

Fall 1999

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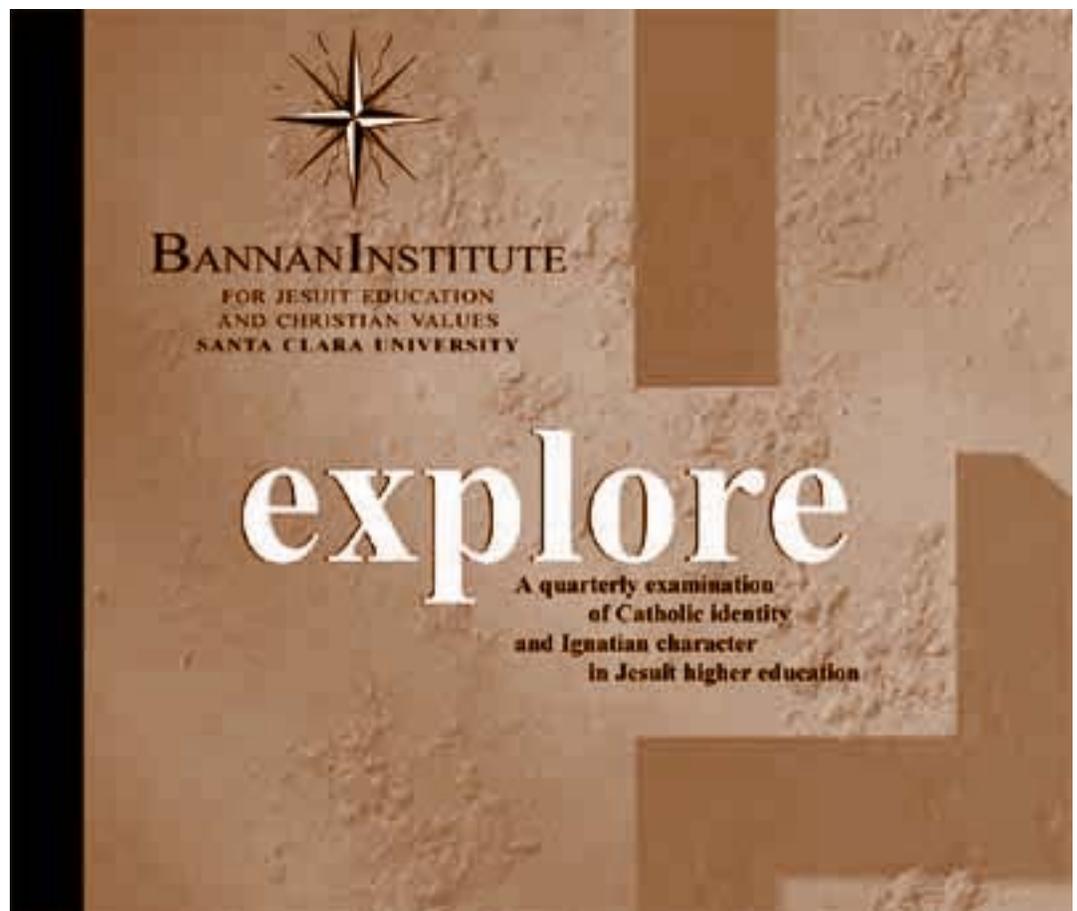
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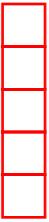
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Letter from the Institute Director

Over the next few issues, explore will focus on the question of justice as a central part of the mission of Jesuit higher education in general and Santa Clara in particular. Twenty-four years ago, the Society of Jesus decided that all of its works had to promote justice as an integral part of the service of faith. God does not intend that poverty, hunger, and oppression should plague the human family. Those who profess belief in God ought to work to change these scandalous conditions in society. The 34th General Congregation recently affirmed this direction by calling for practical solidarity with the poor in every Jesuit parish, school, and university. How have Jesuit universities responded to this historic challenge?

The Bannan Institute for Jesuit Education and Christian Values is helping to bring all 28 American Jesuit universities and colleges together to reflect on the commitment to “the faith that does justice.” Santa Clara will host a regional conference this Fall and a national conference in October of 2000 on these questions: How can a university address the complex issues of justice and injustice in our world as a university? How do we educate students to notice the suffering around them and respond effectively? How can concern for justice in its many forms become part of faculty research and writing? Do faculty, students, and staff perceive that Santa Clara is committed to justice?

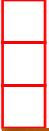
In this issue, several faculty, alumni, and students of the Santa Clara University School of Law have generously offered their reflections on this question. The Leavey School of Business and Administration will be our focus in the Winter issue and the College of Arts and Sciences in the Spring. We begin with law because no profession is so explicitly

concerned with justice as the legal profession. “Justice under the law” sets a high standard for attorneys; perhaps too high an ideal, if we can judge by the current spate of cynical jokes about lawyers.

Four distinguished SCU School of Law faculty approach the question of justice from their own expertise. Gerry Uelmen, nationally known constitutional and criminal defense scholar, writes about the direct connection between striving for legal justice and his faith commitments. June Carbone, specialist in family law, describes the pedagogical challenge of teasing out the ethical dimension of specific cases. Paul Goda, S.J., a lawyer and a priest, recounts the tensions inherent in combining professional education with moral concerns. Frank Hughes, who had taught a course in Religious Studies on Theology and the Legal Profession with Tennant Wright, S.J., speaks from the vantage point of legal practitioner and parent. Alumni and students Greg Czarkowski '96, Alisa Garni '98, and Joseph Theiman '00, relate how their appreciation of the legal vocation was changed by working with the poor, particularly in the East San Jose Community Law Center (ESJCLC). Margaret Stevenson, director of the ESJCLC, illustrates how students can experience “the spirituality of engagement” through their work at the Center.

I hope that you enjoy these reflections on the many-faceted ideal of justice and come away with the same sense of hope for legal education at Santa Clara that I found in reading them.

William C. Spohn
Director

Letter From
Director

Believing in justice may be perceived by some cynics as akin to believing in Santa Claus. But as Christians, we're called to be believers. Just as the New York Sun reprinted "Yes, Virginia, There Is a Santa Claus" every year for 65 years, I would like to reprint my response to a Santa Clara law student who questioned the existence of justice. He wrote that he contemplated dropping out of law school if his brother was convicted in a court martial for asserting his conscientious objections to the Gulf War. I entitled my response, "Yes, John, There Is Justice."

Yes, John, there is justice. Even in our darkest moments as lawyers, if we say "there is no justice," we are wrong. Justice exists as certainly as love and generosity and devotion exist, and we know that they abound and give our life its highest beauty and joy. How dreary the world would be if there were no justice. There would be no faith, then, no poetry, no romance to make tolerable this existence. The eternal light that fills the world would be extinguished.

Nobody sees justice, but that is no sign there is no justice. The most real things in the world are those we cannot see. Justice is a hunger and a thirst. As lawyers, we are called to have a voracious appetite and an overwhelming thirst for justice, even though our hunger and our thirst remain unsatisfied. The judicial system may err, the weak may be wronged by the strong, but this destruction of equilibrium cannot endure. It creates new hunger and new thirst. And in every case, in the cycle of life, the hunger and the thirst will be satisfied. Without this certainty, life becomes a hell for the victim of injustice.

There is a profound lesson for lawyers in the Book of Ecclesiastes, which tradition regards as the wisdom of Solomon. He teaches us that virtue is not always rewarded, and wickedness occasionally triumphs. Nonetheless, he tells us, "Strive for justice for thy soul, and even unto death fight for justice." The striving is what justice is all about, not the winning or the losing. For a Christian, justice must be defined as a

striving. That's how Christ defined it. Igino Giordani, who was a Catholic writer and a member of the Italian Parliament, offered a beautiful reflection on the meaning of justice. He wrote:

In a vivid figure of speech, Jesus calls justice a “hunger and a thirst.” “Blessed are they that hunger and thirst after justice; for they shall have their fill.” Thus, justice is to the Christian what food is to the hungry and drink to the thirsty. One who is hungry eats to the last crumb; one who is thirsty drinks to the last drop....The desire for justice must be no less than a starving for it. And just as every day there is need of food, so every day there is need of justice. The beatitude implies that unhappiness resides not so much in the lack of justice as in the scant appetite men and women feel for it. How do we go about creating an appetite or a craving for justice in law students? Certainly, many of them come to law school with the hunger already in their bellies. I am no longer surprised by how many students are motivated to come to law school by experiencing injustice in their own lives. For the rest, however, we must confront them with the injustice experienced in the lives of others. To some extent this can be done in the classroom, but it is more effectively done in the real world. It might be called “applied justice,” somewhat akin to applied ethics.

One of the best ways to expose law students to the injustices people experience in the real world is the law school clinic. Law school clinical programs are primarily directed toward the teaching of practical lawyering skills in the practice settings of criminal or civil litigation. But the clinics that serve the legal needs of the poor add an important element of “applied justice”: the opportunity to share the hunger and thirst of those who experience injustice.

At Santa Clara, this dimension is available in a unique clinical program that was actually founded by law students. The East San Jose Community Law Center is located at the corner of Alum Rock Avenue and King Road, across from San Jose's Mexican Cultural Heritage Building. The Center offers four practice areas, which match the legal needs of the community it serves. A consumer law clinic handles cases involving fraudulent auto sales, unfair credit and debt collection practices, unfair business practices, and other consumer matters. In the employment law clinic, students represent low-wage workers seeking unpaid overtime and minimum wages in administrative agency hearings, and also go to court to press claims for unemployment benefits and workers' compensation benefits. The immigration clinic offers student representation for low-income clients in political asylum

cases and deportation proceedings. Lastly, the small business clinic provides inexperienced entrepreneurs with assistance in business registration and formation, licenses and permits, commercial leases, employee issues, and similar matters.

The service of real clients with real injustices to correct can create a hearty appetite for justice. Many of the students who complete the clinical program in the East San Jose Community Law Clinic are hooked by the experience, and will devote their legal careers to the service of the poor. While lawyers should strive to see Jesus in all of their clients, providing legal services to the poor offers the best opportunity to live the Gospel according to Matthew:

For I was hungry and you gave me food, I was thirsty and you gave me to drink. I was a stranger and you welcomed me, naked and you clothed me. I was ill and you comforted me, in prison and you came to visit me. Then the just will ask him: Lord, when did we see you hungry and feed you or see you thirsty and give you to drink? When did we welcome you away from home or clothe you in your nakedness? When did we visit you when you were ill or in prison? The King will answer them: I assure you, as often as you did it for one of my least brothers, you did it for me.

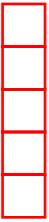
In our daily pursuit of justice, too often we find satisfaction in achieving the level of justice defined by the Romans: to give to each person what is rightfully his or hers. But the heart of the justice we are called to by Christ is charity. Justice says, "give to each person what is his or hers." Jesus said, "give to others even what is yours." Under our system of civil justice, one may legally die of hunger or neglect. Under the law of charity, no one can starve while any of us has bread. Justice is portrayed as a blindfolded goddess, with scales to carefully weigh her portions. Charity has eyes wide open to see the wretchedness of those in need, and she does not stop to weigh the gifts she offers.

This concept of justice was best summed up by the Jesuit poet, Gerard Manley Hopkins. It serves as a daily reminder for me that seeing Jesus in my colleagues, my students, and my clients is the surest path to justice. It is inscribed beneath the portrait of St. Thomas More, which Santa Clara University presented to me upon my retirement as Dean. It hangs over my desk:

I say more: the just man justices; Keeps grace: that
keeps all his goings graces; Acts in God's eye what in

God's eye he is— Christ—for Christ plays in ten
thousand places, Lovely in limbs, and lovely in eyes not
his to the Father through the features of men's faces.

Gerald F. Uelmen
Former Dean (1986–94),
Santa Clara University School of Law,
Professor of Law,
Scholar, Markkula Center
for Applied Ethics



The relationship between the idea of justice and teaching law in a Jesuit university is a complex one. On the one hand, law is necessarily about justice. Law professors often pride themselves on asking not just what the law is, but what it should be. Even when we limit our questions to prodding students to explore the four corners of existing rules, we ask them to consider what those rules are designed to accomplish: Why, for example, does the California Supreme Court allow a cancer patient to insist that his diseased spleen (invaluable for medical research that might save the lives of others) be destroyed, but does not allow him to receive payment from the doctors who used it to create a \$3 billion cell line? On the other hand, while we routinely ask questions like the one about the diseased spleen, we do not systematically develop the bases on which to construct answers. When I ask my first-year law students why the spleen case came out the way it did, I expect them to find their answers within the judicial opinion that justifies the decision in the case. Justice Panelli, a Santa Clara graduate, based his opinion in large part on utilitarian concerns: Medical research might grind to a halt if the right to use the blood cells, tissue samples, and body parts that are the mainstay of such research were suddenly called into question. Even when I ask the students in a more open-ended fashion how they think the case should have been decided, the bases for their answers are limited. Their most common response is grounded in an intuitive conception of rights: The patient's spleen is his and he therefore has a right to be paid for it. We property professors might then challenge the notion of what it means for a spleen to be "his," but we less frequently question, or even make explicit, the normative framework that students bring to the assumption that "rights" are the appropriate way to frame the issue.

Part of what stands in the way of more thorough consideration of the meaning of justice is the nature of professional education. We are educating students to represent others, not to write their own beliefs into law. Within this framework, professional ethics requires that the students distinguish their own beliefs and values from those of their clients. The failure to do so can get the most well-meaning lawyers

into trouble. Nonetheless, the process of teaching students to do so often breeds cynicism and confusion. I found it heartening that when I first came to Santa Clara, for example, students would question my assumptions when I suggested examining the wisdom of attorney's fees provisions in terms of the incentives that the fee structure would create for attorney behavior. "Don't you expect attorneys to act ethically?" they would object. The students at the public institution at which I used to teach did not raise this question. Yet I found that their understanding of what it meant to act ethically was often incomplete—if not misguided—sometimes because of their desire to act ethically. I would query in the same class, for instance, about how a lawyer should advise a client who wanted to organize an anti-abortion protest on Mother's Day in violation of a constitutionally questionable court order. Some of my students would insist that the lawyer must do everything within her power to see that the client obeys the law. They were right that the lawyer should not advise a client to break the law, and she should certainly warn the client in no uncertain terms about the legal consequences of doing so; but the decision whether to violate the injunction and accept the consequences as matter of conscience is a decision that ultimately belongs to the client alone. I was at least as troubled by the thought that some of my students believed that they needed to impose their own views on their clients as I was by the thought that they would spend all of their energies seeking technicalities that allowed the client to evade the injunction.

I have long been struck, both in the classroom and in practice, by the fact that it is the lawyers who are most committed to their own version of justice who are the ones most willing to violate this axiom of professional distance. I frequently ask in my first-year Property class, for example, what the students would say to a wife who had drawn up a deed transferring her interest in a joint tenancy to her daughter. The wife put the deed in a desk drawer and told her daughter to come and get it if anything happened to her. She said nothing to her husband, the co-owner of the joint tenancy. The wife was trying to have it both ways: If she died first, the husband would be deprived of her half of the property, an interest that without the deed would automatically be his. If he died first, the wife intended to destroy the deed to her daughter, and she would then receive the entire property. The first year I presented this problem to the class, I had two young men, recent graduates of a Jesuit institution, object that the wife's conduct was immoral. They would insist that she inform her husband of her plans. I had an incensed older woman in the class respond that they were judging the woman's conduct without all the facts. The wife was

legally entitled to provide for her share in the property without consulting her husband, and the students knew nothing about the spousal relationship or the wife's motives in trying to leave the property to her daughter. The correct legal answer: Putting a deed in a desk drawer is of dubious effectiveness; the better advice in most states is to deliver the deed to an escrow with appropriate instructions. The correct ethical position as a matter of professional responsibility: Any lawyer who attempted to represent both husband and wife would have an irreconcilable conflict of interest. Any lawyer who represented the wife alone could not tell the husband of the wife's plans without violating attorney-client confidentiality. A lawyer who morally objected to the wife's objectives should withdraw from the case. The law has little to say about whether, as a matter of personal moral conviction, a lawyer should object to the wife's plans, and we never quite get to the larger issue of the justice of joint tenancy law.

In my upper-division class on Family Law, we do a little better. Marriage law, including the intersection of joint tenancies and community property, is undergoing a wholesale change, and how the law should regulate the relationship between the spouses is a central issue in the course, with equality and mutual respect being major concerns. Yet Michigan law professor Carl Schneider wrote a celebrated article during the '80s decrying the decline of moral discourse in family law. He argued that the most significant impulse in modern family law is the refusal to pass judgment. He described giving his class the case of a husband leaving his homemaker wife of thirty years for another woman. The wife is financially and emotionally dependent on her husband, opposed to divorce on religious grounds, and devastated by the loss of religious, social, and financial standing that the divorce will involve. Schneider asks his students to consider whether, apart from the law, the husband is morally entitled to a divorce. He reports that his students are troubled by the question. They ask what "morally" means. When he suggests that it has something to do with right and wrong, an editor of the Michigan Law Review responds that, by that definition, murder would be a moral issue, and it clearly isn't. The Michigan students have no trouble concluding that the law should not judge the husband's conduct; that the law can realistically do little to keep the couple together. They have more difficulty with the idea that justice has a role to play in deciding whether the divorce should be granted.

My students are also troubled by such questions. I have asked my Contemporary Legal Theory class to consider the case of a 24-year-old

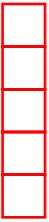
arts-and-crafts instructor for Girls' Club of Omaha who was fired for becoming pregnant while unmarried. Her employment contract specified that she must act as an appropriate role model for her students, and combating teen pregnancy was an important objective of the club. My students are about the same age as the instructor. They note that she was not a teenager, and they insist that her employer had no right to judge her conduct. I ask whether they take this position because the choice to bear the child was a justified one, or because they believe that childbearing is private conduct that an employer should not be able to consider. They are not sure how to discuss the question. One student observes that the pregnant instructor's decision is acceptable as long as she can provide for the child, with the father to be held responsible for child support. I ask whether the father's obligation is based on moral grounds, and the student quickly responds, "That's different. That's financial." The students are bothered—and intrigued—by the class at least in part because they lack a framework in which to assess what moral obligation—and justice—requires in the case. They are more certain about rights, and about their conviction that tolerance requires limiting the range of personal conduct that employers can take into account.

I have thought seriously about how to make the issue of justice a more central part of my family law classes. I have found that other law professors are also troubled by these issues, but that they are not very far ahead of the students in creating a framework for discourse. There is a feminist critique, and a father's rights agenda. There are public policy analyses and more strictly legal technical ones. There is not, however, a common vocabulary of justice or even a broader normative discourse outside the limited terrain of utilitarian considerations and rights talk. I am sometimes struck by the poverty of the legal discussion when I attend interdisciplinary conferences and colloquia. The Markkula Center for Applied Ethics at Santa Clara University, for example, sponsored an examination of same-sex marriage in light of a decision by the Hawaii Supreme Court declaring unconstitutional that state's refusal to grant a marriage license to two women on the basis of their gender. The law professor on the panel explained the difference between the equal protection analysis in that case and the liberty clause decisions in which other states had simultaneously recognized the right to marry as fundamental and unavailable to same-sex couples. A gay alum gave the rights critique, providing an eloquent description of his lifetime partnership, and asking why he and his companion were not entitled to the same recognition as other intimate partners. Only Fred Parella of Religious Studies provided a different approach. He

painstakingly examined the nature of marriage within the Christian tradition, the celebration of the communion between two people who form an intimate bond in which they pledge their lives to each other, and then queried whether there was anything about the essential nature of these relationships that could not also apply to same-sex couples. (For the full text of Fred Parella's talk, please visit the Bannan Institute's web site: www.scu.edu/BannanInstitute)

I decided afterwards that Parella's presentation, which felt refreshingly different when I heard it, embodied the same kind of reasoning that law professors use when we ask students to examine the purpose of property rights. When I teach the Hawaii case, I now assign my students to represent Hawaii, and to consider how in the 1990s they would define the state interest in marriage; whether that interest can encompass same-sex relationships; and whether it can be extended to polygamous ones. The questions are difficult. The more liberal students recognize the conflict between their impulse not to judge and their distaste for polygamy. More conservative students struggle to articulate a state interest in marriage that does not draw too heavily on religious understandings of the institution. We end with recognition that the legality of same-sex marriage in Hawaii may ultimately be resolved by referendum and legislation rather than judicial reasoning. The hallmark of the class remains skepticism rather than certainty. Nonetheless, in the discussion of what the law should be, in the identification of which traditions remain central to marriage, in the consideration of the couples' interests and those of the larger society, there is a discussion about the meaning of justice.

June Carbone
Professor,
Santa Clara University
School of Law



Faith Doing Justice

By L. Gregory Czarkowski '96

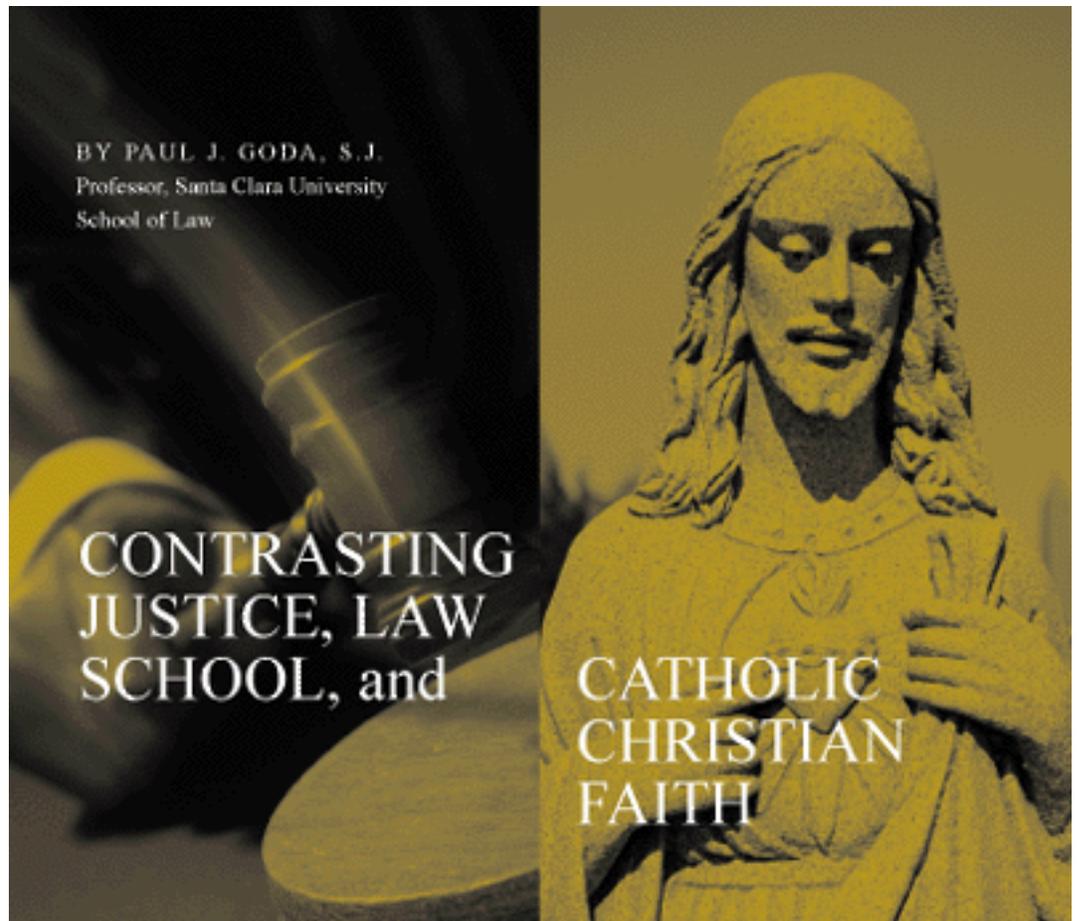
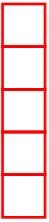
Why would anyone want to go to law school? In recent years, society has created many stereotypes about attorneys, and terms such as “bottom feeders,” “scum of the earth,” and “ruthless sharks” are common descriptions. Yet the decision to study law is a very personal one. Some who liked to argue when they were young were told: “You would make a great lawyer.” Others want to break into the corporate world for financial gains. Still others choose law so they can effect change.

No matter why a student enters law school, there is one thing that all law students have in common: They must conquer the challenge of mastering cases and legal concepts so they can apply the law on an exam. Unfortunately, most law school exams focus on legal rights and ramifications instead of moral rights and obligations. (Some would argue that this is how the dehumanizing process of attorneys begins.) I have found the process to be much different at the Santa Clara University School of Law.

I chose to go to law school after working in the Public Defenders Office in San Jose. I worked in dependency court, where we represented parents who were facing allegations of abuse and neglect of their children. Most of the cases involved allegations against the child’s mother. In many cases, the child’s father was already incarcerated for past crimes. It was my job to interview the fathers who were already in custody to find out if there was a family member who could care for the child. My first day on the job, I was sent on an interview with a list of questions. In the empty cell, I calmly reviewed my list until I noticed that the prisoner I was about to meet had been convicted of a homicide. As I sat creating images of an immense killer, I asked myself why was I doing this. My thoughts were interrupted when a 19-year-old about my size was brought in. (If you had put him

in Dockers and a polo shirt, he could have sat next to me in class.) I explained that I was with the Public Defenders Office and that I had a number of questions to ask him. His only response was, “You’re not my lawyer, are you?” Realizing how scared he must have been, thinking someone his age was going to represent him, I assured him that I was not. I explained that I wanted to help place his daughter with a relative instead of in foster care. His face lifted, and he immediately told me that his grandmother was a foster parent and that she could care for his daughter. As it turned out, with the help of Social Services, his daughter was placed with her grandmother.

Although I have had to focus on “the law” over the past three years, I have also been fortunate enough to be at a law school that focuses on the people the law affects. Many of the faculty and students at SCU try to incorporate ethical decision-making into the learning process. This is the first step toward faith doing justice. If we lose sight of the people, we lose the faith that attracted some of us to the legal system, the faith that we can make a change for the promotion of justice.



The tensions of time and transition have affected every institution throughout history. The Roman Catholic Church is the only institution to pass through the Dark Ages and into a dominant position of power in European culture for centuries to follow. The transition into, and out of, cultural power is not what the Church is ultimately about, however, because it is not what Jesus was about.

Jesus came to teach us that life was a gift of His Father—grace living in nature, in good times and in bad, in all of the contrasts of life. But in the midst of those contrasts, taut with tension, believers are meant to assert that “the God” —one God—lives. The absolute lives in the midst of change. The tension exists in many different forms: in the problems of faith, in the problems of justice, in the issues of philosophy and justice.

CAN LAW SCHOOLS BE CATHOLIC?

The starkest tension is the contradiction that appears when one's faith does not drive one to justice; that is sin. St. James put it better: "to show faith by works."

In the academic setting of a Catholic university, law schools are meant to concretize the intellectual aspects of justice for our culture. But such a setting for a law school involves an intellectual tension between faith and justice. For example, as a priest and a lawyer, I have never thought of the Santa Clara University School of Law as a place that can be formally, practically, and institutionally Catholic. (Please, do note how many and which adverbs I have used in that sentence.)

Catholic law schools cannot be formally Catholic, just as biology or mathematics cannot be formally Catholic. The formal subject matter of law is simply not faith. When one of our Presidents here at Santa Clara asked me to help draft a mission statement from the SCU School of Law as a preparation for fundraising, I included some of this tension of which I speak in the draft statement. I said the one of the first universities in Western culture was Bologna, founded in the 12th century. It was at Bologna that law was first separated from the other subjects taught in the University, from the "arts." I wrote that even then Catholic authorities had problems with law schools because of their independent, secular status. So did our President.

Nor can law schools be practically Catholic. There is no core curriculum, tying the law school into the liberal arts or into theology. I do on occasion raise the issue of justice, and sometimes, of faith, in my core courses in law school. But Contracts, Wills and Trusts, and Community Property are not formally or practically "Catholic." They are pragmatic, technical courses. In my course in Jurisprudence, which is not a technical, legal course, I can emphasize issues of faith and justice in a context in which the students can engage both themselves and me in a confrontation with foundational issues in depth.

On the other hand, our SCU School of Law can and should be institutionally Catholic. The institutional principle of Catholic law schools is that they are in a Catholic context, within a Catholic university. But this raises issues of the ambiguities of institutionalization, of the everyday relationships that are worked out in the uneasy relationship of a semi-autonomous law school with the larger University. None of the courses in the law school are

specifically Catholic. Certainly, the works of justice, of bringing law to groups that do not have the full benefits of American justice, must be a prominent part of what law schools do. And I would say that almost every law school in the country does those works of justice in some way. But such activities are not specifically Catholic.

PHILOSOPHY AND JUSTICE

On the day after I was asked to write this essay, one of my SCU students asked me, “How can the Catholic Church accept Greek definitions of justice?” That question posed the foundational issues of law and justice that transcend positive law. “Positive” here simply means human law, explicitly enacted by human authority. The tension here is that law should also be a profession, an acknowledgment of some underlying faith.

The Catholic Church does accept the definitions of justice that came originally through Greek philosophers, especially through Plato and Aristotle. Those definitions were obviously secular definitions of justice. But just as obviously, those definitions connected justice with morality.

So I gave the student the simple answer that the Church accepted such definitions because the Catholic Christian Church did not have a philosophy of its own. It took its philosophy from the culture in which it lived.

But that Church also molded that philosophy in accord with the teachings of Jesus and the early theology of the Church. Aristotle held that justice was a virtue that was both general and specific. The general notion of justice covered all virtue. A specific, limited part of that justice was the legal justice by which human beings gave to each other what was their due within the community by public action. St. Thomas Aquinas accepted the definitions of justice implied in the broad and limited notions of justice, setting them in the context of his faith.

In many ways, this early distinction between justice as a general virtue, encompassing all others, and justice as a specific virtue, limited to the “legal,” to public activity, presaged the later attempts to find connections and boundary lines between the sacred and the secular, between faith and works, and between faith and justice. These contrasts go beyond the local antinomies of law schools set within the context of Catholic Universities. The contrasts lead into the broader

contradictions of an intellectual culture at war with itself: an ethic that says there are some absolutes that we can know and by which we can guide our lives versus an ethic that says either there are no absolutes or we cannot know them, so the only moral norms are purely relativistic.

HISTORICAL DEVELOPMENT

The modern historical development is easy to follow. John Austin, in determining the province of jurisprudence in the mid-1800s, postulated a rather mild positivism. Positivism as a philosophy is concerned with empirical facts, without concern for ultimate absolute values. Austin was a pious Christian who did not radically condemn the older natural law and its metaphysics.

However, Hans Kelsen suggested earlier in this century that a legal system had to be without a priori content. This simply means that a historical legal system could not have laws until they had been enacted. But he also postulated a radical skepticism to deny the possibility of the certainty of any knowledge. And this, of course, would radically separate law and morality. Such a denial and such a separation create a vacuum of principles. He still needed a starting point, a foundation. So he established the hypothesis of a Grundnorm, a basic principle, which was a legalistic substitute for God.

Hans Kelsen did not come to this hypothesis easily. In a series of brilliant essays, Prof. Pierre Schlag has plumbed the depths of the despair that flows from the relativism occasioned by God-substitutes in legal theory. Prof. Schlag is no follower of traditional philosophy, but at least he knows that philosophy. In *Law as the Continuation of God by Other Means*,¹ he dismisses St. Thomas Aquinas' proofs for the existence of God. But having done so, he goes on to say, in what I can only construe as an epistemological despair that goes far beyond skepticism:

For those who remain interested in "doing law," the popular alternative is to try to continue the legal conversation, minus the underlying metaphysic. This invitation issues from various anti-formalist quarters: postmodernists, neopragmatists, and so on. But short of dissonance or bad faith (both of which are certainly possible) there is no intellectually respectable way to do so. It is no more possible to continue doing law in an intellectually respectable way once the metaphysic is gone, than to continue worship once God is dead. Law is like God-here. And once you say that God is just a bunch of

conventions, he loses a great deal of his appeal. Correspondingly, worship comes to lack a certain seriousness. The same goes for law.

I venture a guess that such an attitude is not uncommon. It is the “treason of the intellectual.” It is no wonder that Pope John Paul II spoke for traditional Catholic, Christian faith and for reason when he issued the encyclicals: *Veritatis Splendor* in 1993, dealing with morality and natural law, and *Fides et Ratio* in 1998, dealing with faith and reason. He quoted St. Thomas Aquinas: Among all others, the rational creature is subject to divine providence in the most excellent way, insofar as it partakes of a share of providence, being provident both for itself and others. Thus it has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end. This participation of the eternal law in the rational creature is called natural law.

The notions of participation and Eternal Law go back to Plato. The notion of nature goes back to Aristotle. The early Christian theologians eclectically took these ideas and used them to try to explain the morality of Christians. St. Thomas used Aristotle’s ideas in his intellectual struggles with medieval nominalism, a descendant of the skeptical Sophists against whom Plato and Aristotle had argued. Nominalism is a theory of knowledge that asserts that human knowledge is essentially uncertain, that we can only put “names” (from *nomen*, hence nominalism) on things. Nominalism is really an older form of skepticism.

It is fascinating and disturbing that this ancient battle between different visions of reason has returned to the inner life of the Catholic Church. Traditional philosophical values had supported the vision of theology, including its moral theology, by the assertion that some absolute truth was knowable by human reason. St. Thomas Aquinas summed up this vision by the foundation of his thought, “grace builds on nature.”

A MODERN EXAMPLE

If there is any arena in which all of these tensions become intertwined within our culture, it is in the arena of the politics and morality of abortion. Traditional Catholic theology has condemned the act of abortion as an absolute moral evil because it is the direct and intentional killing of an innocent human being. Modern, liberal political thought has emphasized the right of the woman to have an abortion based on various theories of empowerment, simply

subordinating the life of the child to the power of the woman.

But the tensions are not so simple. Conservative political groups have clearly positioned themselves politically and morally against abortion, while denying, as I understand it, any obligation to aid poor women who would be forced to carry their children to term. Indeed some extreme religious groups have resorted to killing doctors in order to stop the killing of babies, truly an antinomian way of destroying dialog. On the other hand, liberal political groups have demanded strong asceticism with regard to the needs of the environment while denying the need for such asceticism in the areas of sexual activity and abortion.

AN ANCIENT RESOLUTION

I cannot give my own resolution to all of these tensions here, although I hope that I have more than hinted at my own positions. So let me end with Luke's example of resolution and tension in which he describes Jesus in one of his arguments with those who were in power in Israel while he was preaching to his people:

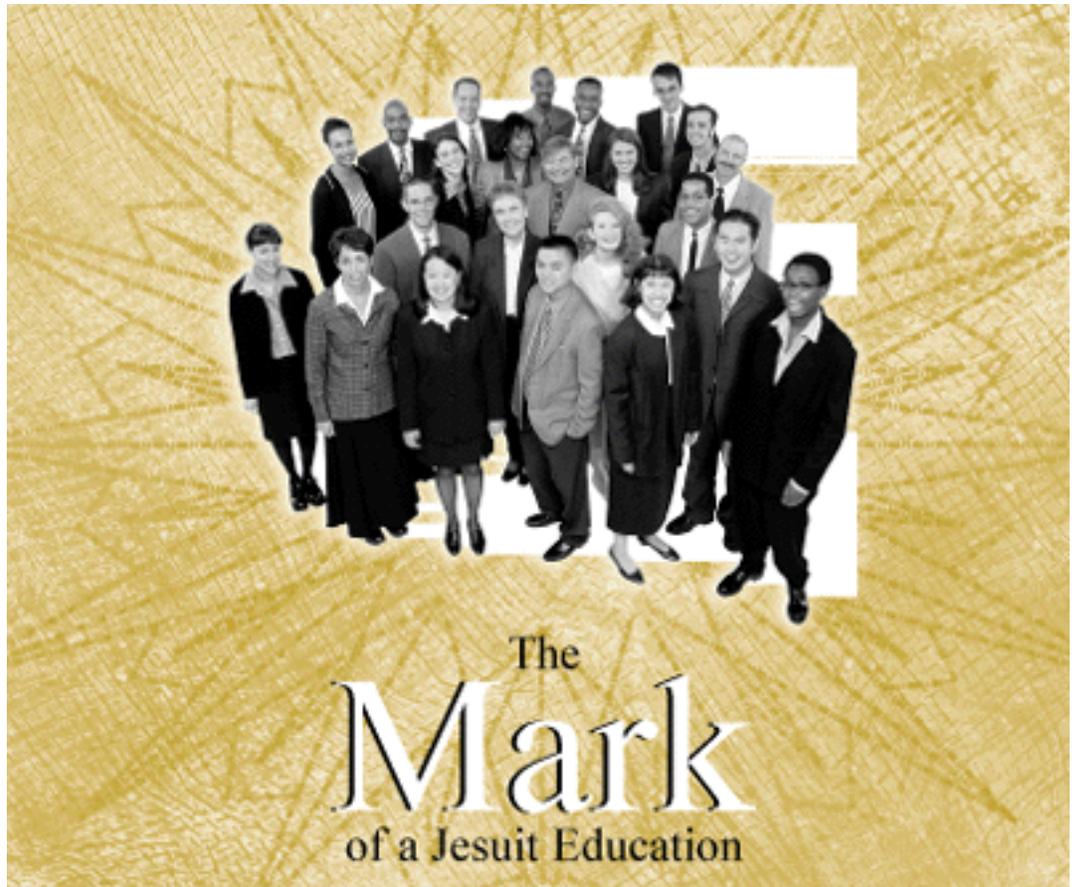
“ . . . is it lawful for us to pay tribute to Caesar, or not?” He perceived their trickery at once and said to them, “Suppose you show me a silver coin. Whose image and inscription does it bear?” “Caesar's,” they answered. So he said to them, “Well, then, pay to Caesar what is Caesar's and to God what is God's.”

There is no exegete who can plumb the mind of Jesus or the mind of the writer fully to explicate Jesus' last words in this discussion at the time they were said or at the time they were written. We have to struggle with them in order to try to understand how they bear on our current problems, consonant with some fundamental meaning of Jesus' life.

Jesus was comparing in some way what is marked with Caesar's image and who is marked with God's image. Apparently, Jesus acknowledged Caesar's kingship as a valid, secular kingship. But Jesus emphasizes that the most important aspect of human life is our possession by God. That possession is not the ownership of a thing by the Deity. It is the participation of a free creature in the life of God. It is our challenge and our peril to forge that life in accord with the absolute will of God. It is living out our faith to do justice.

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[Back to the Bannan Institute](#)



By Frank Hughes J.D. '74

The ambiguity in that comment seems appropriate in light of the multiple definitions of the word “Jesuitical,” which are found in any dictionary. Eventually, it is up to each man or woman who has experienced a Jesuit education to decide whether the mark is a physical or psychic bruise, a spiritual formation, or the sign of the beast.

For me, the truest test was this: Would I want the same mark on my children? “What father among you would hand his son a stone when he asked for bread?” And so, by the time my two oldest children reached the eighth grade, I had to decide what kind of a mark a Jesuit education had left on me and others. While it would be arrogant to try to define the mark for everyone, there are some common perspectives that seem to be widely shared by the people I know who carry the mark:

- That intellectual and academic excellence should be pursued.

- That the “conflict” between religion and science is illusory—that strong intellectual curiosity and strong faith will eventually be reconciled when our understanding is more complete.
- That there is no reason to fear apparent paradoxes: that we are physical beings as well as spiritual ones, competitive beings as well as cooperative ones; that we can make ourselves as good as we can be, but live our life for others.
- That we do not walk through the world alone. That as astonishing as it may seem, the Creator of the entire universe somehow cares about each one of us, about the endless array of ethical choices we make as we travel the path.
- That there is justification for adhering to a cynical view of the world, but not wisdom in doing so.
- That there is a life beyond this one, but no justification for ignoring the injustices, imperfections, and inequalities of this one.
- That the Catholic perspective is an excellent prism through which to view the world, but that other worldviews, particularly those of other world religions, help deepen our understanding of the world God has created.

It is hard to put a finger on how the formation, the “mark,” happens. At most Jesuit high schools, students are held to a high standard of academic excellence. They study a broad spectrum of academic subjects. They attend liturgies and prayer services, and study religion and the scriptures. They experience both competition and teamwork in sports and other extracurricular activities. But mostly, the formation seems to happen by absorbing the values of the teachers. The students can see the teachers’ values in action. They see the enthusiasm with which most teachers approach their subjects and the job of teaching. They see the teachers, and hear the story of the teachers’ own lives and choices at retreats or while spending spring vacation together building houses in Tijuana or working in El Salvador. The students see in the occupation and lifestyles of their teachers a repudiation, although imperfect, of pure materialism as the standard of value for a life.

The students are another factor in each other’s formation. While some high school freshmen may arrive as *tabulae rasae* with regard to the mark of a Jesuit education, many others come from families that are already influenced by those principles

and perspectives. These students probably either already reflect the perspectives to some extent, or at least resonate to them. The presence of a reasonable percentage of “unmarked” students with different and diverse perspectives undoubtedly makes the experience richer without watering it down.

I have seen the active formation of these principles through my two sons, who have attended Jesuit high schools. How this formation can continue at a Jesuit university is a more difficult problem. More problematic is how this formation can infuse or imbue a law school education.

Even at the high school level, many parents are shouldering the burdens of tuition more due to the academic excellence (or athletic excellence) than the spiritual formation the school engenders. The “Jesuit” factor in selection of an undergraduate education is beyond the scope of this brief article. Graduates of Jesuit high schools may well be placing a high value on continuing association with the Jesuit perspectives. Parents may assume that a Jesuit college will provide continuing moral formation. However, whatever the situation at the undergraduate level, it seems unlikely that a high percentage of law school applicants are choosing Santa Clara University School of Law in overt anticipation that they will learn the law from a Catholic or Jesuit viewpoint.

In assessing whether or not the law school has been “successful” in either conveying or reflecting a uniquely Catholic or Jesuit perspective, I draw on my own experience as a student at SCU School of Law 25 years ago, ongoing friendships with law school professors, and my continuing experience with the school—daily interaction with students and graduates of the law school in the form of my partners, associates at the firm, summer law clerks, hundreds of interviewed applicants, and students at classes where I periodically appear as a guest lecturer.

My conclusion is that the “mark,” though sometimes quite attenuated, is still visible at the SCU School of Law. To some extent, its presence is a reflection of the presence of a disproportionate number of students who carry the mark from previous encounters. To an even greater extent, the mark can be seen in the personal values of the faculty, who to a significant

degree appear to reflect the “person for others” philosophy that Jesuits like Fr. Pedro Arrupe articulated as a centerpiece of Jesuit formation. In sharing the campus with the undergraduate schools, the law school also has some exposure to campus ministry, liturgies, and programs with religious content. The Mission itself is physically central to the campus.

However, I have not had the feeling that there is much in the content of the law school classes that is likely to inform or challenge the religious or spiritual aspects of life or law. Constitutional law classes necessarily spend some time considering the separation of church and state when discussing the Establishment Clause. Likewise, they discuss the Free Exercise Clause and statutorily required accommodation of religious practices. Otherwise, the subjects are likely to be considered without regard to religious or philosophical thought.

On the other hand, there are some law schools, generally affiliated with fundamentalist Protestant institutions, that expressly indicate that they are viewing the law through a biblical framework. Several years ago, Brigham Young’s law school received a round of criticism from the American Bar Association (later at least partially withdrawn) because their selection of professors (and students?) was designed to create the sort of critical mass of shared perspective that makes the spiritual formation so effective in Jesuit high schools.

At the other end of the political/religious spectrum, schools of thought like the Critical Legal Studies Movement are unabashedly dedicated to advancing their own worldview of law and politics. One of the founders of the movement, Roberto Mangabeira Unger, described the arrival of the ardent Critical Legal professors at law schools with a religious verve:

When we came, they (the older generation of tenured law school academics) were like a priesthood that had lost their faith and kept their jobs. They stood in tedious embarrassment before cold altars. But we turned away from those altars and found the mind’s opportunity in the heart’s revenge. So, is it time to have Santa Clara’s law school dedicate itself to an unabashedly “Catholic” perspective in the content of its course work, in the same way the Critics bring their worldview to the substantive subjects they teach? Probably not. By following

such a course, the University would certainly stake out a niche for itself, but whether the niche would be financially viable or academically satisfying is questionable.

The University probably could do more, however, to assist in the continuing moral formation of the lawyers it unleashes on the public.

While the question of “what the law is” on a particular subject can probably be discussed without wrestling with religious and philosophical questions, the same is not true of the question “what should the law be.” The great legal questions of the day—the death penalty, immigration, euthanasia, abortion, animal rights, gay rights, same-sex marriages, welfare vs. “workfare,” affirmative action—all demand that the deeper issues of religion and philosophy be faced.

Though often in direct opposition to traditional “Catholic” social theory, the Critical Legal Studies Movement correctly identifies the tendency of most legal decisions to conceal the value decisions that are involved in the outcome, as well as the inconsistencies in those values. In fact, writers like Mark Kelman have seen the identification of these inconsistencies as the essence of the Critical Legal Studies Movement:

First, the Critics attempt . . . to identify a contradiction in liberal legal thought, a set of paired rhetorical arguments that both resolve cases in opposite, incompatible ways and correspond to distinct visions of human nature and human fulfillment . . . [Among the central contradictions are] the contradiction between a commitment to the traditional liberal notion that values or desires are arbitrary, subjective, individual . . . and commitment to the ideal that we can “know” social and ethical truths objectively.

While the Critics believe that these contradictions usually end up favoring the right wing, the same contradictions and implied values were present in *Roe v. Wade* and the recent Ninth Circuit case where Justice Reinhardt found a constitutional right to assisted suicide (later overturned by the Supreme Court). The problem with the Critics is that they seem to approach their task with a cynicism sometimes described as nihilism. The same imperfections in the law (and human beings

in general) would be treated differently in a “Jesuit” tradition. With the resources of the Religious Studies and Philosophy departments on the same campus, there must be a way to provide opportunities for students to explore these issues while at the law school. Whether in the form of courses, symposia, or debates, there should be sufficient intellectual firepower to articulate alternatives to either ignoring the contradictions or embracing the worldview of the Critics.

There certainly is no shortage of writers outside the Critical Legal circles who have grappled with this contradiction. Honestly tangling with the implication of Alasdair MacIntyre’s *After Virtue* leaves the serious reader confronted with either Nietzsche’s nihilism or Kierkegaard’s leap of faith, without the need to have read either of those authors. There really is only one choice—to be a nihilist who acknowledge no values, or to rely on a set of values that is accepted largely on some sort of faith. Despite the talk about separation of church and state, all questions about what the law should be fundamentally depend on an a priori set of values. An a priori set of values that derives from a religious tradition differs from a “non-religious” set of values principally in that it can identify its parentage, not that it is somehow less scientific or rational. The debate on the great issues of the day would be more honest and probably find more common ground if the line of demarcation between faith and reason were viewed from a Jesuit perspective. The SCU School of Law could make a greater contribution here.

The placement office represents another opportunity to raise traditional Jesuit issues. The indentured servitude of a new associate at a large law firm is so well known as to be a cliché—long hours, sacrifice of family, and giving up any sense of having a “life,” generally for the benefit of large commercial clients.

As someone who has been overwhelmed by the time demands of my own practice at various times in my life, I can say that the balance between law and involvement with community and family is elusive at best. Coming out of law school, I made a decision to join a firm of seven attorneys in San Jose instead of a mega-firm in San Francisco or New York. Given the poor job of balancing priorities I did in San Jose, I can only imagine what a dismal balancing job I would have done if I had placed

myself in the environment of a large New York law firm (even though the large firms were very enticing at the time).

The problem for the SCU School of Law is that its standing among other law schools is improved by students who are willing to subordinate other priorities and dedicate themselves to the goal of success at such well-known firms. Given the tuition that is being charged, the University justifiably feels it has to have a school with high academic standards, faculty with high academic credentials, students with strong academic records, and alumni who go on to the best law firms, the best clerkships, and the best post-graduate programs. Placement of a significant number of students at the “best” firms is a factor in accomplishing those goals.

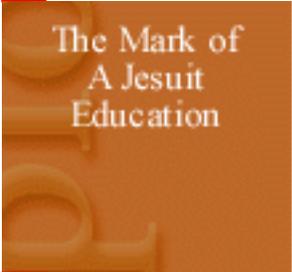
However, give the University its due. In my experience, the people who have worked in the placement office do a good job of giving students a realistic view of the implication of career choices. Maximum material success is not the principal message being conveyed.

However, there is an opportunity to provide more guidance. The implications of career choices are more apparent ten or twenty years out of law school than they were upon graduation. Without suggesting that the area is now being ignored, more alumni could be involved in discussion groups with law students in the first and second years.

In writing this article, it was not my intention to suggest that Jesuit, Catholic, or Christian lawyers or law schools have any corner on morality or the ethical practice of law. The call to be an honest and competent practitioner, a lawyer focused on more than material success, and a “person for others,” would come from most of the religious traditions. The effect of the Catholic perspective might be to emphasize a sense of the distance between one’s actual practice and the ideals one subscribes to. I certainly have that sense.

But the cluster of values and perspectives that mark a Jesuit education are valuable to any adult trying to live his or her life at the end of the century. The law school is probably not the place to try to create those values and perspectives ab initio, but there are issues that lawyers must address in their practices and

in their private lives that would be enlightened by a “Jesuit” perspective. Law school is not too late to provide opportunity for students to engage in that exercise. To accomplish this, the University needs to continue to seek men and women for its faculty who reflect those values, to seek students who are interested in considering those values, and to provide occasions inside and outside the classroom to test and exercise those values.



The Mark of
A Jesuit
Education

Justice Is the End

By Joseph Theiman '00

Santa Clara University School of Law

I consider myself fortunate to attend a Catholic institution, and I share my views on justice and my faith in order to highlight the need for more opportunities to incorporate a Catholic faith with the study of the law.

Two years ago I saw a building a few blocks from Union Station train station in Washington, D.C., with the following words etched upon its wall: “The law is but a means, justice is the end.” They were written by a man named Joseph Cantel. His poignant message seems simple to me, and yet the meaning of justice remains elusive. What does justice mean? How does it relate to a law student? Black’s Law Dictionary defines justice as the “fair and proper administration of laws,” and Psalm 146 of the Old Testament speaks of justice as service for others when it declares: “Happy is he whose help is the God of Jacob . . . Who keeps faith forever, secures justice for the oppressed.” For me, the term justice encompasses both service for others and the fair and proper administration of laws; but there is a missing link between these definitions and my law school experience up to this point.

Unfortunately, after law school began, justice was banished from my mind; survival instincts coupled with the desire for academic success consumed me. In essence, I offered justice an attractive, three-year sabbatical with a future promise to meet again while I focused on the mandatory grade curve, obtaining job interviews, securing a summer job, and passing the bar. In hindsight, my reaction was expected because I cannot work for justice for the oppressed or competently understand the proper administration of the law until I acquire the necessary legal skills.

After nearly two years, my experience is that justice is visible at Santa

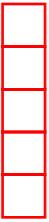
Clara only to the extent to which the University provides students with the ability to discern the meaning of justice and reflect justice in the future practice of the law. Furthermore, I see a need to integrate more legal service opportunities into our legal curriculum to give students a deeper understanding of justice applied in practical scenarios. In addition to the few clinical opportunities offered, the School of Law could offer legal “field study” opportunities which would allow students to visit or hear speakers from various organizations or companies pursuing social justice causes. Another option I envision is a class that would challenge students to reconcile theological notions of justice or Old and New Testament laws and Christian teachings with the study of modern law.

I do believe justice is the cornerstone of any law course offered at Santa Clara. However, pressures to achieve high bar-passage rates, acquire top-notch professors, and attract the best and the brightest students who possess a “future” in the law can dominate and overshadow the need to remind students to recognize social justice.

Santa Clara’s response to business pressures will govern its competitive edge with other law schools. How it implements Joseph Cantel’s simple message, however, will dictate its educational utility to law students and its ability to develop graduates who are willing to consider their role in the creation of a socially just society as Catholics and non-Catholics.

The people with the greatest ability to effect change in the student mentality toward justice and the study of the law are the professors. Thus, a professor’s pedagogical style is critical to imparting Joseph Cantel’s message to law students. In my opinion, a non-Darwinian (“survival of the fittest”) teaching model creates the most effective learning environment; one that is conducive not only to student participation, but to a retention of legal concepts and a deeper understanding of our role in the pursuit of justice. This type of environment would have other positive consequences. First, cooperation between students and professors could increase. Second, as a result of greater cooperation, interest in legal subject matters could expand. Third, a lifelong relationship could take root between students and the law school, producing deep school ties and possibly greater annual giving. Ultimately, Santa Clara would produce effective advocates who can recognize that social justice is only achieved after awareness, education, and the development of the requisite legal skills to obtain justice in the courtroom.

My decision to attend Santa Clara law was based on several factors, two of which were: 1) its proximity to and reputation in Silicon Valley; and, 2) its Catholic tradition. Unfortunately, however, I do not feel as if I am attending a Catholic school, except for the availability of daily Mass on campus. After speaking with friends at other non-Catholic law schools, and comparing stories, I discover our experiences are similar. I do not blame Santa Clara, because, for the most part, I create the environment of which I am a participant. Furthermore, I recognize that it is difficult for a law school to incorporate religion into its legal curriculum due to several issues. First, learning the “law” is not dependent upon a religious belief or spiritual perspective. I can learn Contract law or Property law irrespective of my Catholic faith or a professor’s religious affiliation or lack thereof. Second, I do not think it is appropriate for a law professor to tell me if they agree or disagree with the Church’s view on social issues during class because I am not paying tuition for their perspective on non-legal issues. However, I do believe that Santa Clara should provide more opportunities, like a class or practical experiences, to see justice in action and provide the means for students who desire to integrate their faith into their law school experience. I think Santa Clara has a duty as a religiously affiliated school to reconcile the practice of law with the practice of faith. Thus, faith and justice can only permeate the law school experience to the extent Santa Clara is willing to make it happen.



By Margaret Stevenson

Vilma Guerrero, our immigration attorney, and I were talking in my office at the end of a long day. A law student stopped by on her way out, carrying a stack of files. She was still dressed in the suit she had worn to the immigration hearing she had conducted earlier that day under Vilma’s supervision.

The student’s client had originally been denied asylum when she applied on her own. The client’s father, the leader of a mosque in Somalia, had sheltered refugees following the overthrow of the government in Mogadishu. When the father refused to turn the refugees over to the ruling clan, they murdered him, raped the client’s

mother, and burned the mosque. The client fled the country.

As the law student apologized for interrupting Vilma and me, her eyes welled up with tears. “I just want to thank you,” she said, “for the privilege of working on [the client’s] case. I will never, ever forget this.” And she left.

The Somali woman won her asylum case, enabling her to live and work in the United States. The student graduated and is now studying for her bar exam. Along with a host of others, Vilma and I remain at the East San Jose Community Law Center, privileged to assist in the pursuit of justice and to help others do so as well.

How fortunate for the Center’s clients, students, and society that Santa Clara University is committed to service learning and the “spirituality of engagement,” as Father Locatelli quoted from St. Ignatius in “Cultural Understanding in Jesuit Education: A Pedagogy of Engagement” (explores, Spring 1999, p. 2).

Service-learning seeks to integrate theory and practice, mutually enhancing both Integrated critical thinking with personal engagement . . . makes learning come alive for students as they start believing they can make a difference in their world . . . [I]t holds the promise of systemic change in society that improves the lives of people in communities; ideally, it provides them with the means to create a new life.

Before reviewing how students become engaged in the work they do at the Center, it may be useful to know a bit about where this happens. The Center is located in a diverse, low-income neighborhood on Alum Rock near King Road in East San Jose. All services are free; all clients are low-income. About 1,200 people will receive individual consultations and advice at drop-in clinics this year. At any given time the Center is working on the cases of about 150 people whom it represents before courts and administrative agencies. We also offer workshops and prepare community education materials. We refer out clients who can be assisted elsewhere, reserving our services for those who have nowhere else to go. Students—both law and undergraduate—do all this, under attorney supervision. (More about the Center appears at: www.scu.edu/law/ESJCLC)

UNDERSTANDING THE PROBLEM

The process of engaging students' hearts and minds at the Center begins with their understanding, in a personal way, the problems that our clients present. The clients come to the Community Law Center for assistance with a variety of issues. The clients explain their problem to trained student counselors who then consult with a supervising attorney, and return to the client with the attorney's advice. One student wrote:

Working at the Law Center . . . has given me a new perspective on the law and on life. Every Tuesday night for the past four weeks I have gone down to the Law Center's Workers' Rights Clinic. I was not too surprised at the physical condition of the clinic or even at the type of stories fellow students were telling me about their clients. The thing that did shock me was actually hearing a client's story directly from his mouth.

Center clients generally come from backgrounds and experiences different from the students'. Several students have mentioned that they had never before spoken to anyone who did not speak English. (Volunteer Judith Saucedo, a certified interpreter and attorney, trains new students every semester on how to work with an interpreter and how to interpret.) At the Center, many students gain an understanding of the struggle for justice—and often existence—that they otherwise would not have:

Some of the people coming in the clinic had problems that were incomprehensible to me. For instance, this woman came in who had been working all of her life and was laid off due to an illness that threatened her life. She had been living in a house until this time, but she had to sell the house and was living in a trailer with no electricity.

I attempted to better understand her situation by trying to put myself in her position. I found it very difficult since I have never dealt with such financial hardship. Everybody knows that there is poverty in the world, and everybody knows that people lose their homes and don't have enough to eat. Actually having someone explain his or her situation to you, up-close and personal, is a whole new experience.

RECOGNIZING THE ABILITY TO HELP

After getting over the initial realization that a person needing help has just presented a serious problem for the student's resolution, the student then is challenged to determine ways in which they actually

can help that person pursue justice.

For undergraduate interpreters, this is immediate immersion. Since all interpreting is done in the first person, undergraduate interpreters are put in the intense position of both asking for assistance (as they interpret for the clients) and giving advice (as they interpret for the student counselor following consultation with a supervising attorney). Undergraduate interns assist in cases that the Center accepts for representation, thus directly helping clients pursue justice through the courts or administrative agencies. Others take on special projects needed for the Center's work.

For law students, the application of their legal studies to real problems commonly is a welcome experience:

A middle-aged woman with a baby immediately approached me. She told me that she was in a hurry and asked if I could help her. Well, there it was: For the first time in my legal career someone was coming to me for advice. I have to say that it felt special that these ladies who were substantially older than I wanted my help. It sounds bizarre, but at that moment I felt like my law degree might have some meaning. I liked who I was and what I was doing. I hadn't had that feeling for the first five months of law school. It was good to have it back.

THE MOTIVATION OF ENGAGEMENT

Being able to help people in need is highly motivating, and thus engaging. On a recent evening, attorney Jim Patten, a Center alum, came back to counsel at the drop-in consumer clinic. No one called to ask him to help; he just felt that he had time to volunteer. He plans to come back regularly.

Community volunteer Dave Martínez started coming to the Center to interpret a year ago. He soon shifted to conducting interviews on his own, and shows up every Tuesday night after work to help at the Workers' Rights Clinic.

Many Eastside Project volunteers return after the quarter is over, recognizing that their services are a critical part of the clinic's operation. Senior Cristina Wai helped out at the Center for months after her Eastside Project placement ended, interpreting for a Mandarin-speaking electronics assembly worker whose employer fired him when

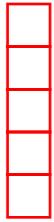
he developed a repetitive stress injury.

Many students find that, once they recognize the reality of clients' problems and the importance of their own skills, they are compelled to act:

The clinic serves a wonderful purpose, and I feel that it is important to be a part of it.

One of the reasons I decided to go to law school was a hope that by learning the law and becoming an attorney I would be in a better position to be able to help others. Nowhere has that been more true than by what I have already seen in my short experience in law and through volunteering at the Law Center. Already, after less than a year of legal training, I am able to volunteer and provide people with knowledge that could make a substantial difference in how their lives proceed Also, I see my time at the ESJCLC as a foreshadowing of what I hope is to come in my career as an attorney: to be able to take what I know and have learned and be able to use it to do good I am lucky to be in a position in which I can assist those seeking advice.

Perhaps St. Ignatius would not be surprised that many students feel they have made at least a small difference in their world, having learned some measure of the “spirituality of engagement” from an impoverished immigrant seeking justice . . . all in the cramped, storefront Law Center office next to a pool hall in East San Jose.



I am proud to be a part of the compassionate, talented group of people who work in the East San Jose Community Law Center. Through the personal, academic, and professional experiences that I have had in my various capacities at the Center, I have learned how to integrate my passion and my life's work. It was not until I began volunteering at the Center over a year and a half ago that I recognized that such a feat was possible for a recent graduate with a degree in anthropology in Silicon Valley.

Throughout high school, I fantasized about working with recent Latino immigrants who were acclimating to life in the United States after fleeing Latin America due to economic, political, or social reasons (especially those suffering from the effects of U.S. foreign policy in Latin America). My dreams of doing this work led me to Central America on two occasions, the first for two months and the second for ten months (during my junior year at SCU). Each visit yielded important self-discoveries and a lasting dedication to the culture.

I was 16 when I first traveled to Central America. I participated in a program called Amigos de las Americas in which I had the opportunity to live with a family in rural Costa Rica for two months in exchange for my work distributing dental hygiene supplies and information. According to the format of the program, I was driven out to a pueblito (a small town) where a project coordinator searched for a home for me for my two-month stay.

I will never forget the experience of walking up to the first home that we saw to ask whether the family who lived there would take me, a stranger, into their home. To my complete surprise, the woman who answered the door listened to the explanation offered by the director and happily agreed to be my host. She then offered us each a cup of coffee and a bowl of fruit. The family had never known anyone from the United States, did not know anything about the Amigos program, and had not been previously advised of our arrival; yet they opened their home and their hearts to me, a gesture that I will spend my life striving to mirror.

This is representative of nearly every experience that I had in Central America. I became a member of five different families, and I was treated with the same unconditional love that actual members of each family shared. These relationships continue to this day. I feel a profound connection with this culture that I do not often experience within my own. As such, when I began to learn of the largely unfortunate relationship that my country has with Latin America (both here and abroad) I felt a disappointment that will drive my work throughout my lifetime.

In honor of this passion, I dedicated my studies at Santa Clara University to Anthropology and Spanish. I graduated in 1998 with a major in each, and the hope that I would be able to utilize the knowledge I had acquired to be an advocate for the rights and security of the Latino community in the United States. Fortunately, I had found the East San Jose Community Law Center two semesters prior to graduation, and knew that my goals were immediately obtainable.

I began volunteering at the Center as a Spanish interpreter for monolingual clients and their law student counselors at the Immigration, Workers' Rights, and Workers' Compensation drop-in advice clinics. This opportunity allowed me to learn first-hand about the feelings and experiences of the clients, as I would interpret for them, word for word. I would also interpret the legal advice from the law students and attorneys, which was sometimes good news and sometimes not. This position provided me with a holistic perspective of the experience of the Latino immigrants, how they are viewed and treated by the law, and what their reactions to explanations of the law mean.

The clients that I interpreted for at the clinics came to the Center with a range of problems. All of the Center's clients are low-income and have limited or no access to legal counsel. At the Center they are advised by talented and experienced attorneys, and volunteers who are dedicated to providing needed advice to as many people as possible. Many of those attending the clinics had been hired to do work they were never paid for, and thus could not feed or contribute to their large families. One such client, a 20-year-old, had been working an average of 90 hours a week cleaning and maintaining apartments, and was rarely paid the wages he was due. Other clients came with work-related injuries for which their employers would provide no compensation. The employer of a roofer, whose fall from a third-story roof caused

him liver damage and a compound fracture, responded by denying that he knew the injured worker, thereby disqualifying the worker from compensation for his injury and subsequent inability to work. The injured worker came to the drop-in clinic with \$47,000 in medical bills, a need for further medical treatment, and no job. Still others came to the Center seeking immigration advice to become eligible for immigration benefits, such as asylum in the United States after having suffered past persecution in their countries of origin. A 21-year-old Peruvian told of his abduction from school in Lima by Shining Path guerrillas who physically abused him as punishment for his family's refusal to cooperate with the movement. He was one of three Peruvians who came to the Immigration Clinic that day seeking refuge in the United States.

Although as an interpreter, I was not the person advising the clients, I had a special relationship with each. My ability to speak their language and empathize with their situation created a rapport between us, as well as a feeling of mutual appreciation. This experience was immensely gratifying, though sometimes difficult. At times it required me to speak as though I were a battered spouse, a victim of persecution, or an individual in pain needing medical treatment she could not afford. It challenged me to conduct myself in a professional and compassionate manner at all times. I was consistently drawing on all of my strengths and skills, both academic and personal.

I later became an intern and began participating in cases the Center had accepted for full representation. This position provided me with the opportunity to go beyond individual advice sessions and to develop long-term relationships with the clients (and their families, in some cases). I had the benefit of feeling like I was not only helping the clients to communicate, but also actively working to resolve relevant legal issues. The first case that I became a part of was an asylum case. The client, Mr. Y, had fled El Salvador in search of refuge in the United States after his life had been repeatedly threatened, his property stolen or destroyed, and his wife sexually abused before his eyes by Salvadoran guerrillas. He left his family in hiding, and illegally entered the United States to try to create a safe passage for them. Shortly thereafter, Mr. Y came to an immigration clinic at the Center and his case was immediately accepted.

I interpreted for Mr. Y and learned about the immigration laws that affected him. After his interview with the INS, I was invited to accompany Mr. Y to the office where he would receive notice as to

whether his asylum application had been approved or denied. We were both nervous, knowing that if the application were denied he would be ordered to return to a place where his well being (and that of his family) would be threatened. One can only imagine our exultation when we learned that the application had been recommended for approval. The two of us stood in the middle of the office literally crying for joy and relief. Mr. Y asked me if he could hug me, explaining that he had no one else to share his happiness with.

After the INS had performed their routine background check on Mr. Y, he was granted asylum. He could, subsequently, apply for a work permit and residence in the United States, providing him with access to a wealth of benefits never before available to him. Soon he would petition to bring his family to California.

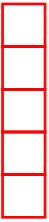
As a result of what I learned through my participation in this and other similar cases, I decided to write my senior anthropology thesis on the experiences of Salvadoran, Guatemalan, and Nicaraguan immigrants who had fled their home country in search of refuge in the United States. My thesis focused on (1) the quality of life of those immigrants in the United States; (2) the domestic and foreign politics that created the country conditions responsible for their migration; and (3) the differences in U.S. immigration law for individuals of each of the three countries, as determined by U.S. foreign policy in those countries. I was able to base most of my research on my observations of and interviews with clients and attorneys at the Center. I won the 1998 Krasowski Award for my thesis (an award for an outstanding research paper given by the SCU Departments of Anthropology and Sociology). I have since been hired as a paralegal and administrative assistant at the Center. I work half time in the Workers' Compensation area, and half time on any other case or project at the Center. My plans for the future are to pursue a Ph.D. in anthropology with an emphasis in Latin American studies. My experience at the Center is invaluable to my pursuit of related knowledge.

Opportunities for undergraduate students at the Center are not limited or tailored to those students desiring to attend law school. I am an example of a student whose interests include legal issues that impact the community, but whose overall focus in her studies is not the law. The Center works with low-income people from a wide variety of backgrounds who are in need of a variety of information. The Center is set up so that we have constant contact with these individuals, which enables us to learn a great deal about their daily lives. At the Center

there is truly something for everyone who is concerned with the lives of the poor.

In addition to the hands-on learning that the Center provides, there are also many opportunities for students to approach other students, volunteers, and attorneys to ask questions or discuss concerns. Center personnel maintain an open-door policy that provides access to the knowledge and experience of those who lead the work of the Center. The Center accomplishes its goals and tasks by way of a team effort, and playing on that team is an infinitely rewarding experience.

[Back to the Bannan Institute](#)



CALENDAR OF EVENTS

Of Kingfishers and Dragonflies Faith and Justice at the Core of Jesuit Education

Faith and justice are at the heart of the educational mission of Jesuit universities. This lecture will explore ways in which universities can study the cultural roots of faith and justice, and encourage dialogue about these important issues.

JOSEPH DAOUST, S.J., is currently the President of the Jesuit School of Theology at Berkeley and Professor of Religion and Society in the Graduate Theological Union there. Formerly Provincial of the Detroit Province Jesuits, in 1995 he was a delegate to the 34th General Congregation of the Society of Jesus.

LECTURE BY JOSEPH DAOUST, S.J.
Friday, October 15, 1999, 8:00 p.m.
Center for Performing Arts Recital Hall

Religion and Spirituality STRANGERS, RIVALS, OR PARTNERS

Many people who sincerely desire to live in a mindful, disciplined, and socially committed way have become alienated from the religion in which they were raised or even from religion in general, but they claim to be on a spiritual journey. This lecture will examine what, if any, relationship exists or should exist between religion and spirituality.

SANDRA M. SCHNEIDERS, I.H.M., is Professor of New Testament Studies and Spirituality at the Jesuit School of Theology and the Graduate Theological Union in Berkeley, California, where she has taught since 1976. She has been a member of the Sisters, Servants of the Immaculate Heart of Mary of Monroe, Michigan, since 1955.

LECTURE BY SANDRA SCHNEIDERS, I.H.M.

Sunday, February 6, 2000, 8:00 p.m.

Center for Performing Arts Recital Hall

Zen's Gift to Christianity

The centuries-long tradition of meditation in Buddhism can be a great gift to us and can help us in our attempts to pray and live with insight and energy. This lecture will draw on the Buddhist use of the koan, paradoxical teachings, to illustrate those areas of agreement between Buddhism and Christianity.

ROBERT KENNEDY, S.J., is Chair of the Theology Department at St. Peter's College, Jersey City, New Jersey, where he teaches Theology and Japanese. He is also a practicing psychotherapist in New York City and the author of *Zen Spirit, Christian Spirit*. He is active in inter-faith work, teaching Zen to persons of all faiths.

LECTURE BY ROBERT KENNEDY, S.J.

Sunday, April 9, 2000, 8:00 p.m.

Center for Performing Arts Recital Hall