POPE FRANCIS LEGAL CENTER
MEDIATION, RECONCILIATION, RESOLUTION

I have made you my ministers
setting you in different positions of rank
to exercise the virtue of charity.

-- Catherine of Siena, *On Perfection: Dialogue* iii-xii, 38

In loving me you will realize love for your neighbor
and if you love your neighbor
you have kept the law.

Mt 22: 37-40

Mission Statement

The mission of the Pope Francis Legal Clinic is to provide opportunities for Catholics and others in the Diocese of Oakland to consult legal experts imbued with the spirit of Christ and His Church about the law and how it may be affecting their lives and the lives of their families. In doing so, the clinic will rely upon the theological tradition of the Church, the virtues, and mercy.

Strategic goals:

- Develop a culture of legal excellence based on the principles of practical wisdom imbued with mercy
- Enhance relations between persons of the diocese, their families, and neighbors
- Enhance a dependence upon the Church, in that she will be there for people in difficult situations
• Enhance trust in the Church, in that she may have answers to difficult legal questions, which are not otherwise being addressed

• Enhance the love of God through His Church and her teachings of the natural law

Introduction

The aim of this Capstone Project is to describe and create a law and mediation clinic at the Cathedral of Christ the Light in Oakland, which will help people involved in legal disputes who need help resolving them. The clinic will be located on the Cathedral complex property in downtown Oakland near Lake Merritt and will be a place where East Bay residents may obtain help in dealing with legal problems that are not being settled in court or in the family.¹ Most perfectly, this Cathedral clinic will function as a place for mediation and reconciliation. The plan is to have expert lawyers with outstanding legal training and experience available to meet with people who are burdened with legal problems and want mediation, reconciliation, and resolution. The unique aspect of this project will be to situate legal counsel within the broader framework of practical wisdom, drawing upon Catholic imagination to provide a road map not merely to legal victories, but to greater happiness involving reconciliation, peace, and healed relationships.

This project has already been generally approved by the Bishop of Oakland, Michael Barber, S. J., who has suggested the name of the clinic be “The Pope Francis Legal Center.” He has also found a location within the Cathedral complex where this clinic may function and deliver services of mercy to Catholics and others in the East Bay.

¹ The legal center will be distinct from, and will complement, the two immigration clinics already operated by the Oakland Diocese.
Rationale

Through my studies in the Master’s program at the Dominican School of Philosophy and Theology in Berkley I encountered the natural law and the moral law as they intersect within the American Anglo-Saxon positive law tradition. I read Jean Porter’s *Nature as Reason* and began to see a vision in which I and others, as attorneys, serve as ministers of the law. This conception for me fit within the broader mission of the laity within the Church and means that if the practice of law is approached as ministry, then every encounter we have in the law has the potential to manifest the grace of God.

In the *Summa Theologica*, Thomas Aquinas writes

> Now the order of things consists in this, that things are led to God by other things. . . . And hence since grace is ordained to lead men to God, this takes place in a certain order, so that some are led to God by others. . . . And thus there is a twofold grace: one whereby man himself is united to God, and this is called “sanctifying grace”; the other is that whereby one man cooperates with another in leading him to God, and this gift is called “gratuitous grace,” since it is bestowed on a man beyond the capability of nature, and beyond the merit of the person. But whereas it is bestowed on a man, not to justify him, but rather that he may cooperate in the justification of another, it is not called sanctifying grace. And it is of this that the Apostle says (1 Corinthians 12:7): “And the manifestation of the Spirit is given to every man unto utility,” i.e. of others.²

In ministering the law, one has the potential to extend not sanctifying, but gratuitous, grace. This work is not explicit but rather requires only that one remain committed to justice while remaining open to mercy and reconciliation. Then the grace will come and hearts will open.

There are many skilled Catholic lawyers in the Bay Area, and while one does not have to be a Catholic to be an efficacious minister of the law, committed Catholics are particularly

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² Thomas Aquinas, *Summa Theologica* I-II q. 111, a. 1, resp.
disposed to the proper ends of justice, mercy, and charity. Catholic lawyers accustomed to giving advice may also be disposed to the Holy Spirit’s gift of counsel. It is our hope that by rooting this clinic in a theological context, the Holy Spirit will be able to work through the gift of counsel, and our lawyers will be able to provide practical wisdom through synthesis and analysis. This process of synthesis and analysis involves both universal principles and singular matters of facts to which prudence applies the universal principles. Lawyers with experience in advising clients over a significant period of time will have gained prudence, which will enable them to apply these universal principles of justice to individual particular situations. Ideally, we want lawyers also who are “friends of God” in the Thomistic sense, meaning presumptively to be in a state of grace or at least seeking God.

In all of this, the goal is to counsel with practical wisdom, which according to St. Augustine, is “the science of what to desire and what to avoid.” So, as one may discern in this statement, the counsel intended to be offered by this clinic will involve more than mere strategic legal advice. Instead, it will go deeper to address the very inclinations that are at the root of disputes and conflicts. Thus, the advice offered by lawyers will be grounded in an understanding of civil law within the order of “law” in general.

A Brief History of the Law


The Code of Hammurabi, which was discovered in 1901 and which has been dated by scholars to the eighteenth century BCE is a tremendous example of early law in Babylonia and Mesopotamia. This code is a set of three hundred laws in the form of cases that derive from human participation in the eternal law (Aquinas’ definition of the “natural law”). These laws are framed by a prologue and an epilogue, producing a format almost like that of a treaty. They uphold justice and seek equity in human affairs. They are dated well before the establishment of the Decalogue (the Ten Commandments). Some scholars liken them to case summaries accompanied by legal outcomes reflecting certain natural conflicts repeated over a period of time, with similar outcomes required by equity and justice. Both criminal and civil in nature, they make no separation between the secular and the sacred. Thus, one could say that they reflect the “dictates” of natural law, as experienced and codified in particular cultures. So, because the Hammurabic Code predates the codes of Israel, we know that it is natural and proper to the order of things that all human beings be ruled by justice.

One cannot mention justice without speaking about the special relationship between God and the Israelis and the role that wise men and women played in the administration of justice (see Exodus 18). In Exodus 18, there is the story of Moses being overwhelmed by too many cases on his agenda. His father-in-law, Jethro, sees the need for the establishment of a judicial system for resolving cases. This leads to the appointment of men and women with wisdom and stability to help Moses: “Look among all people for able and God-fearing men, trustworthy men who hate dishonest gain, and set them as officers over groups of thousands, of hundreds, of fifties, of tens” (Ex 18:21). These men and women came to be known in Scripture as “the judges.”
Our legal panel will not be judges in the legal sense, but rather in the factual and circumstantial senses. In other words, they will be executing the faculty of judgment in order to offer wise counsel, but not legal decisions. Building upon Old Testament foundations, the New Testament adds a new emphasis to the purpose of counsel and judgment: “Settle matters quickly with your adversary who is taking you to court. Do it while you are still together on the way” (Mt 5:25; Lk 12:58). So, the heart of our legal clinic is not to offer legal rulings, but rather, to foster reconciliation and mediation.

For the most part, Biblical law is not the topic of philosophical or abstract reflection but is the concrete manifestation of God’s will made known to his people. Generally, the law comes to the people of Israel through Moses. The Hebrew word tôrâ is most commonly translated “law” in the Old Testament. It basically means “teaching” or “instruction.”

This teaching, mediated by Moses, generally consists of six codes, which include the following. The Ten Commandments (also known as the Sinai Covenant), guide the conduct of all people, express in writing the natural law that has been engraved on the heart of all people (Ex 20:2-17; Rom 2:14-15). The Covenant Code (Ex 20:20-23:19) regulates social relationships, civil and domestic, in the lives of the people Israel. The third covenant, the Covenant Renewal (Ex 34:10-26), is the story of the renewal of the Sinai Covenant (the Ten Commandments), which was broken by the people Israel with regard to the Golden Calf, but was reinstated and agreed to in the renewal of the covenant. (Here we have a demonstration of God’s mercy, in that he forgives and allows us to renew our relationship with him, free of charge, except that we have to repromise, reconsecrate ourselves to the covenant.) It’s interesting to remember that the tribes
of Israel were detained at Sinai before the renewal was undertaken. This suggests that God’s way
of acting may include a period of waiting before the promise is renewed. The fourth code is the
Priestly Code (Lev 1-16), related to the sacrifices, the tabernacle, and the Day of Atonement, etc.
The Holiness Code is the fifth (Lev 17-27), which stresses holiness as being essential for all
God’s people. Israel’s apostasy had proven that much regulation was necessary for holiness to be
procured by the people of Israel. This included many moral laws that set Israel apart from their
Gentile neighbors. Finally, the sixth and last code is the Deuteronomic Code (Deut 12-26), which
is a restatement attributed to Moses before the people of Israel enter the land of Cana. It includes
judicial, criminal, social and domestic law, as well as much exhortation by Moses for the people
of Israel to choose life, rather than death.

Despite all the efforts of Moses and the prophets to keep Israel faithful to the teachings of
the Torah, the people of Israel frequently fell into legalism and idolatry. The Pharisees were
great teachers of the law who taught respect for the law and encouraged all of the Jewish people
to follow every letter of it. However, they were also known for being hypocrites, in that they
missed the essence of the law’s purpose in seeking its compliance.

All of these codes given to us by the people of Israel are seen by Christians as pointing to
a new law, which perfects the old law. A good example of that is Jesus’ address with regard to
the Old Law in his Sermon on the Mount. He says, “Do not think that I have come to abolish the
law and the prophets; I have not come to abolish them, but to fulfill them. For I truly say to you,
not until heaven and earth pass away, not an iota, not a dot, will pass from the law until all is
accomplished (Mt 5:17-18).” Christians believe that Jesus alone is capable of keeping the law
perfectly (1 Pt 3:22-23). So God knows that we are not capable of keeping his law perfectly without violating some of its precepts. Every client who encounters a lawyer does so with an imperfect past, and every lawyer who encounters a client seeking advice and counsel does so with an imperfect past. We must always keep this in mind.

The Law of Christ

The Law of Christ helps us to bear one another’s burdens (Gal 6:2). In doing so, we will discover that this is an activity of joy because in our volunteering is a freeing-up of our spirit, which goes to meet the spirit of our clients.

Historical Roots of Modern (?) Law

The tradition of the codification of law comes to us in North America through the influence of Greek and Roman Law, and later, English Common Law. Athens’ first law code was drawn up by Draco, a politician who became infamous because of the harsh penalties that were prescribed for law-breakers (hence the name “draconian laws”). Draco’s rulings were set aside in the 590s B.C. by a high-ranking official named Solan, who reformed his legal codes by making them fairer and more even-handed. Athenians believed strongly in the law. A good example of this respect is seen in Socrates, who, when sentenced to death in 399 B.C., accepted his legal sentence, showing respect for the law, while fully believing he was innocent of the charges made against him.

The first known Roman law codes were called the Twelve Tables. They were written in 450 B.C. Each year, amendments were made to these tables. They were called “edicts.” This
system lasted until 27 B.C., when the Roman emperor was allowed to make changes as he saw fit and whenever he wished. This made Roman law very complex and led to the task of necessary interpretation, which fell to a group of highly skilled lawyers and the modern term “jurisprudence,” which stands for “experts in the law.” Ever since that time, the science of the law has been known as jurisprudence.

Roman law, modified somewhat by Greek law, was adopted throughout most of Europe by the end of the 1500s. England, however, used a different system. It was unified, but in a different way; it was a patchwork of legal cases with precedents that had the force of authority nationwide, so long as they did not contradict the main principles of English law. The United States would adopt, through the Colonial system, the English tradition of jurisprudence. Further developments in the U.S. has led to modern law being based almost entirely upon positive law, which includes statutes, case summaries, and interpretations of constitutions, which establish precedents.

The Code Napoleon, in 1800, turned all of French private law into a compact, well-reasoned code. It is still the basic code followed in most Western European countries. In comparison to English Common Law, Continental code law tends to be positivistic, beginning with a general precept and applying it derivatively to particular cases, whereas English Common Law generally begins from particular cases and seeks to abstract certain principles that can be applied as precedents to other similar situations.

(In Germanic law, everything is prohibited unless it is permitted. By contrast, in English Law, everything is permitted unless prohibited. – RESEARCH THIS FURTHER.)
Review of the Law

The previous discussion reveals that there is a hierarchy of law, namely, eternal law, natural law, divine law, and what we now call positive law. In modern practice, positive law includes two kinds called civil and criminal law. To be true, right and good (or truly “just”) civil and criminal law must be in proper order and relationship to the eternal law, the natural law, and the divine law, which can be understood as follows.

The eternal law, as described by Aquinas, is God’s plan of wisdom by which all actions and motions of the universe are directed (the laws of the universe). Eternal law encompasses both metaphysical and physical laws; in fact, physical laws presuppose those of metaphysics. The laws of metaphysics can be discovered by philosophers; those of physics can be discovered by physical scientists. Thus, one can say that the physical sciences, such as Newtonian and quantum physics, are particular manifestations of the eternal law, and that the business of science is an attempt to understand the eternal laws that govern the universe. A good example of this is provided by Sir Isaac Newton’s Laws of Motion. The first regards gravity: “Every body continues in its state of rest or motion in a line unless it is compelled to change by forces impressed upon it.” His second law of motion is that each change of motion is proportional to the force impressed upon it, and that change is made in the direction of the line in which that force is impressed. Newton’s third law is that to each and every action there is always opposed an equal reaction.
Like many of his contemporaries, Newton tried to understand the laws of human reason through mathematics and the laws of motion. However, a thorough understanding of the usefulness of law and its purpose show that Newton and others got things out of order. In other words, in this hierarchical scheme of law, the higher forms of law furnish principles to the lower, but the lower do not furnish principles to the higher. Therefore, the eternal law and metaphysics furnish principles to physics, ethics, etc., but not vice versa; the laws of reason are not conditioned or exhaustively described by the laws of physics. Newton’s mistake was to think that mathematics could fully describe the laws of reason; but in reality, the laws of mathematics are reliant upon and discovered by the laws of reason.  

Another famous scientist, Albert Einstein, revolutionized scientific thought with regard to time, space, mass, motion and gravitation. Essentially, he treated matter and energy as exchangeable. His famous equation \( e = mc^2 \) is a foundational description/law in the development of atomic energy. The law that Einstein discovered started as a theory and ended up being accepted as a special theory of relativity. Einstein wanted his theory to be the general theory of relativity, but during his lifetime he was not able to combine the laws of electromagnetic and gravitational phenomena into one single theory. Perhaps Einstein’s failure to come up with a general theory of how the universe works with regard to some of the basic eternal laws is an autobiographical note helpful to illustrate the difference between physical laws and the eternal law, that is, the complete law of the universe. In other words, physics is a noble pursuit offering extraordinary insights into the order of things (the eternal law), but it cannot

exhaust the eternal law; physics cannot account for the principles upon which the physical world itself is grounded, such as the very existence of matter.

Great lawyers inspire clients to have faith in imagined outcomes, which most likely will occur if certain precedents are followed. We cannot know everything; that is not our job. But in legal matters, we can know human natural law well enough to know what will occur if certain course of action is undertaken.

Natural law is the human being’s participation in the eternal law of God (those intersections in human affairs which inevitably require human reason and discernment). Divine law, according to Aquinas, is divinely revealed law which is divided into the Old Law and the New Law, the Old Law being comprised of moral precepts, and the New Law fulfilling those precepts through Christ’s law of love. The civil law, according to Aquinas, is an ordinance of reason to direct political society and its members to the common good of peace and order. This type of law is what we confront in legislative laws, local, national and international ordinances, treaties, constitutions, and court cases that have the authority of precedent.

What today is called civil and criminal law fits within Aquinas’ category of “civil law.” Therefore, the work of this clinic can be considered civil law. Lawyers volunteering at the clinic to practice civil law will have a foundation in the divine law and the natural law, which they may know connaturally through their participation in the eternal law, as well as through grace. Their

6. ST I-II q. 91, a. 2.
counsel in matters of civil law will aim for justice, which is the activity of bringing relationships into their proper order. Unlike the other virtues, justice is always about the other. So, ultimately, our clinic will seek to provide counsel in matters of civil law by grounding it in virtue for the other. While all of this may sound rigorous and idealistic, we need not be afraid of these ideals. From experience, we have learned that if clients can be shown through their imaginations that a greater good will come because of virtuous action, they will choose to act accordingly.7 Our lawyers will be able to describe for clients a better future by using the gift of imagination, which, when done effectively, relies upon a trained intellect (which lawyers possess) to draw up a road map of the future wherein the giving and receiving of mercy must be emphasized along with practical goals of resolving problems.

Having met many solid lawyers, I have determined that if we can mobilize these rightly ordered practitioners of the law, we could make a significant contribution to the Church and to the world. As Sherry Weddell articulates so clearly in Forming Intentional Disciples, when professionals consecrate their professional vocations to Christ, they become His disciples. As attorneys, by offering ourselves as ministers of the law, we rightfully take up our place within the Body of Christ.

An extension of the Thomas More Society would seem to be helpful for us in the East Bay, particularly to bring together Catholic lawyers from time to time, to meet and discuss the pursuit of justice in the East Bay. We could also, on those occasions, discuss the Cathedral clinic and our needs at that location for good lawyers to help people who have legal problems that are

not being met. From a Catholic perspective, we would offer legal counsel by integrating not only
expert knowledge of the law, reason, and common sense, but also mercy, charity, and compassio

a. First Steps

The builder of this clinic space will be Tony Sanchez-Corea, a Knight of Malta from San
Francisco, who is very generous and loves our bishop. He has already reviewed the Cathedral
complex indicated space with Mr. Randy DeVoto, an architect, who will put the finishing
touches on the construction plan. Tony is tentatively planning to start January 11th 2016.

b. Logistics

Currently the plans are for the clinic to be open two days per week with all appointments
scheduled telephonically. Funding for the clinic will be provided by either the Oakland Diocese
or by a foundation. Advertisement about the services at the clinic and its location will be done
though the Catholic Voice, the diocesan newspaper, and individual Parish bulletins. There will
also be outreach to individual parishes including seminars with regard to legal issues, including
end-of-life issues, health care rights and housing questions. There are tentative plans also for a
website, which will include helpful practical tips of wisdom on how to avoid certain thorny
issues. Overall, the clinic will serve as a lens to view the modern world which is increasingly
becoming a legalized world full of compliance requirements, while needing not more law, but
rather, more justice with mercy.

Looking ahead, it is anticipated that the clinic will open officially in Feb. 2016 with a
grand opening targeted for spring 2016. All in conjunction with the Year of Mercy declared by
Pope Francis December 8th 2015. It is anticipated that this grand opening will include the participation of Bishop Michael Barber, Father George Mockel, and many others, coming together at the newly formed Pope Francis legal Clinic of the East Bay.

c. Questions Remaining

Should we teach faith?

First and foremost, we ought to love and respect those who come to us for advice. We must always remember that the faithless have legal problems too, and their inherent dignity as human beings requires that we give to them as much attention as others. It will be primarily through our generosity and counsel that our faith will be communicated. However, lawyers may find that opportunities will arise to more explicitly share their faith with those who have little hope and no faith.

What about despair?

When we encounter despair, lawyers cannot be despairing. Reality needs answers, and despair is not one of them. Our charity as lawyers will be presumed. We will not judge souls but rather let mercy, through our generosity, do its work.

How will we teach mercy and justice?
We must always understand that things are known according to the mode of the knower. So things are learned differently, according to the disposition of the person with whom we are interacting. Aquinas says that the proper way to learn truth is by synthesis and analysis. Our practitioners ought to synthesize the facts that they learn from their clients' cases and then apply a legal analysis which includes practical wisdom and charity.

Must we be humble?

Yes! Lawyers especially have to be humble, because they have the gift of greater knowledge in certain situations. Nobody was smarter than the Lord, yet He embodied and preached humility, saying, “Learn from me, because I am meek and humble of heart.”

Do we teach God?

No! not in words. But we understand that in this world can do nothing without Him, and we trust that He communicates Himself through our work.

What about charity?

Charity is love personified and must be infused in all that we do. Charity does not preach, it acts. It is always on duty, fulfilling our Lord’s promise of mercy even in our cases.

Do we have a duty to give love?

Yes, because love is always of God and from God. It is not exclusive. It has no opinions, only actions and dispositions.

What about sin?

Sin is a theological definition of problems. Our judgment will not lead us into the category of sinfulness, although we must necessarily deal with its consequences.

What about anger?

One of the main duties of law is to control anger. Anger is properly the name of a passion and can be a good thing when regulated by reason, so it has limits. It can become evil if those limits are ignored or set aside, perhaps by a provocation or a bad habit, which causes this passion to overwhelm human reason. The counseling lawyer ought to try to ascertain from the facts the various triggers which cause anger to arise. Then, the lawyer ought to use the process of analysis to try and find peace for the victims of this anger without repeating the problems at hand. Necessarily, legal remedies such as restraining orders, injunctions, etc., sometimes have to be
recommended, but also there must be a good effort in trying to solve things by using the intellect to find ways to move wills that are predisposed to anger without cause.

Can non-Catholic lawyers participate?

Yes, if they are disposed to justice with mercy and recognize that every human being has inherent dignity. They should also be in good standing with the California Bar Association and not have any moral objections to our faith. Lawyers that meet this criteria are welcome.

d. Future Steps

- Determine the governing structure of the clinic

Currently, discussions are taking place as to whether the clinic will be an independent 501(c)3 non-profit corporation or an agency of the diocese.

- Determine funding mechanisms

Funding for a non-profit corporation would have to come from the public, such as other non-profit corporations and individual donors. An agency of the diocese, on the other hand, would be funded by the diocese.

- Secure liability insurance coverage
Liability insurance is a necessity, because lawyers who volunteer want to know that their advice is covered.

- Form an advisory board

An advisory board is necessary and it may become a governing board, if a non-profit corporation is formed. If one is not formed and the clinic relies upon the diocese for support, then the advisory board would most likely function as an advisory entity for the bishop.

**Conclusion**

In *The Joy of the Gospel*, by Pope Francis, we see set forth a remarkable vision for the Church, which encourages us to be “missionary disciples,” and so, “agents of evangelization.”¹⁰ Pope Francis writes: “To be evangelizers of souls, we need to develop a spiritual taste for being close to people’s lives and to discover that this is itself a source of greater joy. Mission is at once a passion for Jesus and a passion for his people.”¹¹ Our Pope calls us to enter each and every encounter with joy and hope. This is what I see in the potential of this Clinic project. The practice of law is not strictly about dealing in legal codes and expertise. Rather, it is personal. It is about meeting people who are burdened with legal problems, and lifting off their shoulders the great weight of anxiety and the lack of knowledge, while exchanging it for joy in finding hope. Out entire lives of legal struggles have prepared us to be agents of the Gospel, intentional disciples.

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It is the mission of the Church to lead people to Jesus Christ. Kevin DeYoung and Greg Gilbert tell us in their book the *Mission of the Church*, we have a duty to make sense of justice, to make it understandable and a place where we can meet our brothers and sisters in their faith journey. What better place than at a Cathedral in a clinic designed for listening, and attentiveness to people’s needs? As Bishop Barber told us, when the proposal was made to him for a clinic, “this is something we must do!”
Appendix A

Compiled by Thomas Greerty and others

Attorney List for Proposed Thomas More Law Society and Proposed Justice Center at the Cathedral Complex

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Appendix B

Blueprints of the Cathedral Complex including the Clinic’s Location
Bibliography


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