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# Tribute to Norman Dorsen, ACLU Leader Symposium: The State of Civil Liberties: Where Do We Go From Here

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## TRIBUTE TO NORMAN DORSEN, ACLU LEADER

*Nadine Strossen\**

Because I have had the enormous honor—and also the enormous challenge—of succeeding Norman Dorsen as ACLU president, I have a perspective on his immense contributions to civil liberties that few others do. The ACLU president is often in the public limelight, and Norman certainly was a forceful, effective spokesperson in that role. Much of the president's work, though—including much of his or her most important work—is done far from public view, and is not even that well-known within the organization. I had enthusiastically admired Norman's contributions to the ACLU ever since I began working with him on the National Board. Now that I have been trying to follow in his footsteps, I realize that my former impression understated Norman's outstanding ACLU work.

Understatement is something with which Norman is comfortable. In his ACLU work, understatement characterized not only his writing and speaking, but also his management and leadership styles. As a result of Norman's careful weighing of his words and actions, he was eminently respected as a fair, balanced, rational leader. He embodied the proverbial "reasonable man," and epitomized the qualities of judgment and moderation.

Although his leadership style was as subtle as his writing style, Norman managed to make his influence profoundly felt. In fact, precisely because he infrequently intervened in National Board discussions, when he did, his statements carried great weight. Likewise, precisely because Norman usually expressed his views in moderated tones (a characteristic phrase, for example, was, "This is not the world's biggest issue, but . . ."), on those relatively rare occasions when he conveyed a strong belief, it had an even stronger impact on his listeners.

Norman's contributions to the ACLU are manifold. Even had he not been an outstanding president for fifteen years, he still

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would have left a unique mark on the ACLU through his work as general counsel. In that capacity, he authored numerous Supreme Court briefs on major civil liberties issues,<sup>1</sup> and argued before the Court on many occasions. Norman's arguments led to the Court's landmark civil liberties decisions in *In re Gault*,<sup>2</sup> *Levy v. Louisiana*<sup>3</sup> and *Tate v. Short*.<sup>4</sup> Norman also argued *In re Vuitch*,<sup>5</sup> the first case to reach the Supreme Court which asserted that a woman has a constitutional right to terminate her pregnancy, although the *Vuitch* decision did not reach that issue.

When Norman became ACLU president, he reshaped the presidency, and—together with Ira Glasser, who became Executive Director two years after Norman became president—rebuilt the organization into a stronger, truly national entity. Much of what the ACLU has become in the last two decades is due to the efforts of Norman Dorsen.

When he first became president, the ACLU was experiencing some fiscal and organizational hardships, many linked to the fallout of the controversial *Skokie* case, in which the ACLU protected the First Amendment rights of a small group of neo-Nazis who sought to march in Skokie, Illinois—the home of many Jews, including many Holocaust survivors. Both the state and federal court systems vindicated the ACLU's position as a matter of law,<sup>6</sup> and the long-term impact on the ACLU's membership size was prob-

<sup>1</sup> Among the important civil liberties cases in which Norman authored or co-authored, for the ACLU and other organizations, the principal brief amicus curiae were *Lynch v. Donnelly*, 465 U.S. 668 (1984) (holding that the Establishment Clause does not prohibit display of a government-owned nativity scene); *United States v. Nixon*, 418 U.S. 683 (1974) (rejecting Nixon's assertion of executive privilege and requiring his production of tape recordings and documents in response to special prosecutor's subpoena); *Roe v. Wade*, 410 U.S. 113 (1973) (holding that women have a constitutional right to choose an abortion); *New York Times Co. v. United States*, 403 U.S. 713 (1971) (invalidating prior restraint on publication of Pentagon Papers); *Brandenburg v. Ohio*, 395 U.S. 444 (1969) (imposing First Amendment limitations on punishing speech based on its alleged likelihood of causing sympathetic listeners to engage in illegal conduct); *Flast v. Cohen*, 392 U.S. 83 (1968) (holding that taxpayers have standing to challenge government expenditure as violating the Establishment Clause); *Lamont v. Postmaster General*, 381 U.S. 301 (1965) (invalidating Post Office regulations upon receipt of mail from foreign countries determined to be Communist propaganda); and *Gideon v. Wainwright*, 372 U.S. 335 (1963) (holding that criminal defendants have a right to court-appointed counsel).

<sup>2</sup> 387 U.S. 1 (1967) (protecting the due process rights of minors).

<sup>3</sup> 391 U.S. 68 (1968) (protecting the equality rights of children born out of wedlock).

<sup>4</sup> 401 U.S. 395 (1971) (holding that the Equal Protection Clause prohibits imprisonment of traffic offenders unable to pay a fine).

<sup>5</sup> 406 U.S. 62 (1971).

<sup>6</sup> See *Collin v. Smith*, 578 F.2d 1197 (7th Cir.), cert. denied, 439 U.S. 916 (1978); *Village of Skokie v. National Socialist Party*, 373 N.E.2d 21 (Ill. 1978).

ably positive, since it made many Americans realize that the ACLU was willing to take principled positions, even if they are unpopular or controversial. In the short run, though, the ACLU lost about ten percent of its nationwide membership over this emotional issue.

In order to deal with budgetary and managerial problems then faced by the ACLU, Norman became, in effect, an unpaid member of the organization's professional staff.<sup>7</sup> He had an office at ACLU headquarters, and spent much time there. He also traveled around the country working with the ACLU's nationwide network of affiliates. With scrupulous attention to details and while always keeping his eye on "the big picture," Norman transformed the presidency into a major leadership position.

When he ran for president, Norman was determined to make major changes in both the president's role and in how the ACLU was run. He made this clear in his nomination speech during the presidential elections, and he began the process immediately following his election. Norman has recounted that he began the gestures to inaugurate the "new order" within hours after his election. The ACLU National Board has quarterly, weekend-long meetings. Norman's election occurred at the end of the Saturday installment of a Board meeting. Early the next morning, before any other Board members had appeared, Norman rearranged the tables and chairs in the meeting room, so that members could face each other during the debates. That innovation remains in effect today, facilitating lively exchanges among Board members. Beyond the significant merits of this particular action, it epitomized the new stamp that Norman was putting on all phases of his presidency, and through that position, on the ACLU as a whole.

Although the chairing of National Board meetings was a small part of Norman's manifold responsibilities as ACLU president, it constituted an important part. Negotiating the procedural thickets that are produced by a room filled with civil libertarians, who feel strongly and disagree vociferously, is a taxing job. Yet Norman always managed to run the meetings smoothly, efficiently, fairly and—probably most importantly—with humor and style. Many a potential explosion was averted through his deft touch. Many who

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<sup>7</sup> While the ACLU presidency is more demanding than many full-time jobs, it is an unpaid position. Therefore, throughout his presidency, Norman continued to work as a full-time faculty member at N.Y.U. School of Law.

have observed his consummate skill in running meetings have commented that they have never seen meetings that function more superbly. Norman excelled not only in the technical sense of thorough familiarity with procedural rules and substantive issues, but also in the more creative sense of thinking quickly on his feet, and with keen judgment about how to facilitate discussion. Those of us who have had the pleasure of participating in numerous meetings that Norman chaired were spoiled by his artistry in this domain, and find it hard to sit through meetings chaired by others who are less talented. No wonder Norman himself occasionally quipped that he never attended a meeting that he did not chair!

Norman's skill was underscored by my own experience on one occasion when Norman and I jointly attended a meeting at which he had not been designated the chair. This was an international gathering in Manila of human rights lawyers and activists who were trying to formulate a program to protest and stem the recent outbreak of assassinations and threats against Philippine human rights lawyers. The complexity of the agenda and the multifarious nature of the participants made running this conference even more challenging than running ACLU National Board meetings. After Norman had made many helpful suggestions to the appointed conference chair, that individual himself, as well as other conference participants, by acclamation beseeched Norman to take over the chair.

This episode also illustrates a more general point about the importance of having a skilled chair in meetings about significant issues. A meeting may never achieve a constructive resolution or plan of action if it is not run in an efficient and fair manner. In the Philippines situation, for instance, the participants had assembled from all over the world, and had only a short time to craft a position. If Norman had not taken over the helm in his characteristically firm but undomineering way, the conference would have produced an interesting exchange of views among the participants, but probably would not have cohered into any unified statement or plan to present to the outside world. Like a symphony conductor, Norman was able to transform a cacophony of individual voices and themes into a harmonized whole.

I always have enjoyed reading Norman's writings and listening to him talk. Even apart from the substantive information and insights that he conveys, his method of expression is unique. He measures his words carefully, never overstating. To the contrary,

he uses understatement in a masterful fashion. Norman did not speak on every possible occasion, but when he spoke, he measured his words in both quantity and tone. The motto that Norman invoked for himself was one he offered to the National Board prior to a meeting that some thought might be too short to finish the discussion of the issue at hand. With characteristically wry humor, Norman's memorandum to the Board in advance of the meeting reminded Board members of the thesis of Alexander Meiklejohn, the great First Amendment theorist. "What is important," he said, is that "everything that needs to be said be said, not that everyone who wants to speak speak."

Norman has been a mentor and teacher in his ACLU role, no doubt displaying the same qualities that have marked his profession as a law professor. I have been told by many National Board members who came to New York from far away, representing small affiliates, how awed they were during their early Board meetings, and how helpful they found Norman's friendliness and willingness to give them information. He always had the time to make suggestions about how to handle any kind of issue, from substantive to organizational. He patiently read and made helpful comments on drafts. During the campaign to succeed him, Norman made himself available to all candidates to provide any information we sought. Following my election, he has constantly been a source of information, advice, constructive criticism and support. Although I joke about how hard he has made my new position by setting such a high standard to follow, he also has made it much easier, both by helping to make the ACLU a healthy, well-functioning organization and by offering his guidance at every turn.

Consistent with his tendency toward understatement, Norman eschewed the word "very," and in his helpful editorial comments on drafts of my writings, routinely struck all such superfluous adverbs from my manuscripts. Thanks to him, I have almost purged the word from my vocabulary, using it only on *very* rare occasions! Having said that, the reader can appreciate the significance of my statement that Norman is a very hard act to follow in the ACLU presidency, and for that, all civil libertarians and all freedom-loving people should be very, very grateful.

