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In Memory of Sanford Jaccob Fox

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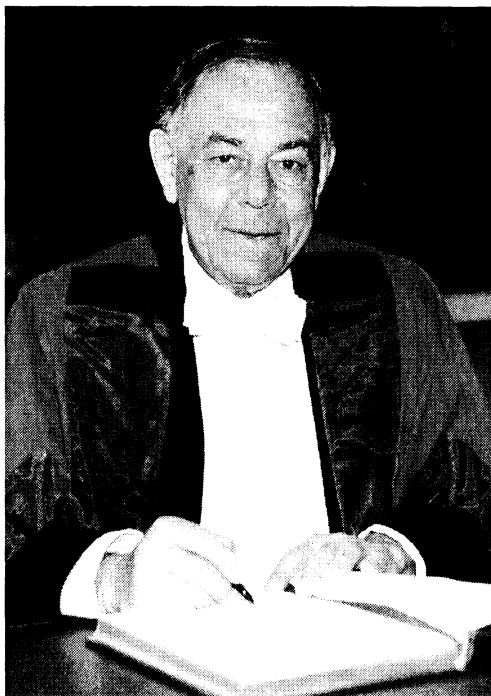
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This volume of the *Boston College International and Comparative Law Review* is dedicated to the work and the memory of our beloved colleague Professor Sanford Jacob Fox
1929–2000



Professor of Law at Boston College since 1959, Sanford Fox was internationally known for his efforts to define and advance the rights of children. Educated at the University of Illinois and Harvard Law School, he chaired the Committee on the Rights of Children for the American Bar Association and the United States section of Defense for Children International, and also sat on the Board of Governors of the ABA Center on Children and the Law. In addition, Sanford served as Consultant to the National Center on Child Abuse and Neglect for the U.S. Department of Health, Education, and Welfare, and as Consultant on Juvenile Court for the President's Commission on Law Enforcement and Administration of Justice. He was a member of the Advisory Committee on Juvenile Delinquency of the National Commission on Criminal Justice Standards and Goals and was a visiting Professor at the University of Texas, University of Paris, and Cambridge University. In addition to many articles and legislative bills on

children's rights, he authored or co-authored seven books. Professor Fox received an honorary Doctor of Laws degree from the University of Glasgow in 1997 in recognition of his expertise in juvenile law and his work internationally for children's rights.

A number of colleagues, past students, and other members of the law school community spoke at the July 6, 2000 funeral service for Sanford Fox in Brookline, Massachusetts, and at a special ceremony of commemoration held at the law school on October 12. A selection of excerpts from those remembrances follows.

REMARKS BY PROFESSOR ZYGMUNT PLATER

Sandy Fox was a nurturing mentor to his students and his colleagues, and a guiding force in his legal work around the world. Starting in 1987, Sandy was the focal organizer of the International Conference on the Rights of the Child. For more than two years, he guided the preparations for a conclave of hundreds of delegates in the Peoples Republic of China. Suddenly, in June 1990, just before the conference was to begin, our televisions brought us the first reports of Beijing's brutal suppression of demonstrators in Tienamen Square. Although it is hard to credit now, the immediate reaction of many people was "Let's wait and see . . . Maybe the scenes we saw on TV were atypical . . . Maybe it would be better to go on and hold the conference, inserting some appropriate speeches condemning brutality, as a moderating compromise to save these years of hard and important preparatory work." But Sandy saw the stark ethical realities: "The conference in Beijing is cancelled. Period." He said, with not a second's hesitation at the loss of more than two years of his own extraordinary efforts. And of course he was right. No matter how you spun it, to hold the conference inevitably would have undercut international principles of civil rights to which he and the conference were dedicated.

In faculty meeting debates, too, Sandy was a rare voice of directness and clarity. Not for him was the role of academic peacock, preening his feathers and strutting his stuff. Nor was he ever an academic politician with an agenda, playing factions, watching the wind. He was not afraid to stand alone, and say "Here is the way I see it . . . I think you may not have considered this issue, this fact, or this logical point." More than anyone else I have known, Sandy always dealt straight with each argument and fact on its own terms as he saw it. Maybe that's why he never needed to raise his voice. We instinctively understood that when Sandy spoke, he was speaking straight and intelligently to

the merits of each question—merits of principled academic discourse, of standards of quality in factual research and logical analysis, and on policy principles, too, where he was always a child of the left, dedicated to protecting the rights of those who could not protect themselves, condemning racism no matter from which quarter it arose. His thinking was logically incisive, elegantly phrased, and scrupulously honest in seeking the very best answer he could find to every problem he addressed. A fine, and daunting, example.

REMARKS BY PROFESSOR MARY ANN GLENDON

In the fall of 1968, quite a large group of newcomers joined the faculty of Boston College Law School. It didn't take us long, in our new environment, to realize that Sandy Fox was a model of everything that our Dean, Father Drinan, wanted a B.C. Law School professor to be: a teacher with a social conscience, a formidable scholar, and the kind of colleague whose mere presence made everyone else on the team play a little better than we thought we could.

Sandy was then only in his thirties, but he had already made his mark as a legal historian and as the country's leading authority on juvenile justice. And, as if that were not enough, he was a crusading law reformer, trying to make sure that his scholarship actually could make a difference in the lives of young people.

Over the years, what we 68-ers appreciated most of all, though, was that this paragon of excellence was such a great colleague. Sandy was never too busy for a bit of good advice or a word of encouragement. A memory that I especially treasure involves the first time I ever gave a public lecture. It was at Radcliffe in the 1970s, and I was very nervous—until I looked out at the audience and there I saw Sandy smiling encouragingly. I was so touched. But that gesture was typical of the countless ways that this brilliant professor shared his gift with others.

It may be a reflection on our times that when one thinks of Sandy, the words that come to mind sound a bit old-fashioned. I think of his dignity, his culture, his courtly manners, the effortless way he did so many things so well, his love of knowledge for its own sake, his courage in standing up for what he believed was right. Sandy Fox was our Joe DiMaggio—gentlemanly, graceful, and excellent in his art.

REMARKS BY ROBERT F. DRINAN, S.J., PROFESSOR, GEORGETOWN
UNIVERSITY LAW CENTER

I first became acquainted with Sandy Fox when the renowned Professor Sheldon Glueck of Harvard Law School phoned me about his student's application to join the faculty of Boston College Law School. The famous Professor Glueck, along with his wife Eleanor, had worked closely with Sandy Fox in their studies of juvenile delinquency.

The Gluecks also knew Sandy in his role as a teaching fellow at the Harvard Law School. Professor Glueck predicted to me on the phone and later in a letter that Sandy Fox would become an articulate prophet for the rights of children. The esteemed professor was himself a prophet because Sandy Fox became one of the most persuasive and eloquent defenders of the rights of children. For over 40 years Professor Fox explained and defended the rights of children. In local, national, and international settings, Sandy Fox wrote the laws, revised the codes, and implemented the emerging concept that children have rights that society is required to fulfill.

I remember Sandy's excitement when the United States Supreme Court in *In Re Gault* in 1967 proclaimed for the first time the rights to counsel of a minor accused of wrongdoing. Sandy brought excitement to the law school in its association with the Judge Baker Child Guidance Center in its studies of the psychiatric aspects of delinquency. Sandy was one of the first faculty members at Boston College Law School to get a Ford Foundation Fellowship. This was followed by a scholarship at the National Endowment for the Humanities and a position as project director at the National Science Foundation. From 1962 to 1965 Sandy served as counsel to the Massachusetts Crime Commission and on the Governor's Committee on Jails and Houses of Correction. Later he was the reporter to commissions on crime in Maine, New Hampshire, and Vermont. During the turbulent 1960s, Sandy was in the heat of the struggles as a consultant on juvenile courts to President Johnson's Commission on Law Enforcement.

Sandy's first book, published in 1968, focused on the Massachusetts witchcraft trials. It centered, as did all of Sandy's writings, on the fearsome power of the state when aroused by bigotry or fanaticism. This theme is one of the central ideas in the scores of articles which Sandy published throughout his career. He wanted the government to be open and fair—especially toward vulnerable children and particularly in juveniles courts.

Sandy's long-held aspirations for justice for juveniles led him to Scotland where the law contains the idea of "diminished responsibility" inherited from Roman law. Sandy wrote extensively about the criminal and juvenile law of Scotland. His efforts and achievements were recognized by the University of Glasgow in 1997 when it conferred on him an honorary degree.

His accomplishments also were recognized with a visiting professorship at the University of Paris in 1983 and a visiting fellowship at Cambridge University in England in 1990. The legal profession in the United States recognized Sandy's contribution in 1976 when he was elected a member of the prestigious American Law Institute.

In recent years I was familiar with Sandy's work in connection with the Section of Individual Rights of the American Bar Association. When I was chair of that unit in 1991, I helped to involve Sandy in working on children's rights. For almost a decade he was most effective as chair of the Committee on the Rights of Children.

Most recently, I saw Sandy at a conference on the rights of children held at Georgetown University Law Center. Sandy's paper published in the *Georgetown Journal of Poverty Law* is an eloquent plea for the United States to ratify the United Nations Covenant on the Rights of the Child. This treaty compiles and codifies the rights of children as expounded by Professor Fox. The treaty was adopted by the United Nations in 1989 and has been ratified by every nation except Somalia and the United States.

Sandy Fox was chagrined that the leadership of the Foreign Affairs Committee of the United States Senate would refuse to align the United States with the countries that are the friends of children. Sandy can take great pride in the fact that the Convention on the Rights of the Child, which now represents customary international law, has codified most of the noble ideas about children which Sandy helped to develop as the chair of the Board of Directors of the non-governmental agency Defense of Children International based in Geneva.

It is elementary that a nation can be judged by the way it treats its children. In the last 50 years the world has experienced a moral revolution in the way society looks upon children. One of the most recent moral awakenings in this area is the widespread desire to eliminate child labor. Not surprisingly Professor Fox had recently undertaken research in child labor in the rug industry on the Asian subcontinent at the personal request of Mary Robinson, the United Nations High Commissioner for Human Rights.

At this touching memorial to a courageous man, Boston College and its law school express their gratitude and their esteem. The contributions of Professor Sanford Fox will be forever remembered and memorialized. His students will continue to be apostles of the dignity and the rights of children. Sandy Fox inspired all of us by his devotion to justice and in particular by his sensitivity to the dignity of children. Professor Sheldon Glueck's prophecy was correct—Sandy became the champion of the rights of minors—people whose welfare and dignity had been neglected for generations.

REMARKS BY PROFESSOR DANIEL COQUILLETTE

Today, everywhere I go, lawyers and judges lament two things: the decline of civility in the profession and the deterioration of the idea of service for others, particularly the poor and the most vulnerable. They ask me, "why don't you teach these things in law school?" Some even urge "a required course" in courtesy and public service. The truth is that the most effective way to teach those values is by example. For 41 years Sanford Fox taught this "course" by example here at Boston College.

In good times and in bad, in moments of great distinction and in moments of utter frustration and disappointment, Sanford was a model of unfailing dignity and concern for others. As a dean, I could always look to him for leadership, not only on the substance of the issues, but also in terms of his unfailing collegiality and impeccable personal conduct. He was a lesson on courtesy and civility to us all.

Today, popular culture derides "gentleness" and the "gentle person" as a sign of weakness perhaps. But Sanford displayed its true meaning, strength in compassion. Here was the "gentle knight" of olden days, vigilant in defense of the weak and vulnerable, stalwart against the forces of cruelty and abuse.

For Sanford, of course, his primary concern was for the world's children. He fought for children all his life. He fought especially for those children who had no other defenders, no advantages, no hope.

Sanford earned many great distinctions during his career, but he never rested on his laurels. Honorary degrees were nice, but his dedication to the weak and vulnerable had its own, special reward. He never stopped. In the weeks before his death, he was still working on a new major law reform project, a special "website" for children where they could learn about their rights.

A life dedicated to the service of others in the great Jesuit tradition, this was Sanford Fox. A person of unfailing dignity, concern, and

love—a “gentleperson” and a scholar”—we shall miss him very much indeed.

REMARKS BY DEAN JOHN GARVEY

Sandy Fox was an important scholar, a fearsome advocate for the rights of children, and a man of great moral and intellectual integrity. He and the Boston College Law School were born the same year, and his presence here has contributed immensely to the stature of this institution.

For 41 years, Sanford Fox taught law at Boston College (with occasional sojourns to Cambridge, Paris, Glasgow, and elsewhere). He focused his attention during that time on two causes—restraining the evil and protecting the weak. As reporter and counsel he helped revise state criminal codes throughout New England. Later, as assistant reporter, he worked on the American Law Institute’s revision of the Model Penal Code. I first learned who Sandy was when I was a young law clerk fresh out of law school. My judge, Irving Kaufman, was the titular head of the Juvenile Justice Standards Project organized by the American Bar Association and the Institution of Judicial Administration. Sandy was the reporter for one of the volumes, on Juvenile Corrections.

He was exactly the sort of man we would want for this work. Not a Robespierre with a single-minded passion for stamping out evil. His commitments in that direction were balanced by a determination to protect the weak. And he understood that it is not always, or not only, the victims who are weak. In the 1980s he was the chair of the board of directors of Defense for Children International/USA. He served as chair of the American Bar Association’s Committee on Children’s Rights. He taught courses in International Law and Human Rights.

All this everybody knows, or can learn from reading the papers. We on the law faculty who worked beside him day by day saw Sandy from another direction. And the most impressive thing about having this perspective was discovering that he was the same person outside and in. He did not have one face for the public and another in private. What he was, he was.

What I appreciated most about Sandy as a faculty member was that, even in difficult matters, he was direct and honest. If you made a mistake he would tell you so, but never unkindly. He said things with the compassionate understanding of the old and wise; you might be making a fool of yourself, but he didn’t think any the less of you for it. He had seen better people do worse, and he knew that we are all hu-

man, all weak, all wrong from time to time. This kind of integrity is a priceless asset to any institution.

REMARKS BY HOWARD DAVIDSON, DIRECTOR, AMERICAN BAR
ASSOCIATION CENTER ON CHILDREN AND THE LAW

I was very fortunate to be among the first students to take Sandy's juvenile justice course with an added clinical experience component—and thanks to Sandy I got my first opportunity to actually represent juvenile clients. Little did I know then that this would whet my appetite for what is now a 26-year child advocacy legal career.

I learned so much from the way Sandy addressed the issues of children's law. By involving a psychiatrist in his juvenile justice course, he helped us understand the critical importance of a multidisciplinary approach in working with court-involved children and families. By including a practicing attorney who helped supervise our clinical work, we were able to quickly relate the theory of juvenile justice reform principles to the practical and startling impact of how juvenile courts really worked.

Later, in the mid-70s, I found myself working full-time as a juvenile defense attorney for Greater Boston Legal Services. I became interested in systemic policy reforms that could help transform an adversarial process which too often failed children and parents alike. This search for new ideas led me to review Sandy's years of research and analysis of the Scottish Children's Hearings Panels, including his several journal articles and book collaboration.

In being the foremost American champion of that Scottish reform, and even securing U.S. Justice Department funding in the 1970s to support his further looking into it, Sandy was far ahead of his time in promoting new non-adversarial approaches to court involvement with troubled families. Now, almost 30 years later, such international innovations as the New Zealand "Family Group Conferences," which Sandy also saw as an important potential worldwide reform worth studying, are being implemented throughout our country.

I re-established frequent contact with Sandy when I became director of the ABA Center on Children and the Law in 1979. For several years he served as a member of our Center's national advisory board. It is noteworthy that he established within the ABA's Individual Rights Section a committee on children's rights. He also chaired the drafting committee for an ABA Presidential Work Group that developed an Association policy report aiding potential U.S. ratification of the United Nations Convention on the Rights of the Child. What

Sandy sought, to quote the closing words of that 1993 report, was for our country to “give constitutional respect to the equality of all children and recognize in them the kind of personhood for which the Constitution mandates dignity and intrinsic worth.”

REMARKS BY PROFESSOR RICHARD HUBER

Today we have the opportunity to celebrate a life—a life that was remarkable not just to us as colleagues and students, but to children all over this world—and to all the world because of Sandy’s dedication to justice not just in theory but in active service. There is a saying that being a lawyer is about serving justice and that this is not our greatest calling but truly our only calling. Surely, no one has done more than Sandy to continue the expansion of knowledge—a knowledge directed to the service of all people, but particularly children, and no one has applied that knowledge more effectively in seeking justice.

Sandy was our first faculty member to teach what is now identified as clinical legal education, taking the students’ education out into the community. In 1965, he started a bail bond project and the next year a much more complicated program in juvenile delinquency. Assisted by a psychiatrist and a young lawyer, his students represented juveniles charged with crimes, giving those young people in many ways the only legal representation they had. This course is still a superior model, over 35 years after it started. Sandy was, indeed, one of several faculty members who engineered the creation of our Legal Assistance Bureau, an educational program that provides superior service and education to our students and to individuals in need of services not otherwise available to them.

Sandy’s heavy level of work continued, of course, including the drafting of the Maine Criminal Code and the juvenile law section of the Massachusetts Code. He continued his scholarship and his critical service in various forms to the broad world community. His accomplishments are legion and their quality is exceptional and far reaching—a legacy few can claim.

One of the advantages of having Sandy on the faculty was his superb ability to see all possible issues in a problem, to evaluate them, and come to a conclusion—perhaps more, of course, than merely one conclusion. His teaching often provided its difficulties for the students. If Frost took the road less traveled, Sandy also took the traveled road and all sorts of paths and trails, no matter how faint and elusive. As a teacher he seemed often to find that the material in the book was a mere introduction to a fuller and more complete exploration of the

subject. He thus often conducted class discussions that were surely not directly in the book coverage, and often not even in the imagination of his students.

Among the folklore of the school is the tale of the seven law review editors. They were taking Sandy's course in Evidence and decided one day that they would not be surprised any longer by unexpected questions. They took the next day's material and worked from 4:30 in the afternoon until 2:00 the next morning, considering all the questions Sandy might develop. Their confidence was shattered, which will not surprise you, since the first question Sandy asked was one they had not thought of.

Learned Hand once said that if we were to keep our democracy there must be one commandment: Thou Shalt Not Ration Justice. Sandy carried that even further: that justice was the hope in all the world's communities to retain, and more importantly, to attain democracy. The most fundamental base for a world in which the individual can thrive within a community is clearly that justice be done. A life so focused is remarkable, extraordinary, and one we had the opportunity to observe and in various ways share.

REMARKS BY PROFESSOR SANFORD KATZ

Sandy was a first class scholar of international repute. It was he who carved out a specialty in criminal law which eventually was called Juvenile Law. His article on juvenile justice, published in the *Stanford Law Review*, is the seminal work in the field. His casebook on Juvenile Justice is a classic. Sandy explored the problems of the judicial response to children in trouble and wanted to extend this study to other fields, which ultimately brought him into international law and especially international human rights. Few Americans have done more for children's rights on a global level than Sanford Fox.

REMARKS BY PROFESSOR ROBERT BLOOM

Sandy Fox was my teacher as well as my colleague. He taught us to think outside the box, to question what existed, and to think of ways to make it better, to be creative yet precise and thorough—creativity with intellectual rigor. When I was new to teaching, Sandy reached out to me as a mentor. His critiques were gentle, supportive, and constructive. We also collaborated on a project rewriting the Massachusetts laws relating to the care and protection of children. With the precision of a fine craftsman, he would rework our drafts into legislation that was clear, comprehensive, and effectively directed to im-

prove the plight of children. He came to his positions based upon his finely tuned compass of integrity. Sandy's tireless work on behalf of children throughout the world leaves us with a lasting memory of his contribution and his goodness. In the dedication of the Third Edition of our book on Criminal Procedure, Mark Brodin, my colleague and co-author, and I described Sandy as an elegant and decent man who always stood up for what he believed in. He never engaged in popularity contests or in alliance making. He came to his positions based upon his finely tuned compass of integrity. The Talmud has a saying, "Every blade of grass has its angel that bends over it and whispers 'Grow, Grow.'" For me, and for many students who came before and after me, Sandy was our angel.

REMARKS BY PROFESSOR ARTHUR BERNEY

Sandy Fox was a man of integrity and principle. His everlasting commitment to the University as an intellectual citadel and a place where professional standards must be maintained were not tactical positions. His work as a scholar and here as an educator rested on these principles and thus commanded respect. Sandy's devotion to the cause of justice for those who cannot speak yet for themselves, the children, was unmatched. I wish fervently that those who profess faith in an after life are right and that Sandy may hear the words of praise that are so deserved against the background of Mozart's Requiem.

REMARKS BY ANDREW HUTCHINSON, HEAD OF EDUCATION FOR SAVE THE CHILDREN

Viewed from the European shore of our common ocean, Sandy was the quintessential embodiment of the very best in the American academic tradition. His immense intellectual curiosity, brilliance, and deep well of wisdom always added a vibrant and exciting element to debates and discussions in London, Glasgow, and Geneva. His lasting legacy for children is reflected in national law systems and in the United Nations Convention on The Rights of the Child, now adopted by most countries of the world. Sandy was in Scotland in 1971 when the new system of Children's Hearings Panels was launched. He recognized this as a radical approach that warranted evaluation and study. Combining his own time with the support of Boston College Law School and the U.S. Department of Justice, Sandy analyzed the evolution of the children's hearings system, and his report helped ensure that Lord Kilbrandon's measured balance between legal procedures and children's welfare was protected. During the negotiations

on the evolving UN Convention on the Rights of the Child in the latter years of the 1980s in Geneva, Sandy and I attended as representatives of non-governmental organizations. Every sentence was painstakingly argued over, with Sandy gently and firmly cutting through the ideological stances postured by Eastern bloc and Western government representatives. His bonhomie and humor was put to good diplomatic effect at the many evening parties, an essential part of the negotiating process. Sandy was able to bring insights and judgements to the negotiations that combined depth of scholarship and practical pragmatic solutions, and many a taciturn delegate melted before the warmth of Sandy's generous character, gentle humor, and wide smile.