

## HUMANIZING THE LAW SCHOOL CURRICULUM: A NON-CASE STUDY

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All too often the law school atmosphere seems to be one which constricts and suffocates by demanding strict attention and grateful obeisance to narrow, rigid rules; rules which so frequently convey callousness and inhumane indifference to sensitive students. Nevertheless, some law professors continue to insist on the need to tone the tough muscles and sinews of legal education with nourishment from the humanistic disciplines. Those professors have contended that to deal with law only in the coin minted, in its own self-encapsulated, analytic precincts is to condemn the law to a damaging provinciality. The result is to cause the law to miss connections with precisely those extra-legal considerations which have the power to transform the legal process into a more humane and responsive institution. The notion has been that some leavening of implacable legal doctrine with the refreshing influence of the humanities can contribute to moving law closer to its noble ideal of being a sensible, yet also, sensitive and just arbiter of human affairs.

As a fervent believer in this vein, I teach a seminar entitled "Law And The Humanities," in which one of the readings is *Lest Innocent Blood Be Shed*,<sup>1</sup> a book by philosophy professor Philip Hallie. It is a book which is tremendously effective in sustaining this general position of infusing the law with the humanities; not by arguing the position, as such, but by representing a profound humanistic consideration of the borders of the law's legitimacy. Professor Hallie actually alludes to law only in the briefest and most glancing fashion. With grand, propulsive strokes of eternal weight, however, the book delineates when the writ of positive law ceases to have validity and when evasion, resistance and frontal disobedience is mandated by a more spacious, meaningful concept of law. Thus, while it is surely not a "jurisprudential" book, and is one almost certainly absent from the reading list of any American law school jurisprudence course, the book undeniably intimates volumes about the appropriate relationship be-

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<sup>1</sup> P. HALLIE, *LEST INNOCENT BLOOD BE SHED* (1979).

tween positive law and the laws of human conduct derived from sources other than those law-giving repositories legitimated by the institutions of a given society. Between positive law and the authoritative commands which supersede it and compel its suspension. Between positive law and, if you will, natural law.

The book is an account so moving and affecting that it blinds with tears. But, in doing so, it provides utterly clear insight into traditional jurisprudential questions of the deepest complexity.

The volume is subtitled "The Story of the Village of Le Chambon and How Goodness Happened There" and describes the activities of the residents of Le Chambon, a community in southern France, during World War II. The book is a précis and consideration of how the people of Le Chambon, under the morally passionate leadership of their Protestant Pastor, André Trocmé, conspired to harbor and succor thousands of Jewish refugees and spirit them away from a rendezvous with the premature and grisly death which otherwise surely awaited them. The story recounts how this conspiracy was executed in full view and in full defiance of the Vichy government and a nearby Nazi SS division.

The kind of experiences and incidents which are the sinews of Professor Hallie's account of the people of Le Chambon are exemplified by the following:

Vichy struck . . . late in the summer of 1942 when . . . a few automobiles and later some khaki-colored buses surrounded by police motorcyclists entered the market-place of the village. As soon as they arrived, they summoned . . . Trocmé to the townhall . . . .

Trocmé found himself facing the chief of police of . . . Haute-Loire, a very important official of the Vichy government . . . . [The chief] was direct. According to Trocmé's notes, he said: "Pastor, we know in detail the suspect activities to which you are devoted. You are hiding in this commune a certain number of Jews, whose names I know. I have an order to lead these people to the prefecture . . . . You are therefore going to give me the list of these persons and of their addresses, and you will advise them to be on their good behavior, so that they should not try to flee."

Trocmé replied that he did not know the names of these people . . . . They had false identity cards, and Trocmé did not want to know their real names.

" . . . But even if I had such a list, I would not pass it on to you. These people have come here seeking aid and protection

from the Protestants of this region. I am their pastor, their shepherd. It is not the role of a shepherd to betray the sheep confided to his keeping."

The chief of police . . . becoming angry . . . replied, "What I said to you is not advice, but an order. If you oppose authority, it is you who will be arrested and deported. I hold you responsible for this unacceptable resistance to the laws of your country . . . ."

Trocmé walked away . . . . [H]e called the Boy Scouts of Le Chambon into his . . . office, and then he sent each of them to certain outlying farms to warn the Jews to flee into the woods during the night. The whole operation (which Trocmé called the "disappearance of the Jews") had been carefully worked out [in advance] . . . .

[Two days later, an] Austrian Jew named Stekler was arrested. He sat in one of the buses . . . and the villagers smiled at him as they passed through the square and stared at the empty buses — several policemen with one lone prisoner to be guarded! Jean-Pierre, the oldest son of the Trocmés, . . . gave Stekler his last piece of rationed imitation chocolate. Others brought more presents, and soon the quiet little man had a pile of gifts beside him almost as big as himself. He was later released, having only two grandparents who practiced the Jewish religion . . . .

One other person was arrested, and there are conflicting reports about whether she was deported to the death camps or whether she was saved before her train entered Germany . . . .

The police remained in Le Chambon for three weeks . . . . They found no more Jews.<sup>2</sup>

Another illustration of how the law had to be violated if the Chambonnais were to implement their merciful intentions is clearly capsulated by Professor Hallie:

[T]he Trocmés and Le Chambon learned [that] . . . they must *conceal* from the authorities and from unsympathetic citizens any help they were giving refugees. To reveal that help would be to betray the refugees . . . . Either conceal them or harm them — those were the alternatives.

But in Le Chambon in the beginning of the 1940's, concealment meant lying — lying both by omission and by commission. It meant not conveying to the authorities any of the legally required information about new foreigners in Le Chambon, and it meant making false identity and ration cards for the refugees so that they could survive in Vichy, France. It

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<sup>2</sup> *Id.* at 107-12.

meant, for example, changing the name Kohn to the good old French name Colin so that the refugee could have the life-giving identity and ration cards to protect against roundups, when identity cards were usually checked, and to protect against hunger, since the basic foods were rationed. Such cards made it unnecessary to report a new foreign refugee to the mayor — only a Frenchman with, perhaps, an accent had come to town.<sup>3</sup>

It could not have been with frivolous dismissiveness that the citizens of Le Chambon defied authority and withheld obedience from legal regulation. Indeed, even on the occasion of a visit of an important Vichy official, one of the villagers gave a speech on the Thirteenth Chapter of St. Paul's Epistle to the Romans which commences "Let every person be subject to the governing authorities . . . . Therefore he who resists the authorities resists what God has appointed."<sup>4</sup> But, as Professor Hallie points out, there is more to the chapter, and the people of Le Chambon, in their devotion to their Protestant faith, would know its additional observations very well. "Owe no one anything, except to love one another; for he who loves his neighbor has fulfilled the law. The commandments . . . are summed up in this sentence: 'you shall love your neighbor as yourself.' Love does not do wrong to a neighbor."<sup>5</sup> Thus, while as a general proposition, the law, enacted by duly authorized procedures, i.e., governing authorities, is entitled to compliance from citizens, there is a limitation to the deference it is owed. The law may not expect categorical, blind allegiance simply because it is finally authoritative in the sense that a positivist would regard it to be so, i.e., as recognizably deriving from procedures and institutions which are endorsed by social consensus, of one form or another, as empowered to promulgate law and legal regulations. In circumstances when such law is contradictory to the calling of even more authoritative sources, the respect to which the former is due becomes subject to limits, "limits set by the commandment not to do wrong to a neighbor."<sup>6</sup>

Whether these more authoritative sources be denominated a "higher law," or otherwise classified, it is irrefutable that for people like the Chambonnais, the sources exert so fervent a claim that they clearly outrank, on the obedience hierarchy, formal, positive, transitory regulations. And there is very little mystery about the shape of

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<sup>3</sup> *Id.* at 125 (emphasis in original).

<sup>4</sup> *Id.* at 101 (citing *Romans* 13:1-2).

<sup>5</sup> *Id.* (citing *Romans* 13:9-10).

<sup>6</sup> *Id.* at 101.

these superior demands. They are simple, utilitarian, life affirming and, consequently, life protecting in character.

The simplicity, but also the immense power, of the "higher law's" jurisdiction can be illustrated by the reaction of one of Trocmé's parishioners on the day in February 1943, when the Vichy police arrived to arrest Trocmé.<sup>7</sup> At the occasion of the arrest, one of the parishioners who had come to bid good-bye to their Pastor:

[d]uring a warm, but shy embrace, whispered into the minister's ear, "*Quel mal avez-vous fait?*" ("What harm have you done?") The French word *mal* means both "evil" and "harm," and the rhetorical question meant: "We know that the *laws* of Vichy and the Nazis have been broken by you and by us, but we have done no evil because we have done no harm to our fellowman [sic]; in fact, we have tried to help those whom the law was designed to hurt."<sup>8</sup>

This inclination to do what is "just" or "right" or "good," despite what the formal legal edicts of a government of a certain time and place may prescribe is, for those subject to it, so inexorable that the deviators cannot conceive not responding to it. The law breakers must fulfill the higher law's messages, as prior to all other directives and, therefore, see nothing noble or heroic in their actions which defy formal legal authority and subject them to reprisal. Professor Hallie wrote:

In almost every interview I had with a Chambonnais or a Chambonnaise there came a moment when he or she pulled back from me but looked firmly into my eyes and said, "How can you call us 'good'? We were doing what had to be done. Who else could help them? . . . [W]hat has all this to do with goodness? Things had to be done, that's all, and we happened to be there to do them. You must understand that it was the most natural thing in the world to help these people."<sup>9</sup>

There is an irreducible conviction for such people, a sentiment on which they are unqualifiedly prepared to act, regardless of con-

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<sup>7</sup> Trocmé, along with two of his colleagues and "co-conspirators," Édouard Theis, the assistant Pastor, and schoolmaster Roger Darcissac, were taken to a concentration camp. They were incarcerated there for over a month. Then, however, for reasons which remain a mystery, the trio were released. The motivation may have been related to British Broadcasting Corporation (BBC) propaganda about how harshly Pétain and Vichy were treating Protestant clergy, or the more cynical fact that, the Allies, having just won the battle of Stalingrad, Vichy may have been diluting its allegiance to the Germans in an effort to placate the prospectively victorious Allies.

<sup>8</sup> HALLIE, *supra* note 1, at 21-22 (emphasis in original).

<sup>9</sup> *Id.* at 20-21.

trary influences of whatever magnitude. Professor Hallie attributes it to Trocmé as "a practical belief" that "life is precious beyond all price."<sup>10</sup>

But all people do not have the same convictions. Some have none whatsoever beyond their own selfish interest. Those persons are reeds in the ferocious wind of reality.

This is another "jurisprudential" area in which the book carves telling insights, without dealing rigorously with formal jurisprudential or philosophical considerations. The story of the Chambonnais intimates that it may be futile to search for all encompassing, categorically valid moral structures or systems when people may differ to an extent which renders any attempt at such systemization rationally incorrigible. In other words, overall ethical prescriptions regarding how it is appropriate for "people" to act are invalid; such prescriptions are superfluous because there is not a family of humans, but various types of humans, with such types being substantially individuated from each other.

In this vein, an aphorism of Santayana seems apropos: "A man is not an animal except that he is capable of so denominating himself." A person cannot be held to the tenets of a moral structure which that person is not sufficiently insightful or sensitive to adopt as his own. The imposition of a moral system upon an individual when that individual's own faculties are incapable of adopting such a system represents just that — an arbitrary imposition of the system, rather than the person's self-conscious appreciation of it. It is the assignment of morality, rather than the self-realization of it.

The elephant and the sparrow may both be said to be members of the animal kingdom. Yet, clearly, their capabilities and characteristics are highly variant. Because it cannot, we do not expect to see an elephant fly; because it cannot, we do not expect to see a sparrow make a heavy indentation in loose earth by the tread of its foot.

If we accept varying performances from varying physio-chemical systems such as sparrows and elephants, we should expect lack of uniformity from the disparate physio-chemical systems that are different people. Granted the variation in such systems from person to person is lesser in magnitude than the differentiation between the system of the sparrow and that of the elephant. But that should not delude us into believing that there is total congruence in the moral sensibilities of all homo sapiens. The gradation of variance may be much less than that between certain physical characteristics of the

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<sup>10</sup> *Id.* at 83.

sparrow and the elephant, but it is the fact of variance which is crucial. This fact should lead us to expect different performances from different human beings.

And, indeed, we do so expect in so many realms. For example, even though the man in the street has two arms and two legs, we do not anticipate his running the 100-meter dash as speedily as the world record holder at that distance. Yet, we have the tendency to believe that in less physical matters, persons should be held accountable to identical standards. Thus, the tendency to moralize generally; in a certain situation it is "good" or "right" to act in a certain way and any person who finds himself in such a situation should so act.

But why is it not reasonable to expect that just as physiological processes determine differentiation regarding how fast people can run, there are also physiological processes implicated in nervous systems, i.e., genetic signals, which unalterably determine how different people will have different "moral" reactions in identical situations? A coward will turn and run in battle, intent only on preserving himself from the immediate physical danger; yet, a hero may throw himself on a grenade that is about to explode, so that it kills only himself and inflicts injury on no other person in the area. But what sense does it make to condemn the coward for not being a hero if he operates under unalterable constraints which give him no choice as to his cowardice? Similarly, how "heroic" is the hero compelled to sacrifice himself by a split second reflex reaction?

If such observations are perceived to be cogent, general moral rules become inapposite to the human condition. Overall moral systems, intuitionism, for example, are seen as futile efforts to uniformly prescribe for incommensurables. Ethical intuitionists who follow the seminal pronouncements of G.E. Moore, assert that people know that in certain situations a certain course of conduct is "good" or "right." People know the conduct is "good" because such a course is revealed as intuitively and unquestionably correct because "good is good and that is all there is to it."<sup>11</sup> In response to a person who thinks that some other act or course of conduct is appropriate in the given circumstances, such intuitionist proponents can only respond that such a dissenter should consider the problematical situation again, in which case, he will likely subscribe to the intuitionist-endorsed result. If upon such reconsideration, the person does not adopt the intuitionist result, the person's moral perceptual faculties are simply deficient.

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<sup>11</sup> G.E. MOORE, *PRINCIPIA ETHICA* (1962).

But why is it the dissenting individual's faculties which are deficient, rather than those of the person with whom they disagree? Why do they not ascribe deficiency to the intuitionists' faculties for failing to provide an answer to the dissenter's premise?

Isn't "deficiency" an ascription which will be made depending upon who is judging and whose perceptions are inadequate? Both sides will agree that there is an undeniable difference between them; yet one lauds as good what the other condemns as inadequate. Their standards are incommensurable, and it is, therefore, illogical for one side to pass judgment upon the decisions to which the other side is led by the components of its moral *weltanschauung*.

Recognition of certain incompatibilities amongst various human ethical sensibilities is reflected upon at several points in *Lest Innocent Blood Be Shed*. On the way to the concentration camp in which he was interned, Trocmé and his two colleagues were taken before the police chief of Limoges. When the police chief asked what they were being charged with, the men responded that they did not know definitely, but surmised that it might have to do with their efforts to save Jews from being deported. This acknowledgment enraged the chief and he railed against the Jews as "the ones who have brought France down into the abyss."<sup>12</sup> Professor Hallie reports that this:

was a moment Trocmé would never forget . . . . He discovered people like the captain — patriotic, sincere, but above all, severely *limited*. These people were capable of repeating hate-ridden clichés without any concern . . . for the pain of others . . . . From then on, he knew that there was a third force [in addition to God and the Devil] seeking hegemony over this world: stupidity.<sup>13</sup>

Later in the book, Professor Hallie poses the question as to whether the Chambonnais, whom Trocmé praised for their tremendous resourcefulness and dedication in rescuing Jews from the grotesqueries of Nazism, might not be seen as "a nest of vipers" by an unrepentant Nazi.<sup>14</sup>

Could Trocmé and Darcissac explain and defend their praise successfully before a court that they and the Nazi would both accept?

I believe not, because in matters of ethical praise and dis-

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<sup>12</sup> HALLIE, *supra* note 1, at 30.

<sup>13</sup> *Id.* (emphasis in original).

<sup>14</sup> *Id.* at 270.



praise there are no such courts before whom cases may be pleaded "successfully."

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The origins, enforcement, application, and punishment involved in moral "laws" are idiosyncratic, personal, and are subjects of endless disputes . . . . When we try to answer these questions, we enter into the darkness of unending disputes. One thing is certain: there is no one institution upon which we all rely in order to create and administer ethical laws.<sup>15</sup>

For Professor Hallie, those persons too limited to be capable of the type of ethical compassion generated by the Chambonais are "cold people."

We may seek out . . . [the] causes of the differences between the cold ones and the Chambonnais, but . . . there is an unbridgeable difference between those who can torture and destroy children and those who can only save them . . . . [N]o verbal bridges may be erected connecting these two kinds of people. Between them, there is only a profound conflict.<sup>16</sup>

But after speaking of the cold people and their constricted moral ambits, Professor Hallie observes that "there were no such people in the parish of André Trocmé."<sup>17</sup>

Such a fact, however, must raise the question of whether irreconcilable moral divergences between people are the product of inexorable genetic signals or the result of differential conditioning resulting, for example, from moral instruction, religious ritual, spiritual training, or life examples. If a genetic profile was the sole factor in forming a person's ethical constitution, it would defy the laws of mathematical probability to believe that in view of the small percentage of people who demonstrated themselves, during World War II, ready to completely risk their own lives to save the lives of those being purposefully persecuted under a governmental policy, almost every person in Le Chambon was of such a rare inherited noble character.

It would clearly seem that factors such as the way these people were led by Trocmé and his chief confrères, and the Huguenot spiritual heritage from which they derived and which they saw themselves as perpetuating, were pre-eminently determinative factors in fashioning the ethical posture of these citizens. But this suggests that people can be crafted by human institutions into certain ethical

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<sup>15</sup> *Id.* at 270-71.

<sup>16</sup> *Id.* at 275.

<sup>17</sup> *Id.*

miens; that, assuming exposure to appropriate circumstances of conditioning, the "unbridgeable differences" are malleable into uniformity.

On the other hand, perhaps the Huguenot community, after many hundreds of years, had "selected" people of a most capacious ethical dimension. Perhaps those who could not subscribe to the high requirements of loving their neighbors as themselves, because imprisoned by too powerful genetic messages to the contrary, were those whose ancestors had long ago forsaken their Protestant affiliation, or, at least, the particular type of such an association nurtured in a community like Le Chambon.

It may also be theorized that even if ethical differentiation amongst people is the result of variant conditioning, there comes a point at which the original conditioning forms a stable ethical personality (or, perhaps, an a-ethical personality) which is not modifiable by subsequent contrary conditioning. Perhaps it is this early lack of positive, beneficent conditioning toward compassion and "neighborliness" which accounts for the "cold ones." But even if this is so, the differences produced by variant conditioning will be no less unbridgeable than if the differences were the product of some physical molecular configuration. No less than highly different genetic material would produce individuals of intensely disparate ethical sensibilities, prepared to act quite differently in an identical situation.

Further, it may be that a combination of factors is involved in the sharp gap that exists between the ethical quotient of various individuals. Perhaps a genetic endowment of "A," for example, gives the potential of reaching final ethical states 1-10. The actual state reached will depend upon the particular ethical conditioning to which a given individual is subjected. Perhaps a genetic profile of "B," however, gives the potential of only attaining final ethical states 1-5. Thus, conditioning will be instrumental in determining which of the states of the 1-5 range the individual achieves. But, regardless of the nature of this conditioning, a "B" individual would *necessarily* be incapable of attaining any of the states 6-10.

This question of the source or what it is, exactly, that accounts for the unbridgeable gulfs between the ethical characters of various individuals obviously provokes much speculation. As indicated above, analysis-groping for solutions can proceed in a variety of ways. The intense nourishment which *Lest Innocent Blood Be Shed* affords such speculation is one of its key strengths, and warrants considerable tribute. But, of course, the present state of human

knowledge is far from providing definitive responses to such questions.

Yet, Professor Hallie's portrayal infuses us with enough confidence to be able to make certain judgments and to bask in certain assurances. Although for whatever reason, or complex of reasons, there currently exist irreconcilable moral gaps amongst human beings, we are fortified, indeed inspired, by accounts such as these to know that insofar as the consensus of human society, at large, is moving toward a definitive ethical position, it is moving, progressively, in one direction rather than towards another, colder one. Society is moving, however, so gradually and in the course of whatever setbacks, towards an appreciation of, respect for, and embrace of the life-affirming rather than the life-denying sentiments; towards according utter reverence to the very fact of any human life and towards a rejection of an ethos which plays fast and loose with vast numbers of human lives on behalf of "general, far-reaching" policies whose alleged beneficial impact remains too long in the speculative future.

Parenthetically, it may be observed that an exemplification of this trend were the intensely forceful constraints placed by public opinion, both domestic and international, on the United States military action in the Viet Nam imbroglio. It does not seem extravagant to believe that in the moral climate of fifty years previously, in an identical situation, the United States would not have been inhibited from unleashing as awesome military alternatives as necessary to accomplish its objectives, whatever the ravaging consequences of such unrestrained conduct on, for example, innocent civilian populations. The mentality which would have then seen fit, to perpetrate as grisly carnage as necessary to accomplish "victory," surely still existed at the time of the actual Viet Nam conflict. But it was reined in and, indeed, triumphed over by a countervailing mentality which refused to tolerate the obliteration of present human life in the name of the empty abstraction of future national security.

The core of such beneficent and loving feeling for the secular holiness of life is movingly capsulated by Professor Hallie:

The presumption at the foundation of life-and-death ethics is that all human life is precious. The Chambonnais showed their allegiance to this presumption by disturbing the center of their domestic lives and endangering their own existence to protect the lives of human beings . . . .

The Nazis had other presumptions about the preciousness of human life . . . . Under the moral leadership of André Trocmé and Édouard Theis, the people of Le Chambon would

not give up a life for any price — for their own comfort, for their own safety, for patriotism, or for legality. For them, human life had no price; it had only dignity.<sup>18</sup>

As questions implicating such ethical considerations are studied more and more, and as the human adventure generates more experiences in which contradictory values vie for supremacy, more and more people indubitably will embrace, and act in accordance with, the presumptions of the Chambonnais. And there will be a corresponding decrease in those anchored to the presumptions which fevered the Nazi mentality.

This sense justifies some present judgments. For insofar as the former presumption will more and more prominently and conclusively come to represent the general human consensus, and as it will more and more decidedly prevail, those views which currently are most consistent with such coming recognition are entitled to be acclaimed as the more progressive ones, the ones of moral superiority. Because it is those views which everyone will gravitate towards, those who are there already, as were the Chambonnais, are in the van; they are ahead, first, superior. The Chambonnais and their like point the direction in which history is moving, and not simply moving as a matter of fact — but for the better. They enter the better territory first and are, therefore, currently preferable to those whose beliefs have not yet crossed the frontiers which, from the complex of more and more experience, will have to be traversed by all.

The examples set by these superior views, which transport the history of human development to its ultimate destination, provide a definitive jurisprudential lesson cast in non-analytical, non-legalistic aperçus. The views persuade us, beyond all doubts of relativism, of what it is that we must do; of how we must act in society if we are to be humane and contribute to a society becoming truly human.

This is the overwhelming power and irrefutable teaching of *Lest Innocent Blood Be Shed* for students of law and the philosophy of law. The law may not be comprehensively authoritative. There are times when limits must be circumscribed around its improvident sway in order to preserve the human dignity of others and, consequently, the humanity of ourselves. We know when we are called upon to step beyond the law, so as to avoid doing what we have learned is impermissible. If the law becomes inhumane, then its parameters do not exhaustively describe our human obligations and responsibilities. For whatever the law commands, it cannot be permitted to override the injunction of Deuteronomy 19:10, that the refugee

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<sup>18</sup> *Id.* at 273-74.

must be harbored "lest innocent blood be shed in your land . . . and so the guilt of bloodshed be upon you."<sup>19</sup>

Thus, the beautiful compulsion of Professor Hallie's book is its unmistakable soaring insight into the law, above the quagmire of technical, formalistic considerations. Professor Hallie does pay some attention, however, to the obvious issue of the practical interconnections between law and ethics. He refers to the similarities of their objectives: "[b]oth seek to restrain harm-doing; at least, both *claim* to be seeking this."<sup>20</sup>

Professor Hallie thus acknowledges that law and ethics certainly need *not* be enemies. But when the doctrines of these two institutions breed contradictory and antagonistic impulses, one must also acknowledge that it is the moral message which must be given credence and unflinchingly heeded.

The Chambonnais judged the laws of Vichy in their own ethical courts, their consciences, and found them wrong. Vichy, for instance, did its best to enforce "surrender on demand," a decree that refugees must be given up when the appropriate state officials demanded it. In those airy, invisible courts of the human spirit, their consciences, the Chambonnais judged and condemned that decree, and they did all they could to violate it.<sup>21</sup>

While in a particular instance the ethical character of the law may mandate bypassing it, Professor Hallie wants to insist that ethical considerations are not endemically anarchic. In addition to those times when the regulations or the laws and the sensibilities of ethics mesh congruently or complementarily,<sup>22</sup> ethical institutions carry their own order of preserving, utility-maximizing, and social-cohering designs. As such, the institutions are as palpably non-anarchic as legal procedures and systems.

Ethics is not only private; it can be communal. There are ethical communities. . . . Such a community existed in the dining room of the presbytery when André Trocmé was arrested and his parishioners gave him some of their most precious possessions . . . . Such a community existed in the wintry, crooked street . . . when the people of Le Chambon united their individual voices and minds to sing "A Mighty Fortress is

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<sup>19</sup> Deuteronomy 19:10.

<sup>20</sup> *Id.* at 272 (emphasis in original).

<sup>21</sup> *Id.* at 217.

<sup>22</sup> Professor Hallie cites the 1598 Edict of Nantes, under which France's Henry IV granted the Huguenots civil and religious rights, as an excellent example of the law reflecting compelling ethical considerations.

our God" while the arresting officers took Trocmé away . . . . Ethical communities are as real as legal institutions. To call ethics personal is not to call it anarchic. It, like the law, can bring people together.<sup>23</sup>

There is another tangential way in which *Lest Innocent Blood Be Shed* touches, in its own mode, upon a formal jurisprudential issue. "Libertarianism," fueled by such influential prototypes of its doctrines as Robert Nozick's *Anarchy, State and Utopia*, has recently become a formidable force within the intellectual chambers of jurisprudence-type seminars. Most briefly, this point of view regards each individual as owing almost no obligations to any other individual beyond those deriving from highly rudimentary norms concerning non-violence and equal physical opportunity. As a matter of justice, responsibilities, beyond the most basic ones, cannot be imposed upon or extracted from an individual, except insofar as such autonomous individual wishes to voluntarily undertake them. If I have, in accordance with the fundamental minimal rules, accumulated a million apples and you are without any and are consequently, starving, no principle of justice mandates that I must give you even one of my apples for your sustenance. I may wish to give you one and thus allow you to continue to sustain yourself, but I am not *required* to share with you. If I do share with you, thereby affording you life, you live at my sufferance and not as a matter of any rightful claim which you are entitled to make upon the abundance which I possess.

The example of Le Chambon cuts a sharply contrary perspective. To the Chambonnais, justice is a matter of social interaction, not of individual aloofness and isolation. Justice cannot really be found in the purity of a rigid vacuum with which an individual surrounds himself and by which he truncates his relationship with his community and with other individuals. As Professor Hallie remarks:

Essential to [Trocmé's] goodness, central to his decency, was what he did with and for other people . . . . In part he was good because he resisted the people who were doing harm and because he helped save the lives of those they were seeking to harm, the refugees. He was good because he diminished *evil in the world* . . . . The evil he diminished was harmdoing and . . . suffering . . . .

When Darcissac and Trocmé praised the Chambonnais, they were praising not only what was happening within the souls of the Chambonnais; they were praising what happened

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<sup>23</sup> HALLIE, *supra* note 1, at 271-72.

in the presbytery, . . . in the boarding houses . . . and on the farms. The classic conception of good and evil as inward conditions of the mind or the soul . . . points up one of the important forces in ethical action . . . . In Le Chambon, at least, there was more to being good than this deep inward respect for the demands of ethics.

What there was is expressed succinctly on the certificate that accompanied André Trocmé's Medal of Righteousness when it was awarded to him posthumously by the State of Israel. That certificate described him as a man 'who, at the peril of his life, saved Jews during the epoch of extermination.' His righteousness was not dissimilar to the righteousness of those people . . . in Le Chambon. Ethical action is not isolated from history. . . . The study of ethics must not be . . . a way of trying, by use of abstract, traditional terms, to cast a fitful light within the inward worlds of men's souls. . . . It must concern itself with the *story* of what individuals do in the context of the story of their times.<sup>24</sup>

What more certain way of validating this view of social obligation against the contradictory views of "libertarianism" is there than "proving" the righteousness of the judgment of one individual as to a given ethical problem, in contradistinction to the falsity of an opposing position. Once again, however, as Professor Hallie explicitly acknowledges, vis à vis the latter situation, there would seem to be no final criterion of legitimacy to appeal to for the purpose of providing a conclusive validation of one of the views.

Yet, it may be warranted that there is the capacity in most of us, a core of understanding, which approves and admires the "good neighbor" perspective in preference to the one idealizing the selfish acquirer who remains within formal elemental rules. It may well be that even some, or many, of those who adopt the latter rubric as the belief on which, perhaps for reasons of weakness or self-aggrandizement, they base their own daily actions, have a sneaking recognition that the more socially conscious view is entitled to greater respect and admiration. A person may not be able to perform its creed, but there is a part of that person which dislikes being unable to do so; that person wishes that they could perform the socially conscious view their soul approves of those who can. They know that the world would be a more hospitable and desirable place for all, themselves included, if neighbors did concern themselves with each other's welfare, and did assign themselves the responsibility of trying to improve the conditions of those who are seriously disadvan-

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<sup>24</sup> *Id.* at 279-80 (emphasis in original).

taged, at least in situations where that disadvantage mounts to the pitch of being sharply threatening to life itself or to fundamental well being.

There is almost no one capable of understanding and appreciating what truly went on in World War II in Le Chambon, who, in the recesses of what is most deeply inside, does not respond with a certain tremor of satisfaction, respect, and admiration for the mighty rescue efforts of the Chambonnais. We all know that they did the right thing, notwithstanding that a very great many of us must acknowledge that we could not have behaved, nor would we have had sufficient mettle to compel ourselves to behave, as well as the Chambonnais did.

At a dinner that Professor Hallie had with Roger Darcissac during the course of compiling *Lest Innocent Blood Be Shed*, Darcissac said that during the war years the people of Le Chambon were "*merveilleux d'un bout a l'autre*" (completely wonderful).<sup>25</sup> And in notes left by André Trocmé, Trocmé wrote of the Chambonnais: "How could the Nazis ever get to the end of the resources of such a people?"<sup>26</sup>

*Lest Innocent Blood Be Shed* soaringly intimates that until we construct a world in which all of us develop resources equally substantial and shining, we will not have realized our complete potential as human beings. The Chambonnais, by their poignant greatness, have shown us just how great we can, and must, be.

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<sup>25</sup> *Id.* at 270.

<sup>26</sup> *Id.*