

## **Nurturing Law Student Vision**

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The American Bar Association's Rule of Law Initiative (ROLI) "believes that rule of law promotion is the most effective long-term antidote to the pressing problems facing the world community today, including poverty, economic stagnation, and conflict." At the April 2009 Forum and Annual Meeting of the North Carolina Bar Association's International Law Section, a representative of ROLI described the impetus for that program, which seeks to promote the rule of law internationally, and listed reasons for judges, attorneys, and law professors to be involved. He started by declaring simply that "it's the right thing to do." In many law schools, such normative assertions occupy a somewhat awkward position.

Most of us educators are motivated at least in part by a desire to make a difference. We see in our students the potential to make the world a better place and we seek to equip them to do that – and through those who succeed we do some vicarious living, taking real satisfaction in the results of their efforts. Likewise, law school applicants write essays and speak in admissions interviews about confronting injustice and empowering the weak. They come to law school with admirable visions of service and restoration.

At the same time, those of us who have been involved in legal education for any significant period know well how the focus of our students changes. Indeed, we ourselves are not immune. And our tendency is to view that change in our students as inevitable, to adopt the cynic's stance that at least some of those applicant statements were less than genuine. That no doubt explains some of what we see. And some of the change is presumably attributable to an initial naiveté that dissipates with greater maturity and an increased appreciation for the practical realities of life. But we teachers, too – or at least the institutions and the systems we represent – bear some responsibility as well.

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We would do well to remind ourselves periodically of why it is we do what we do, why it is that we have come to this enterprise we call legal education, and what it is that motivates these changes. In my experience there are at least three factors that contribute to the degradation of the applicant vision and over which we have some control. First are the standards of success.

(1) At both the individual and the institutional levels, we measure success according to standards that have little or no connection with a priority for service – and indeed may be opposed to such a priority. Some of those standards, such as admissions test scores (e.g., the Law School Admission Test (LSAT) in the United States), offer objectively measurable indicia of competence, but they bear little if any relationship to students' underlying motivations. Such test scores, like grades later in law school and bar exam success thereafter, are often determinative of a student's available opportunities, whether law school options at the application stage or job choices following graduation. And institutions, by choice or coercion, come to be measured by these standards – their median test scores, the GPAs of their entering classes, survey rankings like that of U.S. News and World Report, results in moot court competitions, their graduates' average bar passage rates, and employment placement percentages – and they tout or make excuses for their medians, rates, and percentages depending on where they fall relative to those law schools they would either emulate or distinguish. Accreditation standards tend, understandably and to some degree necessarily, to reinforce the primacy of such measures.

(2) A second factor that operates to the detriment of law student vision is the financial load of securing an education in law. Most students borrow money to make it through law school, especially at institutions not publicly funded. The financial realities of carrying obligations of the equivalent of tens of thousands of dollars are harsh indeed. If those realities do not extinguish visions, they at least limit and delay their implementation.

(3) A third factor is law school pedagogy. In the Journal of Legal Education more than thirty years ago, Roger Cramton, former dean of the Cornell Law School, wrote about the impact of the traditional American legal education on the worldview of students. What he observed then is perhaps even more true today. In an article aptly entitled “The Ordinary Religion of the Law School Classroom,” he concluded the following:

Legal problems that have a routine and easy solution are not considered in law school. The student is faced with a steady diet of hard cases – borderline situations that might reasonably have been decided either way. Since there is a good argument both ways, and the case could reasonably have been decided either way, the student is led to believe that life is that way, that law is that way – there are no *right* answers, just *winning* arguments. This diet of borderline cases thus contributes to value skepticism.

Cramton, R., “The Ordinary Religion of the Law School Classroom,” 29 J. Legal Educ. 247, 254-55 (1978) (emphasis in original).

C.S. Lewis poignantly described the connection between the teaching skeptic's debunking of values and the student's character development. Virtue is one of the casualties: “We laugh at honour and are shocked to find traitors in our midst. We castrate and bid the geldings be fruitful.” Lewis, C.S., The Abolition of Man (HarperSanFrancisco 1944) at 26. We educators should consider soberly the influence we wield in the classroom and through the syllabus.

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Understanding and then addressing the influence of all three factors is made more complicated by the broader cultural context. Substantial elements in the popular media are relentless in their affirmation of material pursuits and narcissistic inclinations. The levers of cultural power are too often controlled by those whose agendas are largely self-centered. Truth is frequently either relativized or ignored altogether, and in both private dealings and public discourse the correlative virtue of honesty is too often the exception instead of the rule. Those who would make a difference outside themselves are faced with the practical realities of systems that are regularly manipulated to serve ends that run counter to justice and mercy. That culture must be consciously resisted if student vision is to be preserved or redeemed.

The example set by faculty is one potentially significant mechanism of cultural resistance. The way we teach, as well as what we teach, especially our substantive emphases, indicative as they are of our political and religious perspectives, communicate to our students, sometimes loudly, what it is that we believe is important. Similarly, our scholarship priorities presumably emanate from and therefore communicate something about our worldview. And, of course, the service in which we engage in both the broader university, outside our immediate law school contexts, and the wider communities in which we find ourselves says something significant about our values. Students hear that, too. In all of these messages, to the degree that they represent personal choices for us who are teachers, our students learn something about not only the universality of the seducing temptations with which they are dealing, but also the range of available options in responding to these pressures of culture.

Consider by way of mundane example what is communicated in the introduction of speakers or the sharing of “war stories.” Do we emphasize Ivy League degrees and big-firm experience? If we do, what does that say to the prospective student who is considering a non-Ivy law school because it is less expensive and specializes in equipping students for the nonprofit humanitarian relief world? If we dote on those who come from large corporate law firms, what does that communicate to our students about the jobs to which they should aspire?

Law school administrators – and deans in particular – have a key role in the resistance effort. To the extent that they direct faculty recruitment and hiring, they are in a position to encourage and mold that resistance through faculty modeling. To the extent that they oversee their institutions' disbursements of rewards or granting of privileges, they are in a position to influence student thinking about what is honorable and worthy of pursuit. To the extent that administrators influence institutional financial decisions, whether in the setting of tuition or in the establishment of loan forgiveness programs or in the development of donors, they are able to offer relief from the financial pressures that limit student employment choices in the nonprofit world and in similar arenas. And to the extent that law school administrators oversee curricular decisions and teaching methodology, they can influence how it is the learning of the law and the development of critical-thinking skills fit into a broader value system of real substance.

As an aside, one of our greatest challenges is to teach the law with passion and with high expectations of our students and at the same time to help them remember, or realize for

the first time, that law can never by itself be enough to establish and sustain a just society. See Solzhenitsyn, A., "A World Split Apart," Commencement Address at Harvard University (June 8, 1978), in Vital Speeches of the Day, at 680. The corruption scandals of recent years, whether involving lobbyists in the halls of government or overseers of multibillion dollar Ponzi schemes in the marketplace, testify to that proposition. These situations arose despite a regulatory environment the breadth and depth of which the world has never before seen. Law is necessary, but it is not sufficient. What is also needed is a populace that affirms virtue – and our students start out needing less persuasion on that point than when they finish.

In certain respects we find ourselves in that place in ancient Palestine where the question was asked in religious circles, "Is it lawful to pay the poll-tax?" The implication of the questioners was that such submission to secular authority amounted to capitulation inconsistent with faithfulness to a higher calling. Jesus of Nazareth answered the question by holding up a coin and asking whose likeness and inscription appeared on it. The answer, of course, was "Caesar's," and he said, "Then render to Caesar the things that are Caesar's; and to God the things that are God's." See Matthew 22:15-22. It would perhaps be well for us to communicate from time to time with our students a reminder that one can live in the world and not be of it, that maintaining a priority for justice while at the same time operating within a system that presses in other directions is not impossible, and in so reminding them to acknowledge the challenge that is presented – not only for them but for us faculty as well.

Where we go as educators to identify and define those values that encourage the pursuit of justice and service to one's neighbors is an important question. But regardless of the source of that input, we must be vigilant to guard against those forces that oppose these worthy pursuits. Law schools are populated by people who start out wanting to make a difference. Most saw injustice or other needs, either at a global level or in their local communities, or in places in between, and at some point concluded that learning the law would equip them to be part of the solution rather than the problem. May we not fall short in our opportunity to nurture those visions.