practice of law as partners in major corporate law firms to full-time legal services, to the academy and teaching, to full-time church work in the pastoral ministry. So the common denominator that binds them together is an absolute conviction that neither discipline can be separated and understood in isolation from the other.

Q: What has been the Center’s impact on Emory?

A: The impact of the Center on Emory has far exceeded anything that I could have dreamed of 25 years ago. I think it’s safe to say that this Center has been the model program for interdisciplinary and inter-professional work here at Emory. There are good examples of other such programs, joint-degree programs, cross-disciplinary work, but nothing has had the impact on the university, this university, the way the Center for the Study of Law and Religion has done. By bringing together in any given year at least 75 scholars from throughout the university, whether it be in the theology school or the school of public health, the school of medicine, in the college, in the religion department, in Judaic studies, sociology, political science. It has brought
together more than any other single piece of this university, and we have done more with joint-degree students, students who are pursuing both degrees, but we’ve also taught students, more students who are not pursuing joint degrees than any other program like it. So the impact of this program on this university is immense.

Q: The Center’s impact beyond Emory?

A: The impact of the Law and Religion Program outside of Emory is probably felt first and foremost in legal education. It has shaped the debate. It has shaped the culture for the entire system of legal education in the United States. In 1980, law schools were embarrassed to talk of religion or to talk of the place of religion or theology or faith in the law school classroom. It was not done. But today no major law school in the country is staying away from or shying away from the relevance of questions of law and religion, law and Christianity, law and Judaism, law and Islam. Those questions cannot be ignored. So the Law and Religion Program has shaped the debate. It has shaped the nature of also scholarship. In 1980 if you were writing in the field of law and religion, it was not considered scholarship. It was considered an avocation. Today serious scholarship, whether it’s in legal history or in moral philosophy or in contemporary social and political issues, has to take account of the religious dimension.

Q: Why has the Center made such an impact?

A: The emergence of the Law and Religion Program has coincided with the resurgence in this country of the debates about the role of religion and the debate in the public square. It is not that the Law and Religion Program has taken an ideological stance but the Law and Religion Program has made possible the debate of faith in the public square, the relationship of moral concepts and of religious concepts to legal obligations, the role of the church to the state and the state to the church. The Law and Religion Program has made possible those debates and made it possible with incredible historical accuracy and an understanding of the nuances of the differences in the different faith traditions.

Q: How has being part of the program affected your own work?

A: One of the fun things about being part of the Law and Religion Program is that we allow each other to play to their own strengths and their own passions. Mine happened to be inner-city housing, the redevelopment of vacant, abandoned properties, the work with individuals in public housing projects that are being demolished and redeveloped, and I do so because of all of the convictions that I personally and philosophically and as a scholar bring to it. The work of law and religion allows me to understand my ministry and to interpret it, but my ministry, my work as a practicing attorney which I view as ministry, also informs my understanding of law and of faith.

Q: What are some examples of how law and religion have become your ‘ministry’?

A: My own training in both ministry and in law was indispensable to the work I did in the public housing projects. I could not have begun to understand what it meant to be a counselor at law if I couldn’t first understand what it meant to be a counselor theologically, pastorally to the
individuals in pain. My own training in pastoral care and counseling directly influenced how I could work with the residents in public housing projects. They would be asking tough questions but they weren’t just legal questions. They would want to talk about the tragedies in their families and if I as a lawyer approached them simply as individuals with legal problems, I was missing their humanity. That to me is a conjunction of so much of what the Law and Religion Program does. It allows us to begin to see people in their humanity and not just as individuals defined by legal problems. In another context, in working with individuals who we house in support facilities, individuals with adult chronically mentally ill, yes I can deal with some of the legal issues but it’s only by being able to deal with the deaths that occur and the pain and suffering that occurs that I can more fully understand the nature of the legal question and how it relates to the rest of their lives. So for me doing law and religion, I can’t do one without the other.

Q: Where should this program focus during the next 25 years?

A: It is my hope and my belief that the Law and Religion Program is going to have to confront two new sets of issues in ways we haven’t before. First is the interplay of multiple religious traditions on tough questions of international policy. As we cross continents, not just looking at the Middle East but the Indian subcontinent and the Far East, we’re going to have to broaden our understandings both of Western common law and of religious traditions. I also think it’s time in the next 25 years for the Law and Religion Program to take on much more directly contemporary social and political issues than it has in the past, the tough questions, not that we have to become advocates of a particular position. Indeed I hope we don’t. But I hope we will continue what we’ve just begun really with the Pew grant and in some more recent programs of presenting the case from multiple perspectives of tough questions. The best example of where we’ve done that is on marriage and the future of marriage but I think we need to it on the future of relationships with children. We’ve begun our work there. I hope we go much further and begin to tackle the question of what it means to be a member of a community. Our immigration policies have to deal with what it means to be a member of this community, and we can no longer go forward, I think, in law and religion if we don’t begin to talk about who belongs in the community and play out the ramifications of that.

Q: What else is important for the Center to do in the future?

A: Building communities, nurturing communities, redeveloping communities. I am absolutely convinced you must include all the members in a community and that necessarily means that we’ve got to reach across traditions and politics and cultures. One of the big mistakes we always make is to approach things with our blinders on, our own myopia in defining the problem in our own homocentric or idiosyncratic ways. It’s only by having a broad conception of community and making a firm commitment that the community is very broad and getting that community around the table that we can begin to talk about reforming the community and addressing the needs of those who are powerless and impoverished and disenfranchised and giving them voices at the table as well. The voices thus far have primarily been the voices of tradition and of power of the church, the powerful, of the legally powerful. It is time, I hope, for us to turn to the voices of those who are the impoverished, those without power, indeed those without voices, and bring them into the table for the discussions.
Q: What should the Center do for students in the next 25 years?

A: I hope that we will explore in ways we haven’t before the way in which individuals express their vocational calling. As we build more alumni with our own joint-degree graduates, but also networks with similar joint-degree students from across the country, I hope that we will build opportunities for them to share, compare, learn about how to have vocational opportunities in theology, in law and blend those and to see the comparison and contrast. I hope that we’ll create more mechanisms that can respond to immediate social crises such as immigrant housing or healthcare service issues.

Q: What should people remember as the Center marches toward its Golden Anniversary?

A: There are two things that I hope that those who do this work would always bear in mind as the work goes forward. First is the importance of dreaming and never stop dreaming about the tough questions and the possibilities of things we can unpack in the tough questions. The fact that things seems to be so different is usually an impediment to our creativity. We need to think, in the words of Bobby Kennedy, of asking about things that never were rather then simply asking why things are the way they are today. The second thing I hope that we never forget is that every time we build something we are also building in its defects. So we must always stand ready to criticize the very thing we’ve just created and always call it to reformation, and that’s truce of both religion and law and that includes the Center for the Study of Law and Religion and our own expressions of it. We’ve got to be open to being called to be accountable and to constantly reforming the institutions we create.