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Lawyers and Tradition: Justice Albin Takes Center Stage

The Justice reminded us that traditions are not immutable. In fact, much of what we call tradition is merely some social value played out in a public forum more than once.

By **Marc Garfinkle** | October 11, 2019



Sometimes you get more than you pay for. Last month, attendees at the annual Jewish Law Symposium at the Birchwood Manor in Whippany were treated to a surprise performance which made the evening unforgettable and the daunting attendance fee (\$175 at the door) seem like a bargain. (This writer's fee was indeed a bargain, thanks to table host Ken Javerbaum.) The Symposium is the brainchild of Rabbi Shalom D. Lubin of the S.E. Morris County Chabad.

According to its website, the Jewish Law Symposium is "geared to attorneys throughout the State of New Jersey who have an interest in exploring, studying, and debating the Ethical and Moral Dilemmas facing the legal community today from both Civil Law and Talmudic Law perspectives." Now offering CLE ethics credits, the Symposium draws a diverse and engaged crowd of attorneys and non-lawyers. This year's program was one for the books.

Typically, the audience and an outstanding Symposium panel (representing secular and non-secular viewpoints) listen to a well-known and provocative speaker discuss a topic of broad or current interest that has a Jewish theme or angle. Then Rabbi Lubin questions the panelists, drawing lessons and parallels from Jewish jurisprudence, custom, ethics and philosophy. Now in its thirteenth year, the Symposium drew over 800 attendees. For many, attendance has become a tradition.

The topic of this year's Symposium was "Ethical Lessons from Fiddler on the Roof: Persecution, Immigration, Tolerating Tradition." In attendance were several present and former Supreme Court Justices, a retired Chief Justice, a former governor, the heads of lofty law firms who are rarely seen in public, and many others that politicians have taught us to call "dignitaries." The featured speaker was our own sitting Associate Justice, the Hon. Barry Albin, who chose as his main talking point the seemingly innocuous subject of "Tradition."

What made the evening unforgettable was not so much the Justice's well-considered insight into the dark side of traditions, but his unexpected telling of the story about a parody he had prepared for a law-firm soiree while a young associate at Wilentz. Having already amused the Symposium crowd with tales of his youthful affection for

the play *Fiddler*, Hizzoner broke out in song with his now-famous “If I Were a Partner” parody of “If I Were a Rich Man.” The Justice did not just hum a few bars; he went full-blown Broadway and brought down the house.

As usual, he also made sense. He wanted us to overcome the notion that tradition is an inherently good thing. He pointed out that our sentimentalist viewpoint is often naïve and counterproductive—that many egregious prejudices of our present age were once institutionalized and accepted, even revered, as traditions. Racism was an easy example. So were LGBTQ prejudices and discriminatory hiring practices. But examples are everywhere. Some readers may remember when it was okay to say, “You know, this is a traditionally white law firm and our Steering Committee is traditionally all male. You can’t buck tradition, you know.”

It was a tradition in Eastern Europe during periods of unrest to have a *pogrom*, to pillage Jewish neighborhoods, to take lives and destroy property. That tradition would not change, so Jews, like Tevye from *Fiddler* and countless others, were forced to leave their traditional homes for America, where they and their descendants could enjoy a tradition of non-discrimination.

The Justice reminded us that traditions are not immutable. In fact, much of what we call tradition is merely some social value played out in a public forum more than once. For example, once upon a time, in places not so far away, it was acceptable to harass or beat up the homosexual classmate or the new kid in town or to burn a cross in your Negro neighbor’s front yard. Sometimes, that was the tradition.

Of course, not all useless traditions are so nefarious; but that doesn’t make them acceptable, either. It has been a time-honored tradition to steal other people’s Jack-o’-lanterns on “Mischief Night” and smash them in the street. These days, you can get arrested for that. In colleges, certain fraternity and athletic organizations maintain traditional, albeit unorthodox, team-building activities, called initiation or hazing. Many of these are now decried or outlawed as bullying or assaultive. Many such hallowed traditions are no more.

Still, Justice Albin wants us to know that there remains much work to do. While it is imperative to uproot bad traditions, we must institutionalize good new ones, also. The task is not so daunting as it sounds.

This is because modern people have a shrinking cultural memory. We watch history through a myopic lens. We don't seem to know about, remember, or care much about things that went before us. Performers become iconic with their second album. Athletic stars become super-stars after two or three great seasons. Businesses that will open in late 2019 will be claiming in 2020 to have been around for two decades. It probably took Madison Avenue only a month to develop the ages-old tradition of stuffing a slice of lime into the neck of a Corona beer bottle.

In this vein, it would be a safe wager that the Justice's musical parody was pursuant to some endearing tradition at Wilentz. Was it an ancient tradition? Does it still exist? If so, will he return for an encore performance?

Justice Albin's message was clear. There is ample opportunity for new practices to become traditions, and there is plenty of time to create them. Convince your firm to launch a positive tradition. Offer an annual scholarship to a needy or meritorious student. Become a fixture with a public interest group. Make it a practice to keep a firm member on the District Ethics Committee or nurture a corporate culture of doing extraordinary *pro bono* work. New traditions are waiting to happen. All they need is us.

How many holiday parties for underprivileged kids or community gardens for the hungry will you have to sponsor before they become your traditions? Are you willing to find out?

Marc Garfinkle *practices in Morristown, focusing exclusively on legal ethics, attorney discipline, bar admission and judicial misconduct. He is also an adjunct professor at Seton Hall University School of Law in Newark.*

