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A LAWYER'S CALL TO INTEGRITY: A RESPONSE

by Mary Kate Kearney*

In his eloquent essay on "*A Man for All Seasons*," Randy Lee discusses the integrity of Sir Thomas More.¹ Professor Lee identifies three attributes that form the basis of Sir Thomas More's integrity: More's integrity was the "primary motivation for what he . . . did"; it was the product of "his understanding of the world"; and it was a reflection of "his attitude toward the law."² For More, integrity was an aspect of character worth dying for, and he proved this when his integrity was tested during his trial and ultimate execution for treason.

None of us will face the challenges to our integrity and stark choices that confronted Sir Thomas More. As Thomas Shaffer points out, More's challenge was the product of extraordinary circumstances, and his was the choice of an extraordinary man.³ Nevertheless, government lawyers often find themselves in situations where their integrity is tested in small ways and sometimes in large ways. When confronted with such situations, they might be well-served to draw upon the attributes of integrity ascribed to Sir Thomas More.

The first attribute of More's integrity arises from his "demanding conscience."⁴ That conscience would not allow More to do certain things because doing so would require him to abandon himself. Therefore, More's integrity is based, in part, on his own beliefs and values. The views of others are irrelevant to the decisions that he makes because his inner principles are what guide him.⁵

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¹ Randy Lee, *Robert Bolt's A Man for All Seasons and the Art of Discerning Integrity*, 9 WIDENER J. PUB. L. 305 (2000).

² *Id.* at 308.

³ See Thomas L. Shaffer, *More's Skill*, 9 WIDENER J. PUB. L. 295, 301-02 (2000) (discussing a reason for More's appeal).

⁴ Lee, *supra* note 1, at 309 (quoting ROBERT BOLT, *A MAN FOR ALL SEASONS* 141 (First Vintage International, Vintage Books 1990) (1960)).

⁵ Lee, *supra* note 1, at 316-17.

As lawyers, we are required to follow external guidelines, such as codes of professional responsibility. More's example reminds us, however, that we must develop demanding consciences.⁶ Those consciences might not allow us to yield either to the pressure to be an overzealous advocate or to take a politically safe course of action and thus sacrifice the public good. For example, a government lawyer may be asked to overlook a violation of a regulation or enforce the same law differently for different people. If her conscience does not permit her to make those compromises, then she will have met the first criterion of More's integrity.

That integrity additionally must be informed by an appreciation of the world in which one lives.⁷ Sir Thomas More was not naive about the consequences of his decisions. He understood that the consequences of his decision not to endorse the actions of Henry VIII would be imprisonment and death, but he did not turn away from his position. Similarly, the government lawyer who refuses to overlook the violation of a regulation or who will not enforce the same law differently for different people must understand the consequences of her actions. Those consequences may include demotion, termination of employment, negative employment recommendations and even ostracization in one's professional community. It is naive to believe that others will always respect us when we stand up for our principles, especially when doing so threatens the existing order. It must simply be enough to have taken a stand.

Finally, Sir Thomas More's integrity was the product of his relationship with the laws of his society.⁸ More not only made the choices that his conscience demanded and understood their consequences; but he also "accept[ed] the law's protections and penalties as they appl[ied]."⁹ For More, those penalties included imprisonment and execution. For the government lawyer, those penalties may include dismissal, fines, and perhaps worse.

⁶ Robert E. Rodes, Jr., *Government Lawyers*, 9 WIDENER J. PUB. L. 281, 285 (2000) (discussing the duty of all lawyers to refrain from perpetrating injustice).

⁷ Lee, *supra* note 1, at 318-24.

⁸ *Id.* at 324-32.

⁹ *Id.* at 333.

These consequences and penalties are not to be taken lightly, because they can have repercussions on others outside the work arena, such as one's family. Certainly More's family found this to be true. When More confronted his wife, Alice, with the implications of his actions, he explained that he feared her reaction the most:

MORE . . . I am faint when I think of the worst that they may do to me. But worse than that would be to go with you not understanding why I go.

ALICE I don't.

MORE . . . Alice, if you can tell me that you understand, I think I can make a good death, if I have to.

ALICE Your death's no "good" to me!

MORE Alice, you must tell me that you understand!

ALICE I don't! . . . I don't believe this had to happen.

MORE . . . If you say that, Alice, I don't see how I'm to face it.

ALICE It's the truth!¹⁰

From Alice's perspective, More's willingness to sacrifice his life was not worthwhile because of the devastation to his family. She saw the sacrifice not as a noble calling but rather as a grievous loss. With his decision, More was asking her to accept the consequences of his integrity. Alice responded that she did not believe that his death was a necessary consequence.

The consequence of one's choice may cause suffering to others as well as to the lawyer making that choice. Lawyers in literature and real life, from Atticus Finch to the civil rights lawyers and judges of the 1960s, have called upon their families to make great sacrifices in pursuit of the lawyer's or judge's cause or calling.

On a more mundane level, lawyers ask their families to sacrifice time and attention while they pursue causes such as pro bono representation and other community work. It is hard for lawyers to make choices between spending time with family and pursuing causes, and like Thomas More, most want their family's support in making the choice to sacrifice family time. When spouses bear the burden of the

¹⁰ ROBERT BOLT, *A MAN FOR ALL SEASONS* 141 (First Vintage International, Vintage Books 1990) (1960).

sacrifice, as Alice did, it can be difficult to accept the sacrifice. The choice between attending a child's soccer game as opposed to working on a case is not the dramatic life-and-death decision that More and his family faced, but it has repercussions on the family. The choice not to attend the soccer game may be more palatable when the family understands the reasons for it. The choice for the lawyer should be a hard one, in part, because he acknowledges that his family shoulders the burden of his integrity.

Yet, for all the pressures that confront government lawyers and all the turmoil that surrounds them, their story is not a dark one. Rather, as Professor Shaffer points out, the government lawyer ultimately must be a source of hope.¹¹ Confronted though they are with everything from shattered families¹² to program budgets insufficient to meet social ills,¹³ government lawyers must work, as More did, with an unfailing belief that ultimately their communities can be made to work humanely and justly. As More proved, such hope is contagious and can inspire others to integrity, even centuries after the fact.

Sir Thomas More sacrificed his life to uphold his integrity. When government lawyers face less stark situations, but nevertheless ones that challenge their integrity, they might be guided by their consciences, aware of the consequences of their actions, and accepting of the law's penalties and protections. By sharing Sir Thomas More's vision of integrity, these government lawyers can be men and women for all seasons.

¹¹ Shaffer, *supra* note 3, at 300.

¹² See, e.g., *Lassiter v. Department of Social Servs. of Durham County*, 452 U.S. 18, 20-24 (1981) (considering state termination of parental rights).

¹³ See, e.g., *Goldberg v. Kelly*, 397 U.S. 254 (1970) (considering welfare benefits and termination procedures).