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November, 2009

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Reforming the Legal Profession Through Faith-Based Service Learning for Law Students: Notre Dame's "Just Communities" Project

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Abstract

Major curricular reform is long overdue at many American law schools, and the current economic crisis presents a unique opportunity for change. This article argues for a greater emphasis on service learning in the law school curriculum so that students can acquire a wider range of practical skills essential to lawyers and gain a deeper sense of engagement with issues of justice. At Notre Dame's London Law Centre, the "Just Communities" project offers a compelling example of how this can be accomplished. Through participation in faith-based community organizing, law students not only gain valuable skills essential to the lawyer's craft, but they also become much more intimately aware of the lives of people who often live at the margins of society. These encounters often provide students with some of their most powerful examples of the law's power as a tool for the promotion of human dignity.

The economic collapse of 2008 has propelled the American legal profession into a crisis unlike any it has ever seen. For the first time in modern memory, large, prestigious law firms are not only laying-off associates, but also partners. Firms have reneged on job offers to students, and many no longer hire students immediately following their graduation from law school. This development has sent chills down the spines of law school administrators around the nation. Without the promise of well-paid employment shortly after completing their degrees, will students continue to pay the hefty tuitions American law schools have long demanded, fees that require so many aspiring lawyers to amass debt in the hundreds of thousands of dollars?

In this paper I will propose a small re-evaluation of the way we train law students and argue that through a greater emphasis on service learning in legal education, we might use the economic crisis to reform an American legal education system that has become dangerously intertwined with the global money culture and increasingly distant from core values and skills necessary to a learned profession. First, I will explain the nature of the crisis in legal education. Second, I will describe a faith-based service learning program I have designed with colleagues in London that brings Notre Dame Law students into contact with the city's multicultural, working-class neighborhoods through community organizing. Third, and finally, I will propose how programs like this one offer students an opportunity to develop skills and values that make clear the integral role lawyers must play in assuring access to justice for all members of society. Armed with these experiences, students can imagine a much broader range of uses for their law degrees, something beyond service to the wealthy and the powerful. Ultimately, we might help to reinvigorate the profession with young lawyers who "hunger and thirst for justice."

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Legal Education in Crisis

Since the early 20th century, members of the practicing bar have levied a sustained critique of American legal education focused primarily on the failure of American law schools to provide their students with the practical skills needed to be a lawyer.¹ Law schools have responded by emphasizing the important role critical thinking and legal theory play in developing the mind of a legal professional, as well as the unique contributions a law faculty makes in the broader mission of a research university. As university faculty, law professors were loathe to be seen as providing nothing more than a “trade school” education, and their colleagues in the humanities and the sciences often pressed them to justify the content of their three-year, graduate level degree. Indeed, the American tradition of “law school” diverges sharply with the practice in most other major legal systems, where law is an undergraduate discipline and practicing lawyers and their professional associations organize and control professional legal training.

Over the last twenty years, this debate has been taken up in two major reports. In 1992, the MacCrate Report (“MacCrate”) challenged legal professionals and legal educators to close the gap between law school and legal practice, urging law schools to prepare law students “to participate effectively in the legal profession.”² MacCrate developed a “Statement of Skills and Values” to guide legal practitioners and legal educators. It also identified fundamental legal skills that all law students should master, notably: problem solving; legal analysis and reasoning; legal research; fact gathering; investigation and organization; effective communication; and counseling and negotiation.³ Finally, the report laid out what the authors believed were “fundamental values” that should be communicated in legal education: ethics and professional responsibility; the promotion of justice, fairness, and morality; and the duty to work toward the ongoing improvement of the legal profession.⁴

There is a continuing debate as to whether the MacCrate Report produced any meaningful reform in American legal education. One change that is often pointed to is the expansion of clinical legal education. This development, however, is generally seen as having begun in the 1960s and 1970s (long before MacCrate), primarily through the creation of community-based legal aid clinics designed to serve the poor. Much of the impetus for these clinics came from students, but regardless of how the clinics were begun, they are now an integral part of most American law schools, no doubt spurred in part by the MacCrate critique.

In 2007, a second modern report on legal education was released by the Carnegie Foundation (the “Carnegie Report”).⁵ Fundamentally, the Carnegie Report reiterated the basic criticism of the past century: legal education was too heavily weighted toward legal theory, and law schools needed to work harder to integrate theory with practice if they were to produce well-rounded, competent, and ethically responsible lawyers.⁶ What was, however, particularly notable about the Carnegie Report was concern over what the authors saw as a tendency in legal education to encourage amorality in students that decoupled their education from a desire to seek justice. The consequence, although perhaps unintended, was the creation of a profession filled with lawyers who viewed the law in purely instrumental terms, fueling an impression among non-lawyers that attorneys were nothing more than hired guns who cared little for the truth:

The task of connecting . . . conclusions with the rich complexity of actual situations that involve full dimensional people, let alone the job of thinking through the social consequences or ethical aspects of the conclusions, remains outside the case-dialogue method. Issues such as the social needs or matters of justice involved in cases do get attention in some case-dialogue discussions, but these issues are almost always treated as addenda. Being told repeatedly that such matters fall, as they do, outside the precise and orderly “legal landscape,” students often conclude that they are secondary to what really

counts for success in law school—and in legal practice. In their all-consuming first year, students are told to set aside their desire for justice. They are warned not to let their moral concerns or compassion for the people in the cases they discuss cloud their legal analyses.⁷

The Carnegie and MacCrate reports were easy to debate and theorize about during an economic boom in which the demand for legal services and lawyers seemed impossible to satisfy, but the economic collapse in 2008 marked a fundamental shift in context for this discussion. No longer could law schools sit smugly and deflect criticism by offering hiring data demonstrating that their “product” was in extremely high demand. Furthermore, the collapse of the banking sector and numerous scandals in the financial markets brought unflattering attention to the legal profession as a whole, and raised serious concerns about the complicity of lawyers in the events leading to these crises. Today, both legal educators and legal professionals agree that law practice may have changed forever and that painful changes for law schools cannot be far behind.⁸

After repeatedly identifying problems that have been endemic for nearly a century, perhaps the legal profession has finally confronted in recent events a crisis that will offer the opportunity it needs to embrace change. An increased emphasis on service learning provides not only the means to accomplish the integration of theory and practice that has long evaded law school curricula, but it may also be the vehicle for allowing students to remain engaged with their desire to integrate their values with their professional lives through ongoing attention to issues of justice and fairness.

The Just Communities Project

For close to forty years, the Notre Dame Law School has sponsored foreign study for law students in London, England. Traditionally, law schools have limited their foreign programs to summer study courses that were available to JD students from any North American law school upon completion of their first year, or to semester-long programs for second-year students during the second year that were designed to serve the institution's own students. Notre Dame has long provided a traditional summer program, as well as a graduate LLM degree course for students with non-US law degrees. In addition, Notre Dame provides the opportunity for a full academic year of study to interested students in the second year, which is something that few American law schools offer. The year-long program is limited to Notre Dame students and typically enrolls 20 to 40 people from a second-year class that averages 185 students.

Based upon student response over the years, the program is considered to be an excellent one.⁹ Individuals drawn primarily from law schools in southeast England make up the outstanding faculty. The curriculum emphasizes international law and US-UK comparative law courses, but a number of “bread and butter” law school courses like evidence and business associations are also available. Each year one or two faculty members from the home campus spend time teaching in the London program, which allows new courses to be added to the curriculum each year, based on the interests of the visiting faculty members. These new courses further expand the curriculum. Students also have access to a number of excellent internships and, from time to time, part-time employment opportunities. Most of these placements are drawn from highly sought-after areas in the private and public sectors, such as large international law firms, small “boutique” UK firms, various American and British government offices, and a number of international non-governmental agencies. What had been missing, however, were more local, community-based opportunities, particularly those with a strong social justice orientation.

In 2005, I began working with the Contextual Theology Centre (“CTC”) in East London to offer internships for Notre Dame students at Catholic and Anglican parishes that were involved

in community organizing.¹⁰ That work has now developed into a partnership among Notre Dame, CTC, and Magdalen College, Oxford called “Just Communities.” CTC, headed by Anglican priest and Magdalen graduate Angus Ritchie, has a long-standing relationship with “London Citizens,” an organization devoted to grassroots social and political change through multi-faith and multicultural community organizing in the economically deprived areas of London.¹¹ Over the years, London Citizens has launched numerous campaigns to achieve goals like mandated living wages for hotel and office cleaners, a more aggressive police and government response to knife crime among inner-city youth, and changes in UK immigration policies to provide pathways to citizenship for economic migrants.

CTC and London Citizens joined forces as both groups began to realize the importance of religious organizations in the success of community organizing in inner-city London. CTC saw an opportunity to promote a more meaningful engagement of its mission to bring faith into active dialogue with the contexts in which people live and work. London Citizens viewed religious congregations as an effective location from which to organize members of some of London’s most marginalized communities. Significantly, the areas in which London Citizens conducted most of its work had become places of extraordinarily ethnic, racial, and religious diversity due to the city’s economic boom and its growth as a center of global migration. Two faiths in particular, Roman Catholicism and Islam, claimed a large percentage of these new migrants as adherents, and the growth in their numbers presented unique challenges to some settled notions of English and British identity. How would these people be integrated into the life of an increasingly multicultural Britain? How would the “native” white, working-class English residents of these neighborhoods respond?

Through a course I offered in Catholic social teaching, law students were able to work on specific campaigns with individual congregations that were involved with CTC and London Citizens. Much of the student work dealt with arranging community meetings, interviewing members of the congregation about local concerns and problems, participating in meetings with business and political leaders, and organizing rallies, marches, and religious services that were designed to draw attention to the needs of the marginalized. For example, in 2006, London Citizens launched the “Strangers into Citizens” campaign, which hoped to draw attention to the exploitation of irregular immigrants and urged a path to citizenship for those with employment and long-term residence in Britain. The Catholic archbishop of Westminster, Cardinal Cormac Murphy-O’Connor, offered his support to the campaign. In May, 2006, he presided at a Mass at Westminster Cathedral, attended by representatives from a broad cross-section of London’s immigrant Catholic community. The mass has now become a yearly event, attended by London’s mayor and representatives from all of London’s major ethnic and religious communities.¹²

As a Catholic university, it is essential that Notre Dame offer opportunities for its students to engage Catholic social justice teaching in meaningful ways. Notre Dame Law School, in particular, notes in its mission statement that:

As a professional school we aim to bridge the worlds of theory and practice, facilitating the interchange of information between the academy and the corridors of political and legal power. Our Catholic tradition, which spans the globe and embraces believers from all races, cultures, and levels of economic development, leads us to strive to broaden and deepen our academic and practical understandings by drawing upon the unique resources of our religious tradition and the traditions of other faiths.¹³

By offering a lived engagement with some of the most critical social, economic, and political issues of our time in a vibrant, global metropolis, Just Communities gives real meaning

to a mission that has been seen from time to time as primarily hortatory, particularly when it comes to an engagement with the poor and the marginalized.

Service Learning and a Lifelong Passion for Justice as a Key to Good Lawyering

Just Communities is but one example of the ways in which community-based, experiential learning programs can expand opportunities for law students. More specifically, Just Communities puts students in situations that require meaningful human interaction and engagement with people and communities in parts of London rarely seen by American visitors. These people and communities would have remained purely theoretical had they simply been discussed in the classroom. The benefits of this engagement are many, but when the criticisms of MacCrate and Carnegie are considered, two notable gains for legal education come to light.

First, Just Communities and other programs like it place students into real-world problem-solving situations that offer them experience in the complex interactions among political, legal, and economic systems. They learn firsthand that these interactions have consequences for people's lives, and in the case of the poor in particular, these consequences can be harsh. In their professional lives as lawyers, students will often encounter these problems at a point in which the broader context becomes obscured. If they focus too narrowly on simply achieving a result for their client, they may find that their work becomes rote and deprived of much of its meaning. Worse, they may unintentionally perpetuate structures and processes that deny or delay justice to those who need it most.

Take for example the problem of economic migrants, both documented and undocumented. A lawyer may encounter this issue in any number of practice settings—in government service, in corporate practice, and in individual representation. A government lawyer may be charged with drafting legislation or enforcing statutes and regulations designed to control immigration and migration. A lawyer with corporate clients may need to counsel or defend companies that employ large numbers of immigrants and migrants, or whose business interests depend on (or are harmed by) highly mobile, global labor. Finally, and perhaps most obviously, many lawyers will deal directly with immigrants and migrants in their quests to maintain or obtain status as legal residents.

An experience in the Just Communities program would allow lawyers in any of these practice settings to have a much more human experience in dealing with the issue of global migration. They would have been witnesses to day-to-day struggles of migrants in their efforts to obtain decent pay for their work, to find housing, and to educate their children. At the same time, these lawyers would have seen the positive and negative effects of immigration and migration on the lives of native-born working people, and they would be familiar with both the necessity and the capriciousness of the bureaucratic structures in place to regulate immigration. Armed with this knowledge, one can at least hope that their legal representation would be improved in ways that would not likely have come about had their education been limited to the classroom, and that they might be a bit more sensitive to human consequences that could result from the choices they make in pursuing particular ends for their clients.

These observations lead to the second and perhaps most important gain for legal education from programs like Just Communities: reconnecting students to a sense of justice. In its most basic understanding, justice is simply giving a person what she is due. It is, nevertheless, somewhat difficult to imagine how a modern system of justice would function without a more complex understanding of what justice means. In the Catholic tradition, justice is understood to have three aspects: commutative, social, and distributive. American legal education tends to be most comfortable with commutative justice, which seeks to assure fairness in dealings between individuals and among private groups within society. But justice is much richer than that.

Distributive justice addresses the allocation of basic goods and seeks to adjust these allocations in light of the existence of people whose basic needs are unmet. Social justice insists that all individuals have a right to active and meaningful participation in the life of a community, and it imposes a duty on the larger society to make this participation possible for everyone.¹⁴

When justice is viewed in this richer sense, we can see why so many law students perceive that their education is cut off from it, and why programs like Just Communities are so important in any effort to put the pieces back together. A deeper understanding of what justice is does not necessarily mean that everyone will have the same view of what justice requires. Like their professors, students will disagree about what is or is not just in a given situation, but in many classroom settings, there is no discussion of justice whatsoever. This is particularly true when the relevant justice concerns are social or distributive. One reason might be because these discussions are often difficult to negotiate in the large classes that remain a standard and significant part of the pedagogy at most American law schools, despite decades of calls for change.

Experiential learning releases professors from feeling the need to cover everything in the classroom, as well as from the guilt of not doing it successfully. There are, of course, many law schools and law professors who are engaged in extremely innovative teaching in the classroom, particularly in smaller classes in the second and third years of the degree program, but if issues of justice are to be properly addressed, more creativity is needed. Indeed, the point is not to squeeze more into the classroom setting, whatever its size; the goal should be to liberate the students from the classroom and place them in settings in which conversations about justice will flow naturally from the kind of work being done.

Conclusion

In the current economic climate, law schools will need to work much harder to demonstrate why an extraordinary financial investment in a legal education is a prudent choice. Legal educators have long been aware of important weaknesses in how legal education is structured and delivered, and the economic crisis presents them with a tremendous opportunity to engage in meaningful reform. The schools that will thrive in the future will be those that can sustain the passion for justice that draws many people to seek a law degree in the first place. The Just Communities program is a particularly exciting way to do this because not only does it give law students learning opportunities in community-based settings, it does so in an international context. Law students who would have normally seen London through the eyes of a tourist or a privileged guest now see the city in all of its complexity. Furthermore, the program succeeds in doing what so many critics of legal education have long asked law schools to do by uniting the study of legal method and process with a consideration of the lives of real people and their problems. In particular, Just Communities helps students assess important global phenomena like economic migration in a less parochial way. Many find their long-held political beliefs upended when they consider issues from the perspective of living and working among migrants from around the globe in London, a place often known as “the world in one city.”

¹ In 1914 the Carnegie Foundation commissioned Josef Redlich, a prominent Austrian, to conduct the first major study of American legal education. Josef Redlich, *The Common Law and the Case Method: A Report to the Carnegie Foundation for the Advancement of Teaching*, Bulletin No. 8 (1914).

² American Bar Association, *An Educational Continuum: Report of the Task Force on Law Schools and the Profession*, July, 1992, IV C (2) (available at: www.abanet.org/legaled/publications/onlinepubs/maccrate.html).

³ Ibid, 5B.

⁴ Ibid.

⁵ William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond, and Lee S. Shulman, *Educating Lawyers: Preparation for the Profession of Law* (The Carnegie Foundation for the Advancement of Teaching, Preparation for the Professions Program, 2007).

⁶ James Maxiener, "Educating Lawyers Now and Then: Two Carnegie Critiques of the Common Law and the Case Method," 35 *International Journal of Legal Information* 1 (2007).

⁷ Ibid. (Summary, p. 6). Available at:

www.carneigiefoundation.org/files/elibrary/EducatingLawyers_summary.pdf.

⁸ Adam Cohen, "With the Downturn, it is Time to Rethink the Legal Profession," *New York Times*, April 1, 2009; Gerry Shih, "Downturn Dims Prospects Even at Top Law Schools," *New York Times*, Aug. 25, 2009.

⁹ The 2009-2010 program will enroll close to 40 students. The numbers have climbed consistently since 2005-2006, when only 17 students enrolled. This was an increase despite the terrorist attacks in London in July, 2007, as well as the extremely high cost of living in London, exacerbated until very recently by the unfavorable rate of exchange of the U.S. dollar against British pound.

¹⁰ See generally, www.theology-centre.org.

¹¹ See generally, www.londoncitizens.org.uk.

¹² *Independent Catholic News*, "London: Thousands attend Mass for migrants at Westminster Cathedral," May 4, 2009, available at: www.indcatholicnews.com/news.php?viewStoryPrinter=14278.

¹³ Mission Statement, Notre Dame Law School, available at: www.law.nd.edu/about/mission-and-history.

¹⁴ For an extensive discussion of justice in Catholic social teaching see U.S. Conference of Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy* (Washington, D.C.: United States Conference of Catholic Bishops, 1986), para. 69-76.