Q & A with the Experts: John Witte, Jr.

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Q: What brought you to Emory?

A: I came to Emory Law School as a stowaway in Harold Berman’s briefcase. I had been his student at Harvard Law School in the 1980s. He took an early retirement from Harvard Law School and came to Emory as the new Woodruff Professor of Law. I was honored that he invited me to join him as his research fellow. Two years after arriving, Dr. Laney called to appoint me as Director of the Law and Religion Program, as it was called then.

Q: What was your assignment?

A: President Laney said that “we have a wonderful opportunity at Emory University to make religion a legitimate part of serious discourse in any profession and discipline and department on the campus. I would like you to help lead the serious discussion of religion in the law school. We have path breakers already in place. Frank Alexander has created the program. Hal Berman is there to work with you. I would like you to take what work they have done and to build it up in concert with them.”

What an opportunity! I already had five years of wonderful study under my great mentor Hal Berman, two of those years with a great new colleague Frank Alexander. I had already immersed myself in the sources and had an opportunity to write a few things, partly on my own, partly with Hal Berman. There was so much more to learn. I recognized my inadequacies and respected the extraordinary work that other people had already done in the law and religion field and in many other fields of interdisciplinary discourse at the law school already. What a chance to learn and build on a strong foundation.

Q: What intrigued you about Emory?

A: Emory at the time was preaching a wonderful interdisciplinary gospel and was manifesting that belief very concretely in good work. Emory had established The Carter Center and the wonderful programs that they had put in place. It had the rich work of the school of public health in collaboration with the CDC, along with a number of other interdisciplinary initiatives on the campus. This was a university that was doing serious interdisciplinary scholarship. And the leadership of the university saw that religion was a critical part of any serious research university’s endeavor. That excited me, and by reason of that, I found the Law and Religion Program unique and uniquely attractive.
Q: How did Professor Berman influence your work?

A: He shaped my work at its foundations, and I am still building on what he taught me. I got to know Hal Berman first as the great scholar whose work I was reading when I was a college student. Out of the blue in 1982, I wrote to him asking whether I should go to Harvard Law School to study with him or to do graduate work in law, history, or philosophy elsewhere. Happily, Hal wrote me a wonderful letter back and invited me to come study with him. I have the letter with me and hope you don’t mind if I read its concluding admonition: “I wish you every success in your spiritual and intellectual pilgrimage into the world of law,” Berman wrote. “I’m glad that you have been studying the formation and transformation of the Western legal tradition and the historical interaction of law and religion. These historical studies, even more than the philosophical studies you are contemplating, will protect you against the skeptical, even nihilistic, assault upon the law to which you will be exposed either at Yale or at Harvard. But most of all, my young friend, keep your faith and find a place for it in your legal learning. For only then will you find rest for your reason and for your conscience.” How could I not be influenced by a man who wrote such sentiments to a youngster he had never met?

Q: How did Professor Berman influence the Law and Religion Program?

A: Hal Berman was the intellectual anchor of the Law and Religion Program from the very start. Jim Laney had the idea of creating such a program at Emory that was then bursting with new interdisciplinary study and energy. Frank Alexander, a student both of Hal Berman at Harvard Law School and of Jim Laney at Harvard Divinity School, had the courage and the wisdom to put this program together. But Hal Berman provided instant credibility to our endeavor, both nationally and internationally.

Q: What were you hoping to accomplish by bringing law and religion together?

A: There’s a burden of proof against any new area of interdisciplinary discourse especially in a law school. The reason to have interdisciplinary legal study is to enhance the study of law, to open up new dimensions of our understanding of how law works. The burden of proof was on us working in law and religion to show the legitimacy of what we were trying to do. We had to show that we were not here to proselytize our faith. We were not here to introduce a soft subject to distract from the core mission of a law school. We were not here trying to create room for given fundamentalist agendas. We were here with a genuine interest to sponsor a deeper and richer understanding of law by use of religion and theology.

Q: How did you meet this burden of proof?

A: We spent time working on fundamental issues of faith, freedom and family, the centerpieces of our lives as persons and peoples -- the three things that people will die for. Our colleagues saw that we were doing legitimate and important things to enhance our collective understanding of the law and theology of these essentials of human living. World events also made it very clear, even to skeptics, that law and religion are universal solvents of human living, and volatile compounds that can come together in explosive ways. In our projects, we have been trying to build resources and to create healthier ways to bring law and religion together, and to allow
people of very different religions and cultures to understand each other. We have been trying to enliven and enlighten the discourse within religious communities about fundamental questions of law, politics and society. And we have been trying to provide resources for religious communities to be able to engage the hard legal, political, and social questions of our day in ways that are at once responsible to their own cardinal teachings and traditions, and sensitive to the growing pluralism of our world.

**Q: How has the Center’s work affected your scholarship?**

A: When I came on as director in 1987, I had only a primitive understanding of the field of law and religion. But, by trial and error, and by conversation and experimentation over the past 20 years, I have learned to develop an interdisciplinary methodology that has shaped my scholarship -- retrieving the richness of our religious traditions, reconstructing their enduring teachings for our time, and re-engaging religious voices with other voices out there on fundamental questions of law, politics, and society.

**Q: How have your own personal beliefs changed as a result of your work?**

A: I think I’ve learned to become much more tolerant and to appreciate much better than I had the wisdom of other traditions, and the efficacy of other people’s faith commitments. I’ve learned to understand what goes into a person who’s striving for women’s rights or striving for same-sex marriage or striving for the rights of the child. I came out of a very conservative Protestant tradition where all of these things were viewed as taboo, where human rights was viewed with suspicion, where same sex marriage was simply an abomination, and where the notion of women’s rights was viewed as a modern and dangerous accretion to the secular Enlightenment project. To have the privilege of sitting with great scholars and activists from around the world and learning the depth of their commitment to these discourses and the importance of these causes for them and to be able to re-think my own tradition in light of that advocacy – that has been probably the greatest change that this directorship has made in me as a scholar and a person.

**Q: What is it like to lead a major Center like this?**

A: It’s a wonderful challenge to try to harness all these wonderful individual scholars who are doing great work and to develop with them and for them a coherent project. What works is to create a compelling enough vision for a project and to create a set of new conversations and new collections of literature that project members can’t easily get by working alone or going to individual academic conferences. What also works is to set a common table for folks to share their expertise and to be edified by the expertise of others, to get everyone to be bold enough to try out their raw ideas and to refine those ideas through deep conversation, to engage in earnest and daring conversation that cuts across different schools, different disciplines, different ideologies.

**Q: What are some of the major milestones of these past 25 years?**
A: There’s nothing better for me as a professor than to have an individual class that really comes together beautifully or to have a bold new book published that makes a big splash. That’s still a thrill, and always will be, I think. But the major collective milestones for the Center have been some of the major research projects and their culminating international conferences. We had a major project and then conference on “Christianity and Democracy in Global Context” in 1991 that brought President Carter and Archbishop Tutu as our opening and closing keynotes, 50 major speakers from around the world, more than a thousand registrants who participated with us, an extraordinary moment of interdisciplinary and inter-religious synergy. A major project and conference followed in 1994 on “Religious Human Rights in Global Perspective.” This involved another 700 or 800 people, 75 speakers from around the world, and was a major culminating moment in the emerging field of religion and human rights. Later in the 1990s, we hosted a series of 12 conferences on proselytism in the new world order in different parts of the world, and these were wonderful moments for our Center. And equally important was the major conference we had in 2003 on “Sex, Marriage and Family & the Religions of the Book,” the culmination of a major project, which involved some 80 speakers and another 700 or 800 participants and yielded some 30 new books.

Q: Why was the conference on Christianity and democracy so important?

A: The first conference on “Christianity and Democracy in Global Context” put the discourse of law and religion on the map, and we happened to be the ones that were leading the discourse at the time at American universities. Before that time, issues of religion and politics, and of law and religion, were interesting hobbyhorses for individual faculty, specialty discourses for religiously-based universities and colleges. But they were not real legitimate discourses for serious research universities. The “Christianity and Democracy” conference showed there was a thirst in the general populace and among university professionals to deal with these hard questions, to think about what contributions Christianity and other religious communities had made and could make to the new democratic revolution that was breaking out around the world.

Q: What impact has this program had on Emory?

A: I think the Law and Religion Center has long been a unique steeple of excellence for Emory. When folks look at Emory on the horizon, they see a small spike in the air which is our work in law and religion. It is known as an area of interdisciplinary excellence. That has been important for Emory University in terms of its public national and international profile. I think the Center has also been a wonderful laboratory for the university to try out in a new way its distinctive interdisciplinary vision involving religion, to sponsor work that is viewed as controversial, cutting edge, even dangerous at times, and to see that it can work. I think that’s helped, even emboldened the university to think about other dangerous, controversial areas of scholarship to sponsor.

Q: What impact has it had on the world at large?

A: It’s harder to trace our law and religion work in direct public policy payoffs. In part, this is because of a deliberate decision that I and the other leaders of the Center made in the late 1980s to stay one step away from the courtroom, one step away from the committee hall in Congress,
one step away from frontline advocacy, litigation, and lobbying on law and religion themes. We wanted to be an institute for the advanced study of law and religion, not an advocacy mill for any particular position, and our influence has thus been much more diffuse. We have anticipated and resourced the debates, and we have emboldened and enriched others, I hope, to take up causes in individual cases and to develop new legislation and policy domestically and internationally.

There are some good examples of this: The International Religious Freedom Act of 1998 in many ways is a culmination of 10 years of pioneering work that we had been doing in religion and human rights. Our work on religious liberty questions in Russia has provided a treasure trove of material that litigants in the Russian courts and advocates before the Russian Duma and the Russian Supreme Court have been using. Our family work has helped enliven the discourse about covenant marriage, about thinking hard about legislative alternatives to the divorce revolution, and the like.

While collectively our Center has stayed away from advocacy or direct public policy initiatives, individual colleagues in law and religion certainly have done their part. Frank Alexander has done yeoman service on critical issues of homelessness and housing rights for communities around the country. Abdullahi An-Naim has been famously working on fundamental issues of Muslims and their identity and human rights protections both nationally and internationally. Michael Broyde is an international leader on the interactions of Jewish divorce law and state domestic relations law.

Q: What will be the Center’s focus during the next 25 years?

A: Well, the next 25 years are in part going to be a repetition of the last 25 years of law and religion. The fundamental questions of faith, of freedom, of family, the hard questions of human rights and religious liberty, the contests about marriage, family, children, sexuality – these are going to continue to be perennial contests in the culture wars domestically and internationally. We shall continue to engage these issues deeply.

But I think there are going to be two or three other areas that we may want to try to get into as a law and religion center. One are the questions of law, religion and science. Just think of this extraordinary scientific revolution that is now afoot both at the micro level and the macro level. At the micro level, the whole human genome project and the whole scary world of nanotechnology and what it might mean for us from designer babies, to cloning creatures, to stem cell remedies to a number of very important diseases -- that is a world that is already and will become more deeply contested. The contests between religion and science are ultimately going to come to law for its resolution, looking for law to provide resources for mediating that dispute and trying to move it to a more healthy dialectic. And at the macro level, this whole issue of environmentalism and the world worried about a biological holocaust or epidemic of some sort are fundamental concerns of law and theology. Those are not just the fanciful things of movies anymore. These are real issues, and again law and religion will need to weigh in deeply into that contest.

Moreover, in this rapidly globalizing understanding of religion, of law, of commerce, of society altogether, it is irresponsible to continue to operate a law and religion center without taking into
account the great richness of the religions of the East. We have focused on Judaism, Christianity, and Islam to date – a huge field in its own right, and that will remain important for us, and that has been where we have had our leading expertise. But I think the interaction of law, religion, and various Asian religions is something that we need to consider seriously for the law and religion center going forward.

Q: How does the trend of spirituality fit into this vision for the future?

A: The current new appetite for spiritualism instead of religion is simply a repetition of an old long-standing pattern in the Western tradition and I dare say in other traditions as well. People get tired of current institutional forms of religion, and one of the reactions to that is to become spiritual, to become mystical, to emphasize the kabala, to emphasize those things that are not captured in given normative structures, maintained by an organized priesthood, and perpetuated in an ongoing canon. But ultimately spiritualism cannot survive without religious institutions and organizations. One of the goals of our Law and Religion Center is to try to show that religion needs law, that religious communities ultimately need order, organization, orthodox canons, in order to survive long term. Another goal is to find a way by which these religious institutions and practices can be transformed to make them better engaged with current spiritual patterns and more appealing to the disaffected.

Q: What one moment stands out for you?

A: There are many. But a recent rewarding moment for me came at the conclusion of our big project on “The Child in Law, Religion, and Society” when we sat around the room with the 22 senior fellows that had been with us for the semester. We had an intense faculty seminar for sixteen weeks. It was co-directed by the great Martin Marty, a master of religious discourse, one the greatest scholars of the 20th century. He sat at that table and at the end said plainly: “This is the most edifying and exciting seminar I’ve ever been a part of.” In his own quiet and generous way, he was blessing us and saying that what we had done was worthwhile.