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The Quality of Justice

Lewis J. Liman[†]

The quality of our system of justice is measured by the service it provides to the poorest and most despised members of society. My father, Arthur L. Liman, held that credo throughout his life. As a young lawyer, he headed the New York State Commission on Attica Prison and turned an investigation into a prison uprising into a searching and pathbreaking examination of the U.S. corrections system and its abuses. No one previously had opened the prison doors so widely to public view. As a partner in the New York firm of Paul, Weiss, Rifkind, Wharton & Garrison, he used his access to positions of wealth and power to summon others to their civic duties. He was the founding chairman of the Legal Action Center and led it for its first twenty-five years; he was President of the Legal Aid Society of New York; he was Chairman of the New York State Capital Defender Office; and he helped found the Neighborhood Defender Service of the Vera Institute of Justice. Finally, in his most well-known assignment, my father served as counsel to the U.S. Senate in the Congressional Iran-Contra hearings. He used that forum to expose the secret, off-the-shelf foreign policy organization that zealots in the White House had used to circumvent congressional limitations on aid to the Contras and to bypass the Departments of State and Defense.

In his posthumously published memoirs, Arthur Liman set out his ideals. He criticized complacency and excoriated those who said that the opportunities for public service had passed with his generation. He wrote: "Law can and should be an honorable profession, but not if we discourage decent young women and men from choosing it as their career."¹

The heroes of the legal profession are not the lawyers who achieved celebrity status by self-promotion or mugging for the cameras but the often unsung and young lawyers (some just out of law school) who brought about the social revolution in this country that led to the repeal of the Jim Crow laws; the lawyers in Connecticut who won the case establishing a right of privacy to keep the government out of personal decisions relating to reproductive freedom; and the lawyers who, for little or no fee,

[†] The author is a lawyer practicing in New York.

1. ARTHUR L. LIMAN, *LAWYER: A LIFE OF COUNSEL AND CONTROVERSY* 359 (1998).

take on the defense or appeals in cases for indigent defendants who have no means of obtaining effective representation and whose trials are often over almost before they begin. These are the lawyers against whom we should measure ourselves.

When Arthur Liman became a lawyer, it was assumed that a part of every lawyer's life should be devoted to public service in one form or another. That obligation came with the license to practice. Whether through taking on cases for the indigent, contributing time and money to legal aid societies, or serving on a full-time or part-time basis in government or with a non-profit organization devoted to the public interest, lawyers had an obligation to pay back society a little bit for the privilege of practicing law. The obligation cut across ideological lines. If there was a sacred credo, it was that a person with a meritorious claim should not be deprived of his or her day in court for lack of funds. Of course, that credo was followed more in theory than in practice. But it was still held out as an ideal.

This volume of papers published as the first Liman Colloquium is dedicated to furthering the goal of law as public service. As the range of papers demonstrates, the pressing legal needs of today, no less than the needs faced during my father's time, demand the participation of lawyers of all ages and at all levels of the profession. The obligation to do public service has both a practical and an ethical dimension. As members of a profession dedicated to the practice of law, we ignore the needs of the less well-off only at great peril. For the legal system from which we earn our livelihoods cannot long survive if it cannot provide even-handed justice to rich and poor alike. As an ethical matter, we cannot honorably carry out our duties if the promise of equal justice becomes illusory and the system's benefits are limited to one class of citizens.

While the specific challenges may have changed, the call to public service has not. As my father wrote after acknowledging the materialism and cynicism of the 1980s that appeared to replace the idealism of the 1960s:

Still, the qualities bred in lawyers that have enabled us to play our manifold roles have not disappeared. Law schools still train students to challenge every premise, to take nothing for granted. The precedents we read as students still remind us of the darker days of racism, prejudice, religious conflict, denial of civil rights, and inhuman working conditions. Trained to work with precedents, lawyers have a stronger sense of history than many people. We still recoil from injustice, and we have all studied how, in the evolution of the

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law, our legal institutions and our profession have, overall, worked to improve society.²

2. *Id.* at 359.

