

## A TRIBUTE TO R. KENT GREENAWALT: SCHOLAR-TEACHER, TEACHER-SCHOLAR

*Paul Horwitz\**

In their sunnier moments, law professors sometimes say there is no tension between being a great teacher and being a great scholar—that they are actually complementary. There’s little strong evidence to support this claim.<sup>1</sup> But they like to say it anyway.<sup>2</sup>

Kent Greenawalt was indeed an excellent scholar and a great teacher. But I do not present him as proof of the connection between the two. Thinking about *how* Kent excelled as a teacher offers other lessons. It illustrates some virtues that facilitate both great teaching and great scholarship. It models a particular mode of excellence in both forms of the academic vocation, once a conventional mode and now perhaps less so. And reflecting on Kent’s excellence as a teacher may offer a different view of Kent’s towering achievement as a scholar and a different way of reading his work.

Kent’s exemplary virtues as a teacher were on clear display in the seminar room. For those who had the privilege of taking a seminar with him, the word “room” skips over the featureless environs of the law school and conjures up a vision of his apartment on Riverside Drive, where he held Friday sessions. Recollections will vary, but I remember the park outside, the warm furnishings and half-light inside,<sup>3</sup> the presence of food, the courtliness of the host, and his consummate skills in leading us. Professor Marc DeGirolami, Kent’s great former student, has likened the

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\* Gordon Rosen Professor, University of Alabama School of Law; LL.M., Columbia Law School, 1997.

1. See Benjamin Barton, *Is There a Correlation Between Law Professor Publication Counts, Law Review Citation Counts, and Teaching Evaluations? An Empirical Study*, 5 J. Empirical Legal Stud. 619, 638 (2008) (finding “either no correlation between teaching evaluations and [scholarly productivity and influence] or a very slight positive correlation”). Professors Tom Ginsburg and Thomas J. Miles report a weak but positive correlation between scholarly productivity and student perceptions of teaching quality. Tom Ginsburg & Thomas J. Miles, *The Teaching/Research Trade-Off in Law: Data From the Right Tail*, 39 Evaluation Rev. 46, 50 (2015).

2. See, e.g., J. Lyn Entrikin, Lucy Jewel, Susie Salmon, Craig T. Smith, Kristen K. Tiscione & Melissa H. Weresh, *Treating Professionals Professionally: Requiring Security of Position for All Skills-Focused Faculty Under ABA Accreditation Standard 405(c) and Eliminating 405(d)*, 98 Or. L. Rev. 1, 47 (2020) (asserting, without evidence, that “teaching and scholarship exist in a synergistic relationship”); Robert K. Vischer, *How Should a Law School’s Religious Affiliation Matter in a Difficult Market?*, 48 U. Tol. L. Rev. 307, 314 (2017) (noting “the familiar arguments about the connection between engaged scholarship and effective classroom teaching”).

3. In recalling it, I am drawn helplessly to a quote and neologism from the fictional author Eli Cash in the movie *The Royal Tenenbaums* (Touchstone Pictures 2001): “And they rode on in the friscalating dusklight.”

experience to a “16th century Italian salon.”<sup>4</sup> One might also imagine an ancient symposium or a wood-paneled library at All Souls College. Regardless, one had the sensation of being transported somewhere and somewhen else.

Kent’s signal virtue as a teacher was his capacity to *listen*. It sounds easy enough. It isn’t. One has a class to guide, goals to reach, diversions to avoid. As a student speaks, you may be thinking about where the conversation needs to go next and how to get there—or about the day’s other obligations and griefs. To truly listen, one needs sufficient patience, attention, and mastery of the materials to be able to throw away the map while still getting to the destination. One needs genuine interest in the topic and true respect for every student, such that, no matter how many years one has studied and taught the subject, one still greets every comment as the key that may unlock a barred or unnoticed door.

Kent had and modeled all these virtues. His many publications attest to the fact that he had a comprehensive set of views, both substantive and methodological, about the subjects he studied. But he did not command the seminar room to push those substantive views, or even, except by example, those methods. Many of his students, as well as those who encountered him elsewhere, learned much from him and carried it into their own work as scholars in subjects such as law and religion. But they did not become mini-Greenawalts. He was not in the business of making disciples. I like to think such an idea would not have occurred to him or would have struck him as unworthy and uncivilized.

Certainly, it would have struck him as a failure to *listen* and as a missed opportunity to *learn* about subjects that interested him deeply. In the true philosopher’s way, he invited criticisms of his own views and welcomed entirely different ones. Every comment deserved, and received, a response. And the response was not merely the seminar teacher’s backstop—the busy or bemused, “Interesting observation.” Students’ rough stones would be returned as polished gems. He would chisel at them: drawing finer distinctions, asking harder questions, and demonstrating flaws. He may have been courtly, but he was quite willing to push back. Still, a comment *supporting* his own views would receive the same critical treatment. One emerged from Riverside Drive just as equipped to reject as to share his positions—the mark of a true teacher—and with the sense that the discussion had mattered equally to him, despite his years and knowledge.

All this yields a suggestion about his scholarship. Kent was a political liberal *par excellence*. He drew both praise and criticism for that reason. His work was described critically as being “in search of a privileged philosophical position from the vantage point of which the issues it raises

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4. Marc O. DeGirolami, Some Memories of Kent Greenawalt, *Mirror of Justice* (Jan. 29, 2023), <https://mirrorofjustice.blogs.com/mirrorofjustice/2023/01/some-memories-of-kent-greenawalt-1.html> [<https://perma.cc/RH7U-JMTF>].

can be definitively addressed”—a position, those critics held, that did not exist.<sup>5</sup> More positively and descriptively, he was said to argue “that a coherent, sensible approach to the religion clauses is not impossible—just irreducibly intricate.”<sup>6</sup>

The view from his “particular perch”<sup>7</sup> was eminently reasonable. But, for this very reason, it was easy to feel that it demanded either acceptance or exile.<sup>8</sup> The recent rise of illiberal and antiliberal views is a reminder of the precariousness of statements issuing from such a perch, however reasonable they are and however confidently they are put. (Indeed, resistance to them may be stronger precisely *because* they are put so confidently.) Despite my own liberalism, I sometimes react this way to his writing: more curious about what is outside the borders than in, more willing to be exiled than to be reasonable and right but, perhaps, stultified.

But it is worth remembering that the scholar’s perch on Riverside Drive was also the teacher’s perch. However comprehensive Kent’s views seemed and however confidently he put them, in dialogue he welcomed the contrary perspective and sought to strengthen rather than eliminate it. “Reasonableness” can have an imperial force. But I detected no imperial ambitions in the seminar room. He may have found some views wrong and some uncongenial, but he did not reject them simply because they were alien.

It may be useful to read or reread his scholarship in that light. He was always willing to defend his views—but they were revisable, not fixed. His positions were firmly stated, but his openness, charity, and sincerity were equally real. From the vantage of the seminar room, we may see his awesome body of scholarship not as declaring a comprehensive or “privileged”<sup>9</sup> position, but as one more effort at engagement—one that invites counterengagement.

There remains one last matter: the fascinating glimpses of personal life—discussions of his faith; his father; his sons; and his beloved late wife, Sanja—that dotted his work. Although they might seem out of character for careful and apparently impersonal scholarly work of this sort, I came to think of these moments as *deeply* characteristic of Kent, as a scholar and teacher as well as a man. For a young student and would-be academic, they offered the encouraging lesson that a real human being is behind even the celebrated mind that one has encountered only on the printed page. But

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5. Stanley Fish, *Mission Impossible: Settling the Just Bounds Between Church and State*, 97 *Colum. L. Rev.* 2255, 2302 (1997) (analyzing Kent Greenawalt, *Private Consciences and Public Reasons* (1995)).

6. Nelson Tebbe, *Eclecticism*, 25 *Const. Comment.* 317, 317 (2008).

7. Fish, *supra* note 5, at 2308.

8. Cf. *id.* at 2300 (“There are no reasons you can give to the devout, not because they are the kind of people who don’t listen to reason, but because the reasons you might give can never be reasons for them unless either they convert to your faith or you convert to theirs.”).

9. See *id.* at 2302.

I wondered why he shared these moments. Perhaps they offer one more connection between Kent as attentive and encouraging teacher and Kent as formidable scholar and intellectual. They suggest a motivation and impulse that sustained both aspects of his vocation: love.