Q & A With the Experts: Harold J. Berman

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Q: Why come to Emory in 1985, at age 70?

A: In those days Harvard, like many other law schools or any other universities had a policy of making people emeritus at a certain age. And at Harvard you could stay on maximum to the age of 70 and then you could no longer teach. Congress had passed a law, by the way, making this illegal but the universities got an exception for seven years and I was in that seven year period. I was going to be made emeritus and I didn’t want to be emeritus, I wanted to keep teaching and I was open to invitations from elsewhere from my time of retirement at Harvard. I knew Frank Alexander well, he had been my student and he had invited me to Emory to give a lecture once and I’d been down here. So, I got in touch with him and he got in touch with President Laney and they made me an offer of this Woodruff Chair, which was a very good offer. Jim Laney offered me an appointment for a lifetime. In fact, I had a letter from the Dean [of Emory Law School] “so long as your energy, interest and productivity continue,” so when my energy, interest and productivity are not there, I have to retire here from Emory. But, so far we’ve gotten along very well.

Q: Why Law and Religion?

A: Every legal system rests on a belief system and what has been called civil religions. We believe in democracy or freedom with the same passion that in religious circles people believe in God. We believe in America. I love America. Religion is what comes from the heart as well as the mind. It the belief system, what you’re committed to, what you’re willing to fight for, even to die for. We have deep in our tradition and deep in our constitutional law this concept of belief underlying legal rules. But most of the courses teach legal rules which are then viewed from a political policy orientation. What does the legislature want to accomplish by this rule and not where did this rule come from historically and morally.

Q: Are you the father of Law and Religion?

A: Law and religion was something not talked about in law schools in my time. I remember asking the Dean of Harvard Law School when I was an assistant professor whether we shouldn’t have a course in law and Christianity because I said to him, Christianity had such an important influence on the development of the history of law in the West. And he looked at me and he said (he was a wonderful man but he didn’t like this idea) well, it might be an extra curricular seminar not for credit.
I was not “the father,” I’m the father of four children but I’m not the father of any discipline. I want to tell you, in those days religion was sort of a taboo subject in the law schools. It was just of no interest, indeed today, it’s not a major interest in most law schools. There are a few like Emory which recognizes the importance. In the 1950s I spoke at a conference in Chicago, and my article on law and religion, law and Christianity especially in the West, was published in a series of articles in the Oklahoma Law Review. And then I was asked to give a series of three lectures on law and religion at Boston University, they’re a well known named series of lectures and this became published as a book called the Interaction of Law and Religion which was published in 1974.

Q: Why is this field important to you?

A: My own interest now is above all in the coming together of the different cultures of the world. For the first time in the history of the human race, the entire population of the world is beginning to interact one with another all over into a kind of a merging world society. We have a world economy. We are developing a world society with a world law and this law is an important factor which we should be concerned with. And as we’re concerned with that, we have to look at the different belief systems which underlie these various cultures. Our law and religion program, which already has different theologies represented with Islam, Judaism, will give a whole new direction to legal education. Legal education could help to bring the world together through the world economy, through world sports, through human rights, through all the intellectual property which is becoming more and more universal.

Q: What should law schools be doing differently?

A: Two defects which I attribute to American legal education, the lack of historical perspective and the lack of let’s call it a universal or a comparative perspective, are very detrimental in preparing people for practice. If you go into a law firm today, in the first place you have clients in all countries, it’s amazing the extent to which multinational legal practice and the law firms have to train the law school graduates in multinational legal practice because they don’t get it in law school. You’re a better lawyer if you have a historical perspective. I think all the legal practitioners would agree. It’s just the law schools that don’t – the law professors who each in his own way preponding his own legal perspective which is not historical.

We are undergoing a fundamental, millennial change. We’re changing, I like to say, from the second millennium of the Christian era to the third, and we’re now in a new thousand year period or 100-century period of history – and now the world is a new world. In my lifetime, it all happened. I can’t believe it. When I grew up we looked at England when we studied law. Well, I went pretty far started studying French and German law then I suddenly had to realize there’s also Russia and I had to become a Russian specialist. And then China, I’ve just been invited to China. I mean it’s been an enormous transformation! In my lifetime we had two world wars, we’re all in touch with each other with these computers and these emails and the air travel and so forth. This has all happened in my lifetime. And I think it’s helpful to youth to tell them that. I think they need to hear it because they grew up not knowing anything about the past. In my experience, I’m amazed at the consequences of a lack of a historical perspective.
Q: What role can CSLR play in this?

A: In the coming years I would like the Center to focus more on the interrelationships of the different religious and civil belief systems which now divide the world but at the same time have the prospect, through their similarities of bringing the world together.

Q: Why is this so important?

A: We're told that there once were only 20,000 people in the whole world, in Africa mostly. They’ve spread little by little and traveled over thousands and thousands and thousands of years and they fill the whole earth. And now we’re all in touch with each other everywhere. I think this is providential. We have to find now common spiritual values to hold us together or we may destroy each other with our nuclear weapons.

We’ve got to go back to human nature, the common features, common spiritual values if we’re going to give a legal foundation to this new world economy and this new world society that’s emerging which would some day will become, I hope, a world community. But it’s going to take generations and centuries before this emerging world society develops finally into a world community. And we have to avoid above all the dangers to the destruction of the human race which is a possibility. We’re faced with this incredible choice between self destruction of the human race and the coming together of all these cultures and law can play a particularly vital role. That’s my world law.