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Henry Rose

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# *A Law School Faculty Member's Perspective on Justice*

Henry Rose

When I was hired to direct a poverty law clinic at Loyola University Chicago in the early 1980s, I expected the campus to be a hotbed of social activism. To my mind, Jesuits were strongly identified with efforts around the world that sought to improve living conditions for disadvantaged people. I expected a Jesuit university in America to be significantly engaged in social justice issues.

What I actually found when I joined the faculty at Loyola was a university earnestly committed to teaching and research excellence that engaged thousands of wonderful people as administrators, staff, students and teachers. However, I did not find in the university community a widespread commitment to social activism. There were isolated social justice efforts occurring on campus, but these efforts were neither prominent nor well coordinated. The university as a whole did not seem to be an institution that was actively committed to social justice. With hindsight, I now understand that the university only reflected broader American society which has largely retreated from social causes in the last two decades.

What I did not know then was that the international Jesuit community had committed itself in 1975, at its 32<sup>nd</sup> General Congregation, to elevate justice to a central role in the activities of all Jesuits. Long committed to "the service of faith," the Jesuits at the 32<sup>nd</sup> General Congregation added another paramount commitment: "the promotion of justice." Each Jesuit institution and each individual Jesuit was urged to pursue activities that would address obvious social injustices or contribute affirmatively to a more just social order in the world. This explicit commitment to the "promotion of justice" represented a radical step because it sought active engagement by all Jesuits and their institutions in the problems of the secular world.

In the late 1990s, a process began to examine the role of American Jesuit universities relative to this goal of the "promotion of justice." I participated in a self-assessment process at Loyola to gauge our own univer-

sity's commitment to justice. Then, I attended two outstanding conferences addressing the issue: a Midwest regional conference at the University of Detroit-Mercy in June, 1999 and a national conference at Santa Clara University in October, 2000. I wish to share my perspectives on justice and American Jesuit universities based on my participation in this process.

The principal goal that has crystallized for me is that American Jesuit universities should become counter-cultural institutions. Our universities must serve as a counterpoint to the commercial and material values that dominate today's world. While we prepare students to participate successfully in the secular world, we must also educate them about the inequities in that world and join them in addressing these inequities. This active engagement in the issues of social justice is an especially important role for Jesuit universities in the United States of America.

The United States is widely acknowledged to be the preeminent country in the world today in cultural, economic, military and political spheres. We control a grossly disproportionate share of the earth's bounty: Americans own approximately 30% of the world's wealth and consume 25% of the world's resources even though we comprise less than 5% of the world's population. American corporations are selling their products and services and extending their influence in all areas of the globe. The revolution in information technology is largely occurring within our borders. With this affluence and power come commensurate responsibilities to prepare our students and ourselves to share our good fortune with others, especially the poor, and to actively address temporal injustices.

American Jesuit universities must avoid the "credentialing" thrust of modern education. It is not enough to impart knowledge and teach skills that will

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*Henry Rose is Associate Professor of Law at Loyola University Chicago.*

allow our students to be successful members of the mercantile and professional classes in a globalized world. Rather, we must also expose our students to a critique of the secular world that asks fundamental questions about whether our economic and social structures advance justice for all of the world's people or only a few. In particular, the welfare of the more than three billion people on this earth who live in poverty must be of paramount concern to all the constituencies of the university.

In short, Jesuit universities must be distinct from other American universities in intentionally placing social justice issues at the core of our educational and research missions. We must seek to make a Jesuit education a transformative experience so that our students depart with a heightened commitment to addressing the social problems of the modern world.

The risk of focusing on justice is that we will pay it lip service. The 32<sup>nd</sup> General Congregation demands that we go much deeper and integrate justice into the everyday life and work of our universities. The beauty of the Jesuits' commitment to the "promotion of justice" is that it demands active and not just intellectual engagement. We, as members of Jesuit institutions, are being asked to take a new approach to our work -- to measure our work by how we advance justice.

What does this emphasis on justice mean to me as a faculty member of an American Jesuit law school? I am initially guided by the remarks of Rev. Peter-Hans Kolvenbach, S.J., the Superior General of the Society of Jesus, who spoke about the issue of justice and American Jesuit higher education at the Santa Clara conference in October, 2000. Father Kolvenbach urged a specific agenda on American Jesuit universities to better promote justice: 1) provide students with direct opportunities to serve the poor and to attempt to remedy concrete injustices; 2) reorient university research and teaching to justice-related topics; and 3) amend university personnel policies and practices to ensure that our universities are composed of diverse constituencies and that faculty and staff are committed to a justice

mission. Father Kolvenbach's remarks clearly contemplate that American Jesuit universities will elevate justice by action and not just by theoretical discourse.

As a member of a law school faculty, a renewed commitment to justice has special significance. It is often said that law is the means to the end of justice. Consequently, law schools have a special role to play in a Jesuit university's efforts to promote justice.

The sad reality of the operation of America's legal system today is that the large majority of the public has inadequate access to it. Meaningful participation in the legal system requires legal representation, and approximately 85% of the American public cannot afford to hire an attorney. This is not simply an academic problem but represents a crisis for our democracy. Our constitutional system provides Americans three branches of government (the executive, the judicial and the legislative) in which they may participate. If the judicial branch of government is not realistically accessible to American citizens, democracy suffers.

At the very least, American law schools should ensure that their students understand the serious problems that most Americans face in accessing the legal system. At best, American law schools should engage faculty and students in a constructive dialogue about how these access problems can be alleviated. Law schools at American Jesuit universities should be in the forefront of efforts to improve access to the judicial branch of government.

The legal profession has long had a professional ethic to perform public service through the provision of *pro bono* services to persons who cannot afford legal representation. Today, however, this professional responsibility is honored by attorneys more in the breach than in the practice. Less than one-quarter of practicing attorneys formally participate in *pro bono* programs in their communities. Large law firms, experiencing increasing competition with each other and paying rapidly escalating salaries to new associates, are reducing their *pro bono* expectations for firm members. The commitment to public service, the central professional commitment of attorneys, is being undermined by the

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demands of the marketplace.

American law schools are faced with the dilemma of whether to accommodate the changing demands of legal practice or challenge them. Law schools could easily become simply credentialing institutions, providing their students with the knowledge and skills necessary for competent legal practice. In essence, law schools today must decide whether they should be countercultural institutions, resisting the trends in legal practice that undercut the public service responsibilities of the profession.

For the fourteen American Jesuit law schools, the answer to this dilemma is apparent. A genuine commitment to the "promotion of justice" demands speaking truth to power about the pressing need to provide greater access to the legal system for all Americans. The profession must be challenged to increase its public service commitments rather than to reduce them. If American Jesuit law schools do not play this role, few other law schools are likely to perform it.

One of the best ways to impart a justice ethic to law students is to allow them, as students, to provide direct legal representation to the poor and other victims of injustice. In the last two decades, American law

schools have introduced clinical courses that allow students to represent clients who otherwise could not afford legal representation. Thus, students not only learn important legal practice skills, but they are exposed to the legal problems of disadvantaged persons. Unfortunately, at most American law schools, clinical courses are not available to all law students. Clinical courses are expensive because of the necessity of low student-teacher ratios to guarantee quality supervision of the legal representation that students provide their clients.

American Jesuit law schools should commit themselves to the goal of providing high quality clinical experiences to all students. This will not only better prepare our graduates for legal practice, but it will ensure that every graduate of an American Jesuit law school will have the opportunity to serve the poor or a victim of injustice in a closely supervised setting. Such a clinical experience for students will make their public service responsibilities real and will sensitize them to the needs of Americans who cannot afford to hire an attorney or who experience injustice.

Father Kolvenbach stated that the true test of the quality of Jesuit educational institutions "lies in who our students become." American Jesuit educational institutions are teaching the future captains of industry as well as the professionals and workers of tomorrow. But a true commitment to the "promotion of justice" requires that we teach them differently than in the past. We must ensure that when students leave our institutions they will not only be competent in the secular world but that they will also actively work to promote justice for all mankind. The challenge to all of us who are associated with Jesuit universities is to elevate the "promotion of justice" from a rhetorical goal to a central role in the work that we do daily in our institutions.



Photo by: John Quinn, S.J.