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## Dorothy Day and Innovative Social Justice: A View from Inside the Box

Randy Lee



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DOROTHY DAY AND INNOVATIVE SOCIAL JUSTICE:  
A VIEW FROM INSIDE THE BOX

RANDY LEE\*

In both leading accounts of the life of Dorothy Day, Dr. Robert Coles's *Dorothy Day: A Radical Devotion*<sup>1</sup> and Ms. Day's own autobiography, *The Long Loneliness*,<sup>2</sup> dates are remarkably scarce. In fact, Ms. Day once told Dr. Coles, as he attempted to pin her down on the details of her life, that dates are "not what matters."<sup>3</sup> While such a conclusion may grate on our learned perceptions of history, it seems undeniably the case in the life of anyone who has striven after the eternal, and Dorothy Day strove after the eternal. The issues that defined her life were timeless, much like the lessons that her life offers lawyers, lessons touching on love, service, healing, and the essence of human dignity.

Authors do not normally begin by admitting that they are not experts on their subject matter, but I am not an expert on Dorothy Day. In fact I do not understand her, her words frighten me, and her life is a complete contradiction of my own. Yet Dorothy Day is someone to whom I am drawn. I am drawn to her as the proverbial moth is drawn to the flame, and even as she does frighten and confuse me, even as the heat from her fire singes my wings and I pull back, a part of me still believes that if I could just fly into the heart of that flame that is her life, I would find what it is that I really want for my own life.

Dorothy Day's words frighten and confuse me because she said strange things, like embrace work rather than leisure, desire poverty, be healed by the broken, and turn your back on the great institutions of our age and go back to your family, to the farms, and to an age of craftsmen. In an era of personal autonomy, self-esteem, and a thousand other self words, Dorothy Day said that we can only find ourselves in God and we can only find God in community with

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\* Professor of Law, Widener University School of Law, Harrisburg Branch. The author would like to thank Professor Robert Cochran for his invitation to consider this topic, Professor David Gregory for keeping alive the memory of Dorothy Day in legal circles, and Ms. Paula Heider for technical assistance on this article. The author would also like to thank Brenda Lee and the rest of his family for illustrating Dorothy Day's spirit to him in the flesh.

1. ROBERT COLES, *DOROTHY DAY: A RADICAL DEVOTION* (1987).
2. DOROTHY DAY, *THE LONG LONELINESS* (1952).
3. COLES, *supra* note 1, at 7.

others. More than even her words, however, it is her life that most disturbs me, and it is to that life that we now turn.

### I. DOROTHY DAY

For the record, Dr. Coles reports that Ms. Day was born on November 8, 1897 in New York City.<sup>4</sup> She died on November 29, 1980.<sup>5</sup> During her twenties, Ms. Day lived the consummate “bohemian” life.<sup>6</sup> She was part of the 1920’s radical Greenwich Village scene<sup>7</sup> and counted among her friends Hart Crane, Allen Tate, Caroline Gordon, Malcolm Cowley, John Dos Passos, Eugene O’Neil, Mike Gold, and Kenneth Burke.<sup>8</sup> She wrote for cutting edge publications, authored an autobiographical novel purchased by Hollywood for the then remarkable sum of \$5000, had an abortion, married, divorced, traveled, marched with the suffragettes and went to jail with them, and sympathized with the “Wobblies” of the International Workers of the World and went to jail with them as well during a “red raid.”<sup>9</sup>

Eventually, Dorothy Day settled down with Forster Batterham<sup>10</sup> in a cottage near the ocean.<sup>11</sup> In her autobiography, Ms. Day described Forster, as she always referred to him, as “[t]he man I loved, with whom I entered into a common law marriage;” he was, in her words, “an anarchist, an Englishman by descent, and a biologist.”<sup>12</sup> Forster was also an atheist, but “[h]e was a creature of utter sincerity” and certainly not “a liar or a hypocrite.”<sup>13</sup> The couple had a daughter, Tamar Teresa.<sup>14</sup>

Ultimately, Ms. Day proved something of a Saint Augustine. For all the fullness to be perceived in her life, Ms. Day recognized within it an emptiness, an emptiness that years of searching would show her could only be filled by God:

Something happened to me when I was around twenty-five. I think I began to feel myself drifting toward nowhere. I had lived a full and active life, and I was glad I had met so many

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4. *Id.* at 1.

5. *Dorothy Day*, in 5 THE WORLD BOOK ENCYCLOPEDIA 112 (2004).

6. COLES, *supra* note 1, at 4.

7. *Id.* at 8.

8. *Id.* at 2-8.

9. *Id.* at 3-4.

10. *Id.* at 7-8.

11. DAY, *supra* note 2, at 113-32.

12. *Id.* at 113.

13. *Id.* at 148.

14. COLES, *supra* note 1, at 8.

good people, interesting and intelligent people. But I yearned for something else than a life of parties and intense political discussions, though I still like to sit and discuss what is happening in the world: “current events,” as they say in high school. When I fell in love with Forster I thought it was a solid love — the kind we had for a while — that I had been seeking. But I began to realize it wasn’t the love between a man and a woman that I was hungry to find, even though I had enjoyed that love very much and Forster and I were as close as could be. When I became pregnant I thought it was a *child* I had been seeking, motherhood. But I realized that wasn’t the answer either: I loved Forster, I was happy as I had ever been when pregnant, and when Tamar was born I was almost delirious with joy, and I could hold and hold and hold her, and feel that with her in my arms my life’s purpose had been accomplished.

But only for so long did I feel like that, I have to admit.<sup>15</sup>

Ms. Day ended her search for that for which she hungered in December, 1927; it was then that she was baptized into the Catholic Church.<sup>16</sup>

Ms. Day’s baptism and confirmation changed radically both her own life and that of Tamar. Dorothy Day and Forster separated over her entry into the Church,<sup>17</sup> and that entry would also eventually alienate Ms. Day from most of her radical friends, who felt that she had sold out to or been seduced by the opiate of the people.<sup>18</sup>

Under the circumstances, Dorothy Day was not without her uncertainties on the day of her baptism. She said of that day, “I proceeded about my own active participation in [Baptism, Penance, and Holy Eucharist] grimly, coldly, making acts of faith, and certainly with no consolation whatever.”<sup>19</sup> Yet, she also acknowledged, “I think I recognized on the day I was baptized . . . how long I had been waiting for that moment — all my life.”<sup>20</sup> In embracing her God, Ms. Day said, “I wanted to die in order to live, to put off the old man and put on Christ. I loved, in other words, and like all women in love, I wanted to be united to my love.”<sup>21</sup>

Early on in her new life in Christ, Ms. Day felt called to live “poor, chaste, and obedient.”<sup>22</sup> About five years later, Ms. Day met

15. *Id.* at 61-62.

16. *Id.* at 9.

17. *Id.* at 148.

18. *Id.* at 149.

19. DAY, *supra* note 2, at 148.

20. COLES, *supra* note 1, at 9.

21. DAY, *supra* note 2, at 149.

22. *Id.*

Peter Maurin, and together they started the Catholic Worker Movement.<sup>23</sup> Their efforts began with the paper, *The Catholic Worker*, which they wrote and printed themselves and sold for a penny a copy.<sup>24</sup> Over the next fifty-three years, they also would open thirty-three houses of hospitality for poor and homeless people across America, houses that would welcome five thousand people daily.<sup>25</sup>

Throughout the remainder of her life, Dorothy Day fought for the dignity of people to work, to create, and to experience the dignity of working and creating. She fed the hungry and welcomed the homeless under her roof. She fought the great forces of her day and ours, Church, State, Centralized Capital, for the right of the worker to feed and shelter himself and his family. Dorothy Day marched with civil rights workers in the South and stood with Cesar Chavez and migrant workers in California. When the righteous were imprisoned, she was in the cell as one of them. She listened patiently to the “realities” of her critics and then engaged them in discussions of the wisdoms of her God. She raised her daughter within the most radical of Christian circles, and on Tamar’s wedding day, mother and daughter scrubbed the floors of the reception hall together.<sup>26</sup>

It was not only her old radical friends who found Ms. Day’s new life curious. Even those who came to aid her efforts in the Catholic Worker Movement thought that Ms. Day did not understand the political and pragmatic realities of the world around her. She was, they thought, prone to believe her faith too seriously. As one co-worker put it:

Don’t think it was easy, working with the Catholic Worker people; they can be a strange group. They don’t seem to know much about what’s going on, what’s happening outside their world. They read the papers, yes, but they put all they’ve got into their small, small world of saying their prayers and preparing the soup and coffee and serving and cleaning up and getting the food for the next day. They’re not sitting and getting outraged, the way I do, about something the president has said or some senator.

I never really became a part of their community. I helped, but I kept having objections. I kept thinking, This is a nice experiment, but it doesn’t really change what has *got* to be

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23. *Id.* at 169.

24. COLES, *supra* note 1, at 13-14.

25. DAY, *supra* note 2, at 185-86.

26. *Id.* at 240.

changed. I'd try to talk with them. I tried to tell them that they can feed their fifty people or even fifty times fifty, if they could swing it, and there would be millions out there who would still be in the same . . . bind. Even the guy who gets a bowl of soup at St. Joseph's House — his problems are still there. What about all the poor who aren't Bowery bums and who have never heard of Dorothy Day or *The Catholic Worker* newspaper, or that nice man, Peter Maurin? What about all the people who would be starving to death if it wasn't for Social Security and the unemployment insurance laws and who would be in worse shape if it wasn't for Medicare and Medicaid? What about the people who get welfare and would be destitute without it?

It's pretty tough to sit there in the company of those very nice Catholic Worker people and listen to them praying for God's help and telling one another that the state is not the answer, the state is "the wrong instrument" one of them put it, and that only small factories and farms and little religious communities will work. What do they mean by "work"? Who's defining the word? They think big government is indifferent to people, and they believe that charity should be from person to person. It all sounds great. But they're way removed from what's actually happening to millions and millions of people. [T]he Catholic Worker Movement is impractical, and it just isn't going to make any difference at all to ninety-nine percent of this country's problems. It's a movement for a handful of people who want to live certain intensely Christian lives. I have only admiration for them, but not for a lot of their ideas.

Someone has to try to fight the big corporations, and someone has to push the government to try to help out the poor, and someone has to make the case for working people. It's ridiculous to turn your back on Washington, on American economic and political power, and keep talking about communitarianism. . . .

You could argue that the Catholic Worker people have their heads way up in the clouds, and they just aren't involved in the really significant battles being waged now, battles which will determine whether the poor get a better deal or whether they will not get anything much, only a handout now and then. I hate to be talking this way, but someone has to be in touch with hard reality and say what's actually happening and not just keep reciting words from the Bible. . . .<sup>27</sup>

Yet, to Dorothy Day, the charity to be solicited from or delivered by the powers of her day and ours was a charity "to choke over."<sup>28</sup>

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27. COLES, *supra* note 1, at 92-94.

28. DAY, *supra* note 2, at 150.

She saw such "charity" not as a response to "man's dignity and worth,"<sup>29</sup> but the product of "Community Chest and discriminatory charity, centralizing and departmentalizing," a response derived from "bureaus, building, red tape, legislation, at the expense of human values."<sup>30</sup> Dorothy Day contented herself to rely on her prayers and Bible because she believed the answers to be obtained from American economic and political power were answers that failed to see the value of the people they claimed to serve.

Dorothy Day chose neither to help nor to advocate for the urban poor. She "chose to live alongside" them, in fact to become indistinguishable from them.<sup>31</sup> She chose not to share but to embrace not only their pain, but their joys, their sorrows, their experiences, their wisdoms, their dreams, their realities, their victories, their defeats, their hopes, and their fears. She chose to embrace the totality of their human experience just as her God had once chosen to embrace the totality of our human experience, and she did so because she loved just as her God loves.

Dorothy Day felt "delightfully near to"<sup>32</sup> Saint Teresa of Avila, after whom she named her daughter and whose name she shared at her own confirmation.<sup>33</sup> Saint Teresa described life as a "night spent at an uncomfortable inn."<sup>34</sup> She was a woman who wore a bright red dress when she entered the convent and once danced with castanets in a cloistered community.<sup>35</sup> Dorothy Day described Saint Teresa as "a mystic and a practical woman, a recluse and a traveler, a cloistered nun and yet most active."<sup>36</sup> It was a description that caught much in Ms. Day's own nature as well.

Such a life both draws me in and frightens me off, but in doing so, it sends the unmistakable message that it is a life that can challenge all of us both as people and as lawyers. In particular, it can challenge us in how we see, in how we love, in how we heal, in how we work, and in how we relate to our adversaries.

## II. ON FINDING THE VISION OF A FATHER'S EYES

For we lawyers to learn from Dorothy Day, we must first understand how she viewed the world and how radically different

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29. *Id.*

30. *Id.* at 151.

31. COLES, *supra* note 1, at 111.

32. DAY, *supra* note 2, at 141.

33. *Id.*, at 140, 152.

34. *Id.* at 140.

35. *Id.*

36. *Id.*

her perspective was from that of the rest of us. When most lay people encounter a box, each side of which is a different color, they feel tempted to look upon the box from only their own perspective and determine the box to be the color of the side that faces them. Thus, if it is a green side of the box that faces them, then the whole box must be green.

Lawyers are trained to overcome this temptation to look from only one side. Thus, having been specially trained to see things from all possible perspectives, a lawyer will observe the box from all sides. He will walk around the box, climb on top of the box, turn the box over, and after examining all the sides of the box, the lawyer will be able to tell you how the box looks from all sides.

As lawyers, we tend to think that because we take the time to walk around the boxes of our world, we see our world better, certainly more completely, than do others. Whether she saw them better than we do, Dorothy Day definitely saw the boxes of her world differently than we would, and in doing so, she shattered the illusion that we, as lawyers, see our world completely.

Dorothy Day saw the world differently from us lawyers because Dorothy Day did not see the boxes in her world by troubling herself to walk around them. She climbed inside them. Dorothy Day saw the boxes in her world, the people, the issues, the strains, the relationships, not from the outside-in but from the inside-out, and thus, she saw those boxes as God sees them. As God told Samuel, "not as man sees does God see," for men look upon the outside, but God looks upon the heart.<sup>37</sup>

Catherine Doherty, founder of the Friendship House movement and a most holy woman in her own right, once came to visit Dorothy Day on a night when there were no extra cots at the house of hospitality. Dorothy Day offered to share her own bed with Ms. Doherty, and, in fact, did so. That night, however, yet another unexpected guest knocked on the door of the house, a syphillitic woman. Realizing the woman's need for a bed, Dorothy Day took the woman up to her own bed and suggested to Catherine Doherty that Ms. Doherty might be more comfortable sleeping in the bathtub. When Ms. Doherty asked Dorothy Day where she, herself, intended to sleep, Ms. Day answered that she would sleep in the bed with the woman. Ms. Doherty was immediately alarmed and stressed to Dorothy Day that the sick woman, no doubt, carried many illnesses that were contagious and that Ms. Day must consider her own

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37. I *Samuel* 16:7.



health. Dorothy Day, however, simply replied, "You don't understand, this is Christ who has come to ask for a place to sleep. He will take care of me."<sup>38</sup>

For Dorothy Day, her religion was not an exercise of theology but an exercise of love,<sup>39</sup> and as a woman in love, she sought to see her world through the eyes of her Beloved. As Saint Teresa of Avila observed, "Yours are the eyes through which He looks with compassion on the world,"<sup>40</sup> and such were Dorothy Day's eyes.

Undeniably lawyers can play an important role in resolving disputes because we do take the time to walk around the box and to understand a situation from multiple perspectives. We, however, must never allow ourselves to forget that the faces of a box merely define the space of the box. We are tempted to see those faces and believe that we have seen the box, but what we see really just masks what is really there. The value of the box is really the space inside.

### III. ON LOVING

The Apostle John wrote, "There is no fear in love. But perfect love drives out fear because fear has to do with punishment. The one who fears is not made perfect in love."<sup>41</sup> Dorothy Day recognized the paradox in this teaching and recognized that it was not the paradox the rest of us might see. The paradox intended by the apostle was not in the association of love and fear, or the juxtaposition of pain with some warm and happy tingling in the heart. Ms. Day knew that love, in its very essence, knew pain and embraced it. Rather the paradox intended was that love knew pain intensely and yet would not fear it. Just as a mother's love confronts and conquers the agony of labor to give birth to her child and a Savior's love confronts and conquers the agony of the cross to give life to his friends, so too must all who love confront and conquer pain if they are to embrace their brothers in a fallen world.

For Dorothy Day, "the final word [was] love," and Ms. Day understood that love can be "a harsh and dreadful thing."<sup>42</sup> She would say that her "very faith in love ha[d] been tried [by] fire."<sup>43</sup> Dorothy Day loved her God with an uncompromising passion, but

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38. Mia Nussbaum, *A Portrait of Dorothy Day*, NOTRE DAME MAG. ONLINE, Oct. 2004, <http://www.nd.edu/~ndmag/au2004/nussbaum.html>.

39. DAY, *supra* note 2, at 149.

40. See, e.g., Sisters of St. Joseph, *Prayers of Holy Week: Holy Thursday of Holy Week* (2004) [http://www.csj-to.ca/Pray\\_with\\_us/holy\\_thursday.php](http://www.csj-to.ca/Pray_with_us/holy_thursday.php).

41. 1 *John* 4:18.

42. DAY, *supra* note 2, at 285.

43. *Id.*

she would tell the story of Saint Teresa of Avila riding a donkey across a stream on the way to a new convent the saint was starting. After the donkey chose that moment to throw Saint Teresa off, the Lord said to her, "That is how I treat my friends," to which Saint Teresa responded, "And that is why You have so few of them."<sup>44</sup> It was a story that Dorothy Day appreciated: an appreciation springing from recognized humor rather than sympathy. Dorothy Day knew, as does her God, that love comes at a price.

Dorothy Day left a glamorous life, a prestigious job, famous friends, and the man she loved to be where God wanted her. Where he wanted her was in a world of brokenness and want. It was a world that tried her patience, tested her resolve, pricked at her pride, invited her frustration and righteous indignation, and, yet, demanded her love and hungered for her gentleness. For her it was an odd but inevitable trade. She was, after all, a woman in love, and it was in this life that she believed that she could best be united to her beloved.

The hunger to love her God led Ms. Day to love the people her God placed in her path. That hunger led her to make community an essential part of her life. Her community consisted not in the faceless masses of the poor, however, but in each unique individual who passed through her life. Devoid as her autobiography is of dates, it is filled with characters, each loving and trying Ms. Day in their own unique way. Looking over that cast of characters for the central lesson of her life, Ms. Day concluded:

We cannot love God unless we love each other, and to love we must know each other. We know Him in the breaking of bread, and we know each other in the breaking of bread, and we are not alone any more. Heaven is a banquet and life is a banquet, too, even with a crust, where there is companionship.

We have all known the long loneliness and we have learned that the only solution is love and that love comes with community.<sup>45</sup>

In setting the parameters of her community, Dorothy Day was "not the kind of reformer. . . who live[s] in one world while hoping to change another,"<sup>46</sup> nor was she one to seek to insulate herself from the "crusts" of her life's banquet. Dorothy Day voraciously consumed every crumb she could of the bread that was her life.

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44. *Id.* at 140.

45. *Id.* at 285-86.

46. COLES, *supra* note 1, at 111.

Dorothy Day, however, did not just love intimately; she also loved hard. Ms. Day understood that to have compassion is to share in another's suffering, but Ms. Day wanted to love more than even compassion required. Dorothy Day wanted more than simply to share in suffering: she longed to share every aspect of the lives of those she loved. Dorothy Day could have written about the lot of the poor from an office in Hollywood or from the French Riviera if she had wanted to, but she chose instead a life that left her to scrub the floors with her daughter on her daughter's wedding day.

Why did she do that? Dorothy Day chose as she did because she lived her life not out of guilt nor responsibility but out of love, and to express love is to share life. Love is not doing what we find pleasurable nor doing nice things that please others without inconveniencing ourselves. In our world amongst one another, we know deep down that love and mercy only mean something when he who has extended them has made himself vulnerable or has willingly left something behind.<sup>47</sup> Dorothy Day left it all behind.

In that, Dorothy Day did what the rich young man of the Gospels could not do.<sup>48</sup> The rich young man could obey, but he could not love and, therefore, he was left to leave Jesus sadly when he learned that loving would require leaving something behind.<sup>49</sup> Dorothy Day, meanwhile, was like the blind Bartimaeus, who, invited to go his own way, chose, instead, to follow love.<sup>50</sup>

Although Dorothy Day loved hard, embracing all that love demanded did not come hard to her. Sister Mary Ellen Burns, a lawyer who has been called to use her talents "to secure stable and safe housing accommodations and avoid evictions" for poor people in New York,<sup>51</sup> was what one calls "an early vocation." As a teenager, Sister Mary Ellen would walk through the woods near her home, look around at the trees and beauty that surrounded her, and say, "This is what my beloved has created *for me*." During those walks, Sister Mary Ellen's love would be marked by a singular excitement. This was an excitement the likes of which Dorothy Day could understand and never lost.

One learns a lot about a culture from its language. Our culture has a lot of words for animosity: one can be mad at another, or

47. SAINT THERÈSE OF LISIEUX, *THE STORY OF A SOUL* 3 (1997) ("True love is shown in self-abasement, and if everyone were like the saintly doctors who adorn the Church, it would seem that God had not far enough to stoop when He came to them.").

48. *Matthew* 19:16-22; *Mark* 10:17-22; *Luke* 18:18-30.

49. *Matthew* 19:21-22; *Mark* 10:21-22; *Luke* 18:18-30.

50. *Mark* 10:52.

51. *The Northern Manhattan Improvement Corporation* (2005), <http://www.nmic.org/legal.htm> (providing additional background on Sr. Mary Ellen's work).

frustrated, furious, angry, disgusted, irked, or resentful, to name only a few such terms. Yet, our culture has surprisingly few words to communicate the opposite of animosity. In fact, we use the same word *love* to describe our relationship with our car, our breakfast, and our families. In a culture where *I love you* can mean I find pleasure in you or I will give you things I really don't need or perhaps even want, Dorothy used the term to mean I will leave everything behind and freely choose to be one with you.

As lawyers confronted with work amongst the poor, we must decide how much we will leave behind: what are the limits of the demands of love and where does the call to community end? When we encounter the shoeless client accused of a crime, can we, as our rules may invite,<sup>52</sup> resolve his legal problem and send him on his way, oblivious to his bare feet? Or are we free to observe, as did Professor Barbara Armacost when she returned from advocating for child bonded laborers in India, that “the legal work that frees oppressed people is only the beginning. They also need an enormous amount of aftercare”?<sup>53</sup> In addition, are we called, as was Professor Armacost, to see beyond “the faceless mass of oppressed people” and, instead, “concentrate on the value of individual lives” and find hope in a “bright and enthusiastic” face?<sup>54</sup> And ultimately, are we called to do more than even empathize with the pain of our clients: are we called to share their lives?

Perhaps it is no coincidence that it was a lawyer who asked Jesus, “And who is my neighbor?”<sup>55</sup> It is most certainly one thing to idolize the likes of Dorothy Day, to acknowledge her kindness, and celebrate her good deeds. It is quite another to be called to emulate her love.

#### IV. ON BEING HEALED

The shadow of Perry Mason hangs heavily upon the shoulders of the American lawyer, who inevitably finds himself confronted

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52. MODEL RULES OF PROF'L CONDUCT R. 1.8(e) (2004) (indicating restrictions on instances when lawyers may “provide financial assistance to a client”).

53. UNIV. OF VIRGINIA, FACULTY BRIEFS: FALL 2002 (2005), <http://www.law.virginia.edu/home2002/html/alumni/uvalawyer/f02/facnews.htm>. The Saint Thomas Law School in Minneapolis, Minnesota seeks to address these aftercare needs by operating one of its legal clinics in conjunction with a clinic operated by the University of Saint Thomas's School of Social Work. See Virgil Wiebe, *Washing Your Feet in the Blood of the Wicked: Seeking Justice and Contending with Vengeance in an Interprofessional Setting*, 1 ST. THOMAS L.J. 182 (2003).

54. UNIV. OF VIRGINIA, *supra* note 53.

55. *Luke* 10:29.

with the most important problems in the lives of his fellow Americans.<sup>56</sup> This lawyer feels called to save and to heal, to triumph when success appears impossible but failure cannot be an option. The Model Rules of Professional Conduct declare the lawyer to be “a public citizen having a special responsibility for the quality of justice.”<sup>57</sup> Our lore is filled with images of lawyers, real and imagined, who fight for justice against incredible odds at great personal risk and somehow always seem to prevail.<sup>58</sup> In fact the very legitimacy of the legal system that we take an oath to uphold is built on the premise that, in the end, right and good, truth and justice always must prevail.

But in accepting the role of public savior, the lawyer seems destined to share the fate of the poets of Bruce Springsteen’s *Jungleland*, who, in seeking to make their “honest stand,” “wind up wounded, not even dead.”<sup>59</sup> Over the last two decades, lawyers in increasing numbers have fallen victim to depression, anxiety, stress, and substance abuse.<sup>60</sup> Although lawyers like to believe they sell time, people actually come to lawyers to buy hope. Have we any to sell? We are a healing profession in need of healing,<sup>61</sup> and Dorothy Day would tell us that our saviors are the broken people sitting across the desk from us.

Dorothy Day had her evenings when she would look out the window of a Catholic Worker House or a communal farm, see the poor coming, and hope they were not coming to her.<sup>62</sup> She knew the pain of mistaking herself for the savior of the world. She knew the frustration of misunderstanding our role within the Body of Christ. She knew that we are not called to bear fruit. We are called to abide in God, to stay fixed to the Vine as a branch stays fixed to the vine.<sup>63</sup>

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56. Randy Lee, *The Immutability of Faith and the Necessity of Action*, 66 FORDHAM L. REV. 1455, 1458-59 (1998).

57. MODEL RULES OF PROF'L CONDUCT pmbl. (2004).

58. Randy Lee, *Lawyers and the Uncommon Good: Navigating and Transcending the Gray*, 40 S. TEX. L. REV. 207, 221-22 (1999).

59. BRUCE SPRINGSTEEN, *Jungleland*, on BORN TO RUN (Columbia Records 1975).

60. See, e.g., Susan Daicoff, *Articles Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1347, 1414 (1997); Ellen Ostrow, *Clear the Obstacles to a Balanced Life*, TRIAL, July 2003, at 27; Ingrid N. Tollefson, *Enlightened Advocacy: A Philosophical Shift with a Public Policy Impact*, 25 HAMLINE J. PUB. L. & POL'Y 481, 484 n.9 (2004).

61. See, e.g., MARY ANN GLENDON, A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY 15, 85-89 (1994); ANTHONY KRONMAN, THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION 2 (1993); Robert F. Cochran, Jr., *Introduction: Can the Ordinary Practice of Law Be a Religious Calling?*, 32 PEPP. L. REV. 373, 373 (2005).

62. DAY, *supra* note 2, at 260. See also COLES, *supra* note 1, at 113-14.

63. *John* 15:1-10.

It is for the Vine to bear what fruit He may choose through His branches.<sup>64</sup> The vine nourishes the branches; the branches do not nourish the vine.<sup>65</sup>

Robert Coles tells the story of a visit he made to William Carlos Williams.<sup>66</sup> Williams, not only a poet but also a doctor, was quite sick at the time and nearing death. At the time, Coles was a young medical student feeling overwhelmed by work and responsibilities. Williams listened patiently as Coles expressed to him Coles's worries and complaints and then finally offered to Coles that Coles was seeing the relationship between doctor and patient backwards. It is not simply that the doctor heals the patient, but the patient heals the doctor as well. As Williams described the relationship:

Look, the rewards are great. All the time there is the satisfaction of doing something half worthwhile — and being helped to feel better about yourself by the appreciative affection of those you've treated. *They treat you!* . . . I miss my patients. I need them now. They'd make me feel a . . . lot better — I know — if I could see them.<sup>67</sup>

In seeing from the inside out, Dorothy Day recognized that for all her talents, acclaim, and worldliness, she was called as much to be healed by the poor as to heal them. For her, the Beatitudes<sup>68</sup> were not poetic ironies or unfulfilled promises, but realities of life that transcended the wisdom of this world. The meek, the mourners, the poor in spirit, and those who hunger and thirst for righteousness truly are the blessed<sup>69</sup> and a light of the world.<sup>70</sup>

In this same spirit, Mother Teresa of Calcutta, like Dorothy Day, a spiritual daughter of Saint Teresa of Avila and of Saint Therèse the Little Flower, told the story of a man she picked up from the gutter. In her words:

[He was] half eaten by worms and, after we had brought him to the House for the Dying in Kalighat, he only said, "I have lived like an animal in the street, but I am going to die as an angel, loved and cared for." Then, after we removed all the worms from his body, all he said, with a big smile, was: "Sister, I'm going

64. *Id.* at 15:4.

65. *Id.* at 15:5.

66. ROBERT COLES, *HARVARD DIARY: REFLECTIONS ON THE SACRED AND THE SECULAR* 156 (1990).

67. *Id.* at 157.

68. *Matthew* 5:2-12.

69. *Id.* at 5:3-6.

70. *Id.* at 5:14.

home to God," and he died. It was so wonderful to see the greatness of a man who could speak like that without blaming anybody, without comparing anything. This is the greatness of people who are spiritually rich even when they are materially poor.<sup>71</sup>

Jesus told us that we would always have the poor.<sup>72</sup> Did he assure us of that because the world will always be cold or because goodness is futile or because the natural order is a world of haves or have nots? Or is it because the Beatitudes are true and the poor are the special instruments of God? Could it be that God uses the poor and broken to heal the wise and mighty of this age?

At one point in my legal career, I went through a period of unshakable brokenness. I was certain that there was no justice in the world and certainly none for me. Then one day, as I was preparing to coach a wrestling practice at the Perkins School for the Blind, I saw one of the school counselors holding a teenager up to a drinking fountain. Not only was the child blind, but he was challenged with cerebral palsy, autism, and severe mental retardation. As the cool water from the fountain struck the teenager's lips, he not only drank, but he also smiled and laughed. That child recognized the joy in the coolness of the water and tasted the joy in every swallow. And he taught me which of the two of us was being blind.

They say that there was a day in Heaven when God came before the souls yet to be born and said to them, "I need one of you to go down for me and heal one of my children who is anxious and has lost all hope," and then He added, "but before you offer, I must tell you that to heal him, you must give up your intellect, your body will have to be broken, and your sight will have to be lost. Only in your woundedness can he be healed."

At first there was a silence, even in Heaven, and then one voice said, "Lord, send me. Let me be broken for my brother." They say that voice belonged to that child at the fountain, and the brother he volunteered to save was me.

Lawyers are powerful. We are wise and helpful, but even our strengths pale in comparison to the strength of the poor: those who leave prison wanting to work, to create as God created them to create, only to find that no one will hire them; those migrant workers who want to unionize to gain even the minimal dignity of

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71. MOTHER TERESA, *THE JOY IN LOVING: A GUIDE TO DAILY LIVING WITH MOTHER TERESA* 75 (1997).

72. *John* 12:8.

a port-a-john in the field where they work; those who raise a family in an apartment with no heat or no electricity or no water or a refrigerator whose door no longer seals shut; those who live on the streets of our cities ravaged by mental illness. How strong they must be to survive their lives. How strong they must be to come to us, in complete humility, and say, "I cannot help myself. Will you help me?"

Dorothy Day came to understand that when she saw the poor coming down the street to her door, God was not sending them to be healed. He was sending them to heal her, and in that spirit, she would open the door and let them in. We, as lawyers, are called to see and to do likewise.

## V. ON WORKING

Dorothy Day and Peter Maurin used to picket under the slogan, "Work, not wages."<sup>73</sup> They understood that the battle they fought for the workers was as much philosophical as economic, and it was as much combating the philosophy of the poor as the rich. For them the ultimate battle was "[t]o make men desire poverty and hard work."<sup>74</sup>

One can explain the curiousness of Ms. Day's vision of work by noting that it is a vision from inside the box. From the proclamation in Genesis that "God created man in His own image,"<sup>75</sup> one learns two things. First, God creates, and second, man is made in the image of God. Thus, man, like God, is designed to create. The purpose of work is to create, and the purpose of creating is to fulfill our calling to be in the image of God.<sup>76</sup> Man, then, does not work because he does not have the wealth stored up to constantly be at rest; man works because his dignity is in creating.

Thus, in the eyes of God, man was created not simply for wages, but he was created to work. It is in work that man's divine nature is displayed. Therefore, the lawyer who encounters the poor must not see them simply as mouths with a right to be fed or bodies with a right to be sheltered but as people created to create. Our work for the poor is not accomplished because we have succeeded in making them wards of the state. Our work for the poor demands that we see within them the creative potential that God has placed there.

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73. DAY, *supra* note 2, at 226.

74. *Id.*

75. *Genesis* 1:27.

76. For a discussion of work, and in particular a lawyer's work, as a religious calling, see generally Samuel J. Levine, *Reflections on the Practice of Law as a Religious Calling, From a Perspective of Jewish Law and Ethics*, 32 PEPP. L. REV. 411 (2004).



For the lawyer, the lesson here is not simply about the work of the client. It extends to the work of the lawyer. When we recognize that work is best viewed as the act of creation, we are left to ask of our own work not merely, "What do I do?" but "What have I created?" It is not enough that we recognize that we act on behalf of clients. In our handling of a defense, a prosecution, a divorce, a bankruptcy, or any other case, we must recognize what our actions have created in the lives of those affected.

Lawyers seek to capture life in words and to transform life through words. Therefore, we must never forget that we shall find the consequences of our actions as lawyers not in words but in life. We cannot be content to evaluate our work in terms of the outcomes we generate on paper.<sup>77</sup> When we review what we have done as lawyers, we must confront ourselves with the realities our actions have created in people's lives.

## VI. ON OUR ADVERSARIES

Lawyers work in an adversarial system, and, therefore, necessarily have adversaries. In fact, one of the great debates of the current bar is how lawyers treat their adversaries. Incivility between lawyers has become a major problem for the bar as it becomes harder and harder for lawyers to extend to one another even common courtesies.<sup>78</sup>

Dorothy Day was not without her adversaries, and she dealt with them in a unique and persistent manner: she prayed for them. In fact, she got into a lot of trouble, even with her friends, when she acknowledged during World War II that "even the monsters Hitler or Stalin are fallen sinners, and we cry and pray for them, for all of us who can stumble, do stumble."<sup>79</sup> Ms. Day explained that:

[W]e here [at the Catholic worker house] will be found praying for people on death row, on their way to the noose or the electric chair — not because we are all on their side, as their supporters

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77. This statement may be true even for reasons beyond law being designed to regulate life rather than merely language. Aldous Huxley, for example, cautioned against the opportunity for self-deception and self-justification that words can offer. Aldous Huxley, *Politics: Words and Behaviors*, in COLLECTED ESSAYS 245, 246 (1958) ("Now, language is, among other things, a device which men use for suppressing and distorting the truth.").

78. See, e.g., *Philadelphia Gear Corp. v. Swath Int'l Ltd.*, 200 F. Supp. 2d 493, 498 (E.D. Pa. 2002) ("The controversy that is the subject of this Memorandum could have been entirely avoided with the exercise of the slightest bit of civility.").

79. Robert Coles, *Not Born to Do Evil*, AMERICA, Sept. 14 2004, <http://www.americamagazine.org/gettext.cfm?articleTypeID=7&textID=540&issueID=276>.

or friends, but because they weren't born to do the evil they did, weren't sent here by the Lord to do that.<sup>80</sup>

Christ instructed His followers "love your enemies, do good to those who hate you, bless those who curse you, pray for those who mistreat you,"<sup>81</sup> but it is hard for anyone, especially a lawyer, to take this instruction as literally as did Dorothy Day. Could Christ really want us to want for our adversaries what we want for ourselves?<sup>82</sup> And is it that even as we pursue our client's interests,<sup>83</sup> we are to hope and pray that it is not our client's will or even our own but God's will that be done in the lives of all concerned?<sup>84</sup> Could we really be called to see, as Dorothy Day saw, that we are as prone to stumble as are those we seek to judge<sup>85</sup> and that God's earthly plan for our enemies remains always as glorious as his plan for us?

## VII. CONCLUSION: A BRANCH ON THE VINE

My secretary's son, Chris, is an assistant district attorney. Chris prays for the defendants he prosecutes. When the court administrator lines those defendants up in a hallway where the cold wind blows across the men every time a door opens and the coldness of that place never really leaves it, Chris asks the administrator to move them to someplace where the administrator would ask any other group of men to stand.

There is a man who lives on the street near the courthouse, and every day Chris gives that man a quarter and then buys him something to eat. The food nourishes the man; the quarter shows the man Chris trusts the man with the direction of his life, at least some. The man calls Chris "Quarterback." Chris talks to the man as the man digs through trash cans. Chris introduces the man to Chris's friends and family. Chris drives through the inner-city neighborhoods of his town with a basketball in the back of his car looking for pick-up games with kids he hopes he will never prosecute. He seeks after one "spontaneous, impulsive act of kindness" every day.

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80. *Id.*

81. *Luke* 6:27-28.

82. *Matthew* 7:12 ("Do unto others as you would have them do unto you.").

83. MODEL RULES OF PROF'L CONDUCT R. 1.2(a) (2004) (instructing lawyers to "abide by a client's decisions concerning the objectives of representation").

84. *Matthew* 6:10.

85. *Id.* at 7:3 ("Why do you notice the splinter in your brother's eye, but do not perceive the wooden beam in your own eye?").

I suspect that if Dorothy Day had been a district attorney, she would have been one like Chris. Ms. Day had spent time in prison. She had been comforted by her fellow inmates there and knew that prison bars do keep people in but that they do not necessarily keep goodness and decency out.<sup>86</sup> She would have seen the people in the long, cold lines waiting for justice from the inside out, as children of God.

If Ms. Day had been a defense attorney, I think she would have been a defense attorney like Doug Ammar of the Georgia Justice Project. I think she would have told her clients that justice isn't about beating the system; it is about healing the wounded, fixing what has been broken, and seeking truth. I think, win or lose, Dorothy Day would have stood with her clients. I think she would have visited them in prison even when they were no longer her clients. I think she would have borne through their rudeness, accepted their tests, addressed their weaknesses, and learned from their strengths. When they got out of prison, it would not have been enough for Dorothy Day that they were out: Ms. Day would have wanted for her clients what God wanted for her clients, for them to create and to do good as God created them to be in His image.

But then, I am not sure any of that matters. I am not sure Dorothy Day saw the way we do. I am not sure she loved the way we do. I am not sure she understood her world, her work, her relationships, or even her adversaries the way we understand ours. In the end, I am not sure she got it, at least not the way the rest of us get it. She didn't see the box head on. She could not turn the box over and around. She just got inside the box and looked, inside out; she just tried to be God's eyes and feet and hands in this world, which is fine, but if she really was not like us, then it really doesn't matter whether we would be lawyers the way she would be.

I do still wonder though, if maybe the question is not whether she got it the way we get it, but whether she got it right. Maybe, Dorothy Day was more than a really good, but rather eccentric, Christian. Maybe she was a Christian who got it right, the way Bartimaeus got it right when the rich young man and the lawyer couldn't. In which case, maybe it all does matter, a great deal.

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86. DAY, *supra* note 2, at 101-05.