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## ADDRESS: Tolerance and Respect for Our Children: A Judicial Philosophy

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# TOLERANCE AND RESPECT FOR OUR CHILDREN: A JUDICIAL PHILOSOPHY

*Hon. Michael A. Corriero\**

Thank you very much. I'm very honored to be here this morning.<sup>1</sup> I am often asked to talk about juvenile violence and juvenile justice in general and sometimes I feel like the son whose mother was trying to wake him to go to school: the mother gave him a shove and he pulled the covers over his head and said, "No, I'm not going to school." And the mother said, "What's the matter? Are you sick?" And he said, "No, I'm sick of school. I'm never

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\* Judge, New York County Youth Part, New York. Judge Corriero has been a judge for 16 years, serving in the Court of Claims of the State of New York, the Youth Part in Queens County, and the Criminal Court of the City of New York. Judge Corriero has also been an adjunct professor at Pace University since 1976.

<sup>1</sup> A three-day symposium was held at New York University's School of Law and Metropolitan Life's Grand Auditorium on September 22-24, 1995, entitled *Spirituality: Plurality and Unity*. Focusing on the practical application of spirituality and ethics across a variety of disciplines, this event was part of a series of international symposia organized worldwide commemorating the centennial of the birth of Ostad Elahi (1895-1974), a distinguished jurist, philosopher and musician. *Symposium on Spirituality Celebrates the Centennial of Ostad Elahi*, UNESCO NEWS (United Nations Educational, Scientific and Cultural Organization, New York), Nov. 20, 1995, at 14.

Sponsored by such institutions as New York University, La Sorbonne, the French Ministry of Culture, Metropolitan Life and the United Nations Educational Scientific and Cultural Organization ("UNESCO"), the centennial celebration commenced with a symposium in Paris, where prominent authorities from diverse disciplines such as law, science and academia gathered to honor this innovative thinker. At the Grande Chambre de la Cour de Cassation (the french equivalent of the U.S. Supreme Court), Pierre Drai, senior presiding judge of the Cour de Cassation, was joined by Blandine Kriegel, professor of philosophy; François Terré, professor of law and other distinguished panelists to conduct a round table discussion on Ostad Elahi's jurisprudence and professional ethics. *Ethique: Source délaboration de la Norme Juridique*, V.D.S., LA VIE JUDICAIRE, Sept. 11-17, 1995, at 1.

going back again. They hate me. They don't like me. They call me names. They make fun of me." And the mother said, "Son, you know there are really two very good reasons why you have to go to school. One is, you're forty-five, and the other is, you're the principal." So . . .

I don't feel like you're a hostile audience. But, often I feel that I'm called upon to discuss what I do, and why and how I do it, to sometimes hostile audiences. And I hope that when I'm finished, they're not as hostile as when I began.

In thinking about what to say today, I was struck by the common fact that the man who is being honored today was also a judge.<sup>2</sup> And I remember one of the sayings<sup>3</sup> of Judge Elahi, which

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<sup>2</sup> Ostad Elahi's judicial philosophy was best reflected in his far-sighted approach to seemingly insoluble problems, his uncompromising firmness in the face of injustice, his noble discretion in dealing with vulnerable witnesses and his adamantly judicious verdicts, despite strong external pressures. Throughout his career, he remained an especially firm defender of the rights of women, children and the oppressed. Viewed as a paragon of fairness in the eyes of his associates, he was eventually appointed Chief Justice of the National Court of Appeals in 1955, thereby crowning a distinguished judicial career.

<sup>3</sup> Parallel to his professional life as a judge, Ostad Elahi devoted a substantial amount of time to researching the topic of spirituality. The central theme of Ostad Elahi's philosophy involves understanding the essence of the revealed religions and the commonality of their basic principles through spiritual and ethical practice. His thought provides a systematic and comprehensive analysis of the process of spiritual perfection, including the stages, processes and practical requirements for spiritual maturation. See ASAR OL-HAQQ [TRACES OF TRUTH] Vol. I (Bahram Elahi ed., 4th ed. 1994) [hereinafter TRACES OF TRUTH] (a compilation of the oral teachings of Ostad Elahi) (providing a systematic assessment of universal spiritual truths, including the nature of the rights and duties of human beings). See generally BAHRAM ELAHI, THE PATH OF PERFECTION: THE SPIRITUAL TEACHING OF NUR ALI ELAHI (1976) (introducing the philosophy of Ostad Elahi that transcends religions, cultures and human conventions and is applicable to life in contemporary society).

The following remarks were taken from a question and answer session that followed Judge Corriero's address:

Question: As a judge, Ostad Elahi always gave equal attention to the needs of people from all walks of life, irrespective of their social status. This attitude stemmed from his profound conviction that God's

brought home to me the crisis and challenge I encounter daily in my courtroom. That saying has to do with teaching tolerance and being tolerant:

My religious precept is to be kind to everyone, to wish well for all beings, to never seek revenge, or wish bad upon anyone and to always be ready to serve others, especially those who have done me wrong. Even in my heart I do not allow myself to be troubled or upset at anyone.<sup>4</sup>

In my courtroom, each day I come face to face with the dilemma that I believe we all confront in our lives, in our families, in our neighborhoods, in our communities: How do we persuade children that they can achieve their goals without violence when

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satisfaction is the ultimate criterion for evaluating human action. Thus, he used to say, 'A judge who looks to God for guidance is invariably helped by Him and shown the right path at critical moments of judgment.' In difficult moments, how do you make sensitive judgments?

Judge Corriero: Actually, I stumbled in my own way on what Judge Elahi discovered: if you pray for a just solution and get your mind balanced, God will give it to you. There are many times when I walk back into my chambers, not knowing how to resolve an issue, and God gives me the answer. There's no other explanation. I don't find it myself. It comes to me because I have faith that God will give me the right answer. I am able to walk back out and make the decision and not think about it thereafter. I think that this was a truth and a beauty that he, as a conscientious judge, discovered, and I hope that I too will continue to be conscientious and apply that truth and reality.

Throughout his tenure as a judge, Ostad Elahi began each working day with the following prayer: "O God, I place myself in your hands. Since I want nothing but your satisfaction, please forgive me whenever I make a mistake." As Ostad Elahi would say in his later years, "God be praised, for He prevented me from making judicial mistakes." TRACES OF TRUTH, *supra*, at 673.

<sup>4</sup> TRACES OF TRUTH, *supra* note 3, at 1.

they are living in a violent world? How do we teach children tolerance when what is important to many of them is what is important to all of us—respect, honor? And how do you achieve that in today's environment without resorting to violence?

Let me tell you a little bit about what I do on a daily basis. My responsibility in the context of the court is dealing with the prosecution and adjudication of cases involving thirteen-, fourteen- and fifteen-year-old young people who are accused of the most serious and violent crimes in New York County. And they are being prosecuted as adults.<sup>5</sup> As a consequence, they face the possibility of a felony conviction, a stigma that will remain with them throughout their lives, as well as a significant jail sentence if warranted by their conduct and background.<sup>6</sup>

So, the stakes are very high for these young people. I found myself having the responsibility of affecting, in great measure, the

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<sup>5</sup> New York's Criminal Procedure Law defines a juvenile offender as: (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law and (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (sodomy in the first degree); 130.70 (aggravated sexual abuse); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree) or subdivision two of section 160.10 (robbery in the second degree) of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree.

N.Y. CRIM. PROC. LAW § 1.20(42) (McKinney 1992).

<sup>6</sup> See, e.g., *People v. Smith*, 217 A.D.2d 221, 635 N.Y.S.2d 824 (4th Dep't 1995) (holding that a sentence of nine-years-to-life, imposed upon a 13-year-old convicted of second degree murder was not excessive "[g]iven defendant's brutal strangulation and bludgeoning of the four-year-old victim").

destinies of many of these young people. I look at it from this perspective: here's a kid who grew up on the streets of Little Italy in Manhattan, whose parents were simply hard working people (my mother was a seamstress, my father a longshoreman); I was the first in my family to go to college, the first to become a professional, a lawyer, and here I was, someone who enjoyed all of the beauty and promise of the American dream, having this responsibility.

I don't know how many of you have seen the movie, *A Bronx Tale*,<sup>7</sup> but for those who haven't seen it, I won't spoil it for you. In the movie *A Bronx Tale*—the movie was about a young Italian-American teenager, growing up in the Bronx in the early 1960s (there are many similarities and parallels that I found in the movie in terms of my own life). There's one rather pivotal scene where the young man, his nickname is C, is walking down the street when a car packed with his friends pulls up. "Hey, C, come on, get in the car." C jumps into the back seat, a friend on each side. He looks down, and at his feet, he sees a box of Molotov cocktails. He sees his friend in the front seat, waving a gun. He realizes that they're on their way to an adjoining neighborhood to settle some perceived score. We hear C talking to himself: "I don't want to be here. I don't want to do this. What's my father going to think? I'm supposed to go to college." He's in turmoil. Just then, the car is cut-off and the other protagonist, the other character in the movie, a local gangster, a wise guy by the name of Sonny, reaches into the car and pulls C out, as C's friends ride on to tragedy.

I like to think that what I do in the Manhattan Youth Part<sup>8</sup> is

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<sup>7</sup> A BRONX TALE (Tribeca Prods. 1993).

<sup>8</sup> The Manhattan Youth Part was formed in September, 1992. Its purpose is to remove 13-, 14- and 15-year-olds accused of the most serious crimes from the jurisdiction of the family court. The youth part "focus[es] attention and scarce resources on these children by hearing their cases in one part before one judge." Memorandum from Judge Michael A. Corriero to the *Journal of Law and Policy* 1 (Sept. 25, 1996) (on file with *Journal of Law and Policy*). Before the creation of the Manhattan Youth Part, a juvenile could be randomly assigned to one of 57 judges. The youth part strives to minimize delays and "provide consistent sentencing, increase the number of children diverted away from costly incarceration and reduce the recidivism rate." *Id.* at 1-2. See generally Michael

to reach into that car and pull out the kids like C. The kids who, because they're too immature, cannot say, "Stop! I don't want to get involved in this. I'm going home." The kids who realize that if they want to say something like that, they would lose the respect of their friends and their community; and, of course, the respect of your peers as a teenager and adolescent is paramount to you.

So, that's the kid we're looking for in the youth part. Now, the district attorneys, the prosecutors, think there are less of those kids in the car than I do, and the defense attorneys often think there are more of those kids in the car than I do. I try to strike a balance. And how do I strike that balance? How do I make that judgment? It's not a conscious thing on my part, and I guess being asked to participate in this symposium today has caused me to think about why I do what I do. Why I think I can make that choice. Why people have given me the responsibility to make that choice.

I like to think that I have a good grounding in Christian philosophy. Certainly, the Maryknoll missionaries beat it into me. And the Irish-Christian brothers didn't stint on that either. Then, of course, the Vincentian fathers at St. John's College and St. John's Law School also had a lot to do with developing this little voice that, every once in a while, I hear inside my head.

But, more than that, I think it's because I have had the opportunity to share in the American dream, that I have had the opportunity to do good, to try to do good and to see that come back to me. I try to instill in the young people that come before me this sense of imagination, this belief that you can be all that you want to be.<sup>9</sup> That in this country, the principles of law are

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A. Corriero, *Youth Parts: Constructive Response to the Challenge of Youth Crime*, 204 N.Y. L.J. 1 (1990) (providing an overview of the establishment and operation of the youth parts in New York).

<sup>9</sup> The following remarks were taken from a question and answer session that followed Judge Corriero's address:

Question: Would you please elaborate upon your philosophy of bringing up people's strong talents?

Judge Corriero: That's the \$64,000.00 question. I look for the good in everybody. I mean, how many classes did you pass, Johnny? How many classes did you fail? I

designed to protect you and that no matter who you are or where you come from, you have an equal opportunity to succeed. That's very difficult to tell a young fourteen-year-old boy whose father died of AIDS and whose mother is in prison for selling drugs. That, yes, you too can become a lawyer or a judge, a doctor, a physicist, a priest. That yes, you too have self-worth, that you have talent, that you have a purpose in life.

I recently had an opportunity to speak to a group of high school students. I asked them, "Who are your heroes?" I heard the names of various individuals. Then I asked myself, in thinking about why I do what I do and what I believe: "Who are my heroes and how do I teach young people that they can achieve respect without violence?" I went to the lessons of the Bible, to the world around me, to history. I know that Moses was able to part a sea in order to avoid bloodshed. I know that another young man who also lived a long time ago didn't beat anyone with his fists, or stab anyone,

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failed physics and I failed chemistry. All right, what did you pass, Johnny? I passed gym. You're a good athlete, then? You play basketball well? Why do you think it's important to play by the rules when you play basketball? Well, if you don't play by the rules, what happens? You get thrown out of the game. And what happens in life if you don't play by the rules? You get thrown out of the game.

So what I'm trying to say is that I try to find those good things that everybody does. There's something positive in everyone. And rather than dwell on the negative that we all share—for some kids, they've simply been focusing on the negative—I try to find what it is that's positive, whether it's the magic of music, the wizardry of words, something so I can make that connection and let them feel there's someone that recognizes that they do this well. Because someone recognized in me that I could be a good lawyer once. And just someone thinking that of me made it possible for me to believe in myself a little bit more than I would otherwise have.



or shoot anyone, yet he had the power to split time in two—B.C. and A.D. I know Mahatma Gandhi had the power to create a nation and that Dr. Martin Luther King, Jr. had the power to move a nation, all without violence. Through imagination and faith, they were able to move the world. In a democracy, knowledge is power. Reason, not might, makes right. That's what I believe. That's what I try to share with them. That's what I try to show them. However, I am not always successful because the problems of the world, of course, are enormous.

I had a young woman who recently appeared before me. I was told she had a great talent; she was a wonderful dancer. She was involved in a group robbery. She didn't individually take part in the violence, but she was with another young woman who did. I thought it would be a good idea to try to involve her in an alternative to incarceration program. I asked a counselor to speak to her. I said, "Speak to this young lady. See if she would be suitable to work with you in the program." And she did. The next day the counselor came to me and said, "You know, Judge, I asked Loretta," that was her name, "a standard question that we social workers would ask: 'If you could change three things in your life, what would you change?' And Loretta responded, 'My country, my family and my sex.'"

My country, she said, because she believed that America was a racist society. Her family, because her mother was a crack addict and she never knew who her father was. And her sex, because she felt that as a young woman, she was vulnerable and weak because at ten-years-old, she had been raped by a paramour of her mother. I said, where do we start with Loretta? How do you bring Loretta into the mainstream of American life? How do you let Loretta feel that she is one of God's children? The only answer that I have is tolerance. True tolerance. Not weakness, but tolerance.

Somebody once asked me what is your philosophy on punishment.<sup>10</sup> I said, well, that's a difficult question, especially today.

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<sup>10</sup> In this regard, Ostad Elahi used to say: "As a judge, I made use of psychology, always trying to reform offenders rather than persecuting them." TRACES OF TRUTH, *supra* note 3, at 682. As it turns out, although Ostad Elahi proved the guilt of many murderers over the course of his near 30-year career, he did not issue a single death sentence. TRACES OF TRUTH, *supra* note 3, at 682.

You know, we talk about caning—in Singapore a young man was caned<sup>11</sup>—so I'm often asked how I feel about this. I can only relate to it by recalling the story that was told about this young, unruly student who was ushered into the principal's office. The teacher brought him in and said to the principal, "You know, this young man is totally unruly. He disrupts the class, he writes on the board, he talks." And the principal interrupted, "Please, please, he's only a child. You have to treat him with patience, love and understanding." Just then, the student picked up the principal's inkwell and flung it against the wall, and the ink splattered all over the wall. The principal grabbed the child and threw him over his knees and started to paddle him; the kid was screaming. The teacher, astonished, said, "You just told me to treat him with patience, love and understanding. He's only a child." The principal said, "Yes, yes, but first, you have to get their attention."

In a way, that's what I try to do with the young people, because they often are not paid attention to. They get sick, they go to a hospital emergency room. Nobody's paying attention to them. They're treated indifferently. They go to school, there are too many kids in the class. Nobody's paying attention to them. They're treated indifferently. I think the greatest alternative to detention is paying attention. I pay attention to these kids. Even if it kills them. Pay attention. I watch how they walk into the courtroom. I watch how they hold their head. I watch how they respond to me. Not so much the content of what they say, but how they respond to me. I try to find a common ground, something we can relate to. I try to use everything that I've learned in my life to connect with them in some small way and to let them know that I'm paying attention, that they're important to me, and they're important to everybody else around them.

Thank you very much.

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<sup>11</sup> In May 1994, 18-year-old Michael Fay became the first American to be caned in modern Singapore. Ellis Henican, *Condition of Fay Called "Satisfactory,"* NEWSDAY, May 6, 1994, at A7. See Seth Mydans, *Youth's Flogging Exposes the Importance of Skin,* N.Y. TIMES, June 13, 1996, at A4 (explaining the cultural effects following the caning of Michael Fay).

