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# Democracy and Social Justice: Founding Centers for Social Justice in Law Schools

Stephanie M. Wildman

You can have wealth concentrated in the hands of a few, or democracy. But you cannot have both.

—Louis Brandeis<sup>1</sup>

Bill Moyers is angry, and he thinks we should get mad too. Calling for a mass social protest movement, he urged listeners at an Inequality Matters Forum to organize and to engage in “the fight of our lives.”<sup>2</sup>

Moyers noted that tuition at elite private schools, kindergarten through high school, will be \$26,000 per year. He juxtaposed this information with a description of a predominantly black school in the Bronx where the newest encyclopedia dates from 1991 with two volumes missing and the library has no card catalog or computer.

He told other stories of the victims of “corporate activism, intellectual propaganda, . . . and a string of political decisions favoring the powerful and the privileged . . . .” Moyers fears that American democracy has lost the balance between wealth and the commonwealth, to the detriment of all of us. Protecting democracy from ourselves, not from foreign terrorists, is indeed the fight of our lives.

Protecting democracy by combating inequality is the task of social justice lawyers. The practice of democracy mandates inclusion of the diverse populations of this nation into the social order. Social justice lawyers seek to give

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1. *Quoted in* Chuck Collins & Felice Yeskel, *Economic Apartheid in America: A Primer on Economic Inequality and Insecurity* 69 (New York, 2000).
2. *This Is the Fight of Our Lives*, address at New York University, June 3, 2004, <<http://www.commondreams.org/views04/0616-09.htm>> (last visited Aug. 5, 2005).

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material meaning to democratic ideals in the daily lives of individuals and communities that are marginalized, subordinated, and underrepresented.<sup>3</sup> “Social justice lawyering envisions the practice of law both on behalf of and alongside of subordinated peoples, with the efforts and achievements of members of the community a crucial aspect of the work.”<sup>4</sup> While lawyers are not the complete solution, lawyers remain a key ingredient needed to work with communities struggling in this fight of our lives.

Leaders in legal education and the bar have been calling on law schools to make consciousness about social justice pervasive in law schools and accessible to all students, even those who might choose other career paths. Elliott Milstein, the first clinical teacher to head the Association of American Law Schools, established an Equal Justice Initiative, convening nineteen equal justice colloquia around the country.<sup>5</sup> While the programmatic content was left to individual schools, the Equal Justice Initiative sought to create opportunities for law schools, working in conjunction with the equal justice community, to tackle legal inequality.<sup>6</sup> Dennis Archer, president of the American Bar

3. Martha R. Mahoney, John O. Calmore & Stephanie M. Wildman, *Social Justice: Professionals, Communities, and Law 1* (St. Paul, 2003) [hereinafter Mahoney et al., *Social Justice*]. The concept of social justice has been the source for much scholarship; for an extensive listing, see *id.* at 58–59. While this scholarship has not yielded a uniform definition, social justice embraces “substantive rather than formal equality.” *Id.* at 49. The casebook authors have emphasized the association of social justice with democratic ideals (inclusion, equality) and service to individuals and communities that are marginalized, subordinated, and underrepresented.

The concept of social justice merges intellectual traditions as diverse as Aristotle and Catholic social thought. In discussing “justice” in his *Nicomachean Ethics*, Aristotle expresses the core ideas for our modern concept of social justice. Elbert L. Robertson, *A Corrective Justice Theory of Antitrust Regulation*, 49 *Cath. U. L. Rev.* 741, 743 (2000). Aristotle defines a “just man” as one who is law-abiding and fair, while an “unjust man” is one who breaks the law and takes more than his share. The *Nicomachean Ethics* of Aristotle, trans. J. E. C. Welldon, 144 (New York, 1934) (1892). Aristotle’s definition of a “just man” embraces the belief that justice is not so much aimed at the individual, but rather directed at the interests of the community and the relationship that individual has with the community. *Id.* at 145–46. Thus, Aristotle views justice as a complete virtue: “Justice is the summary of all Virtue” because “he who possesses it can employ his virtue in relation to his neighbours and not merely by himself; for there are many people who are capable of exhibiting virtue at home, but incapable of exhibiting it in relation to their neighbours.” *Id.* at 146. The measure of social justice is how “we respond to the concerns of others through our laws.” Veryl Victoria Miles, *Assessing Modern Bankruptcy Law: An Example of Justice*, 36 *Santa Clara L. Rev.* 1025, 1025 (1996). Thus it is “the concerns and needs of the community to which we belong” that are central to social justice. *Id.*

Catholic social thought encourages following “the Gospel call to actively live out a faith that does justice.” Santa Clara University Campus Ministry, <<http://www.scu.edu/campusministry/Programs/programs.htm>> (last visited Aug. 5, 2005). See also Kathleen A. Brady, *Religious Organizations and Mandatory Collective Bargaining Under Federal and State Labor Laws: Freedom From and Freedom For*, 49 *Vill. L. Rev.* 77, 106–17 (2004) (describing principles of Catholic social thought).

4. Mahoney et al., *Social Justice*, *supra* note 3, at 5.
5. The AALS Equal Justice Project, AALS Section on Pro Bono & Pub. Serv. Opportunities Newsl., Fall 2000, at 3; Association of American Law Schools Equal Justice Report: Pursuing Equal Justice: Law Schools and the Provision of Legal Services 1 (Washington, 2002), available at <[http://www.aals.org/equaljustice/final\\_report.pdf](http://www.aals.org/equaljustice/final_report.pdf)> (last visited Aug. 5, 2005) [hereinafter *Equal Justice Report*].
6. *Equal Justice Report*, *supra* note 5, at 5. The initiative was also the subject of the plenary session at the AALS annual meeting in 2001.

Association, also highlighted the need for the legal system to promote access and diversity, especially in education.<sup>7</sup> These calls to action have generated meaningful conferences, but legal educators must begin thinking about how to institutionalize consciousness about social justice as part of the canon of legal education.

I believe that most students attend law school because they are interested in and concerned about social justice. Yet legal educators have not done enough historically to ensure that students graduate with that interest intact. Interest in equal access to justice, combating inequality, and promoting diversity is not new, nor is the urgency of these topics. In 1918 Reginald Heber Smith wrote:

Freedom and equality of justice are twin fundamental conceptions of American jurisprudence. Together they form the basic principle on which our entire plan for the administration of justice is built. They are so deep-rooted in the body and spirit of our laws that the very meaning which we ascribe to the word justice embraces them. A system which created class distinctions, having one law for the rich and another for the poor, which was a respecter of persons, granting its protection to one citizen and denying it to his fellow, we would unhesitatingly condemn as unjust, as devoid of those essentials without which there can be no justice.<sup>8</sup>

Echoing Smith, President Jimmy Carter also charged that legal resources are not appropriately distributed. He complained that “ninety percent of our lawyers serve ten percent of our people.”<sup>9</sup> Robert Granfield has noted the increasing inequality in the provision of legal services:

In Massachusetts alone, the number of lawyers who provide legal services to the state’s poor has dropped by 24 percent in six years, while the number of clients seeking such services has risen dramatically. In Denver, the local Legal Aid Society turns away as many as 650 persons in need of legal assistance each month. Over one-third of the 1,500 inmates presently on Death Row are without legal representation. Few of the nation’s poor are able to acquire legal advice on eviction. It has been estimated that our nation’s poor receive only about 20 percent of the legal services they require.<sup>10</sup>

According to Judith L. Maute, an ABA study estimates that nearly half of the poverty population needs legal services each year.<sup>11</sup>

7. See Dennis W. Archer, Local Comment: Progressing After *Brown v. Board*: 50 Years After Landmark Education Decision, More Has to Be Done, *Detroit Free Press*, Mar. 25, 2004, available at <[http://www.freep.com/voices/columnists/earch25\\_20040325.htm](http://www.freep.com/voices/columnists/earch25_20040325.htm)> (last visited Aug. 5, 2005). Deborah Rhode has also voiced repeated concern over the lack of access to professional legal services. See, e.g., Access to Justice: How the American Legal System Fails Those Who Need It Most, lecture at Harvard University Center for Ethics and the Professions (Oct. 16, 2003) available at <<http://www.ethics.harvard.edu/NewsArchive.php?id=40>> (last visited Aug. 12, 2005).

8. *Justice and the Poor* 3 (New York, 1919).

9. Quoted in Robert Granfield, *Making Elite Lawyers: Visions of Law at Harvard and Beyond* 4 (New York, 1992).

10. Granfield, *supra* note 9, at 4.

11. Pro Bono Publico in Oklahoma: Time for Change, 53 *Okla. L. Rev.* 527, 557 (2000) (citing Roy W. Reese & Carolyn A. Elred, American Bar Association, *Legal Needs Among Low-Income and Moderate Income Household: Summary of Findings from the Comprehensive Legal Needs Study 7-8* (1994)).

The pattern of lack of access to legal services continues:

The Bureau of the Census—an arm of the Commerce Department—says that there are 912,000 lawyers in the United States as of 1998, a figure that swells to 951,000 if judges and their legal staffs are included. . . . According to the best estimates available, the number of lawyers who regularly represent the poor in civil cases is about 6,000. . . . [T]he fact remains that fewer than one percent of our nation's lawyers provide legal services to the poor.<sup>12</sup>

Thus, in spite of bar and academic leaders' call for change, few lawyers serve the needs of disenfranchised clients.

Any hope for change in this pattern must begin with professional education. As the gatekeepers for the profession, law schools play a critical role in educating students for social justice. Two groups of students attend law school: those who wish to pursue careers in public interest and social justice work and the rest of the student population, who need to understand that access to justice is the province of all lawyers. Legal education need not dissociate students from the aspiration for justice that motivated many of them to choose law as a profession.

An anecdote reveals the deeply felt need that students have to connect their education to social justice. In a room overflowing with law students, an attorney described a fifteen-year pro bono project in which he represented a death row inmate who had not been afforded adequate representation. The captivated audience listened attentively while the attorney related details of his work on the case, with many nodding as the attorney reflected on the idea that legal professionalism should include public service and the quest for justice.<sup>13</sup> The notion of a professional as someone dedicated to public service and to the provision of justice needs to attain more prominence in legal education.

Increasing diversity in the legal profession is also a central concern in the social justice education project. The urgent need for access to the judicial system continues at a time when attacks on affirmative action in Texas and California have drastically affected the numbers of students of color enrolling in law schools in those states.<sup>14</sup> These state institutions have been successful

12. David C. Vladeck, *Hard Choices: Thoughts for New Lawyers*, 10 Kan. J.L. & Pub. Pol'y 351, 352 (2001).
13. Stephanie M. Wildman, *Instilling Purpose: Courses in Justice Need to Be a Part of Every Law Student's Legal Education*, Los Angeles Daily J., Feb. 5, 2001, at 18, available at <[http://www.scu.edu/law/client/pdf/socialjustice\\_instilling\\_purpose.pdf](http://www.scu.edu/law/client/pdf/socialjustice_instilling_purpose.pdf)> (last visited Aug. 6, 2005).
14. As to admission and enrollment consequences of these attacks on affirmative action, see Ryan Fortson, *Affirmative Action, the Bell Curve, and Law School Admissions*, 24 Seattle U. L. Rev. 1087, 1114 (2001) ("The number of minority applications and admissions declined even more dramatically after *Hopwood v. Texas* and Proposition 209 in California prohibiting the use of race in admissions at state universities. For example, there were 19 African Americans and 26 Hispanics in an entering class of about 290 at the UCLA School of Law in 1996, the year before Proposition 209 went into effect. In the entering class of 1999, there were 17 Hispanics and only two African Americans. At Boalt Hall School of Law at the University of California at Berkeley, there was only one African American in the entering class of 1997, and that student had deferred admission from the previous year. The following year, Boalt received 20% fewer applications from African Americans, despite an increase of 10% in overall applications. After *Hopwood*, minority applications at the University of Texas

feeder schools into the legal profession. Studies show that people of color, in numbers disproportionate to their white colleagues, choose to serve communities that are subordinated and underrepresented.<sup>15</sup> The availability of lawyers to marginalized communities affects not only the individuals who need legal services, but also the nature of cases brought and the legal rules that may prevail. As Cruz Reynoso has explained:

I can point to the program established in New Mexico fifteen to twenty years ago to bring Native Americans into the legal profession. When that program was first established you could count on the fingers of one hand the number of Native American lawyers nationwide. . . . [This program annually] placed between thirty and fifty Native Americans in law schools around the country. In but a few years, there were literally hundreds of Native American lawyers.

Soon we started seeing cases coming out of Arizona, for example, in which Native American tribes sued to receive water that they were entitled to under treaties. Rights mean nothing if nobody enforces them.<sup>16</sup>

Diversifying the legal profession, especially by including attorneys from disenfranchised communities, enhances the potential for a representative democracy in which participants can influence decisions that have impact on their lives.<sup>17</sup>

Diversity, of course, has been a critical issue in California and at Boalt Hall, where one response to the restrictions on affirmative action was the formation of the Boalt Center for Social Justice. The creation of such centers is part of the growing national consciousness that legal educators need to do more for

Law School, which once produced more minority lawyers than any other law school in the country, dropped by over half for African Americans the year following the decision, down from 225 to 111.”); Michael K. Brown et al., *Whitewashing Race* 269 n.127 (Berkeley, 2003) (“When the University of California eliminated affirmative action from admissions decisions, reliance on traditional numerical indicators sharply reduced the number of minority students admitted to law schools. At three of California’s public law schools (Boalt, UC Davis, and UCLA), white enrollments rose from 60 percent of all first-year students to 72 percent, while black and Latino enrollments plummeted and Asian American enrollments were largely unchanged.”)

15. See, e.g., David L. Chambers, *Michigan’s Minority Graduates in Practice: The River Runs Through Law School*, 25 *Law & Soc. Inquiry* 395, 401 (2000) (“All Michigan alumni are disproportionately likely to serve same-race clients, so minority alumni provide, on average, considerably more service to minority clients than white alumni do. Among those Michigan graduates who enter the private practice of law, minority alumni tend to do more pro bono work, sit on the boards of more community organizations, and do more mentoring of younger attorneys than white alumni do.”); Brief of Amici Curiae, the New Mexico Hispanic Bar Association, the New Mexico Black Lawyers Association, and the New Mexico Indian Bar Association, in support of the respondents in *Gutter v. Bollinger*, 539 U.S. 306 (2003), published in 14 *Berkeley La Raza L.J.* 51, 63–64 (2003) (“[R]esearch establishes that minority doctors and lawyers are substantially more likely to provide services to underserved populations than non-minority professionals. . . . Minority lawyers have statistically higher rates of both serving minority and poor communities and being socially active than their White counterparts.”).
16. *Educational Equity*, 36 *UCLA L. Rev.* 107, 111 (1988).
17. Centers for social justice can help foster a climate that welcomes disenfranchised group members by presenting courses and extracurricular speakers that address issues that affect their communities and concerns.

students who come to law school because they care about justice and to provide support for the diverse student population.

Increasingly, faculty and deans have been founding centers and institutes in social justice law. The creation of these centers leads a cutting-edge trend, ensuring that social justice issues have a place in legal education.<sup>18</sup> They mark a philosophical change in legal education that has policy implications nationally. Centers create a way for their associates to be change agents, seeking to make the institutions responsive to the needs of students, the community, and educators. I have been privileged to work with centers at both Boalt Hall and Santa Clara University,<sup>19</sup> so they serve as my examples for how institutions can build social justice programs.

Now is a fruitful time for strategic thinking about social justice and legal education and for examining the institutional structures within law schools.<sup>20</sup> Establishing centers for social justice creates a site for legal work representing marginalized, subordinated, and underrepresented clients and causes. A center or institute makes this work both visible and accessible. A social justice center serves two constituencies. First, social justice and public service need to be part of the professional training of all lawyers. Second, because some

18. Internet searches during 2003 and 2004 found a number of schools that devote Web space to social justice and/or public interest programs. See *infra* note 24 for a discussion of the choice of “social justice” and “public interest” language.

Law schools with centers, institutes, or initiatives that have the phrase “social justice” in the name include Columbia (Social Justice Initiatives); Howard (Institute for Intellectual Property and Social Justice); Pace (Social Justice Center); Santa Clara (Center for Social Justice and Public Service); Seton Hall (Center for Social Justice); Thomas Jefferson (Center for Law and Social Justice); U.C. Berkeley (Center for Social Justice). See also NYU (Brennan Center for Justice); Hamline (social justice concentration).

Additionally, many law schools support programs either specifically named “public interest” or including aspects of such programming—pro bono projects, clinical programs, loan forgiveness, career counseling, internships, research projects, fellowships. See, e.g., Brooklyn (Edward V. Sparer Public Interest Law Fellowship); Columbia (Center for Public Interest Law); Duke; Georgetown; Loyola (Public Interest Law Department); Harvard (Civil Rights Project); NYU (Public Interest Law Center); Seattle (Access to Justice Institute); Stanford; Tulane; U.C. Davis (Public Service Law program); UCLA (Program in Public Law and Policy); Michigan; San Diego (Center for Public Interest Law); Texas (Center for Public Interest Law); Virginia (Mortimer Caplin Public Service Center); Nevada—Las Vegas (Community Service Program); Pennsylvania (Public Service Program); Wisconsin; Yale (Arthur Liman Public Interest Fellowship and Fund).

19. Santa Clara University School of Law has a history of institution building for social justice. Richard Berg, Nancy Wright, and Eric Wright, with others, created a Public Interest and Social Justice Endowment to fund student summer work and the East San José (now Alexander) Community Law Center to serve low-income residents in Santa Clara County. Working in conjunction with the Society of American Law Teachers and the University of San Francisco School of Law, Nancy Wright and Eric Wright established the Trina Grillo Public Interest and Social Justice Law Retreat. See <<http://www.salclaw.org/publicinterest.htm>> (last visited Aug. 6, 2005) for more information on Grillo and other retreats.

Boalt Hall has a tradition of student activism, especially for integrating the legal academy. Sumi Cho & Robert Westley, *Critical Race Coalitions: Key Movements That Performed the Theory*, 33 U.C. Davis L. Rev. 1377 (2000). The faculty involved in founding their Center for Social Justice understood the critical need to educate the diverse population that will be the next generation of lawyers.

20. Thomson-West recently published the first casebook with “social justice” as its title. See Mahoney et al., *Social Justice*, *supra* note 3.

students will choose this career path, they need training, direction, and education in how to pursue their social justice goals.<sup>21</sup> Coordinating the faculty's and the institution's social justice work and making that work visible will attract strong students to legal education as well. A longer-term part of the project needs to be outreach to undergraduate institutions and high schools in order to attract those students who might otherwise never consider social justice lawyering as their life's work.<sup>22</sup>

As we think about institutionalizing legal training for social justice work, it is important to look at the broader picture. Clinical legal educators have been pioneers in offering students direct experience in working for social justice.<sup>23</sup> But clinical faculty cannot do this work alone. Clinicians have been marginalized in many law schools, indeed within legal education itself. Law schools have been ambivalent, at best, about the costs of clinical education when packing 140 students into a room saves the law school money.

21. See Jane H. Aiken, *Provocateurs for Justice*, 7 *Clinical L. Rev.* 287 (2001).
22. See, e.g., Lorraine K. Bannai & Marie Eaton, *Fostering Diversity in the Legal Profession: A Model for Preparing Minority and Other Non-Traditional Students for Law School*, 31 *U.S.F. L. Rev.* 821 (1997) (describing a program at Western Washington University).
23. Mahoney, et al., *supra* note 3, at 208 ("clinical education may play a particularly significant role for those who engage in social justice lawyering"). Commentators affirm the historic connection between the role of law school clinics and public interest and social justice education. Gary Bellow & Bea Moulton, *The Lawyering Process: Materials for Clinical Instruction in Advocacy* (Mineola, N.Y., 1978); Frank Askin, *A Law School Where Students Don't Just Learn the Law; They Help Make the Law*, 51 *Rutgers L. Rev.* 855, 856 (1999) ("Among . . . important contributions of law school clinics to legal education and the legal process are: (1) offering a practical vision of law as an instrument of social justice; (2) providing an opportunity for students (and a road map for lawyers) to have real social impact and create new and better law under a system of self-government; (3) learning to deal with the ambiguity of facts and the uncertainty of the law; and (4) providing individuals with a principled basis for reflective, responsible lawyering."); David Barnhizer, *The University Ideal and Clinical Legal Education*, 35 *N.Y.L. Sch. L. Rev.* 87, 88 (1990) (asserting that legal clinics help establish a sense of social justice, legal skills, and professional responsibility); Arturo J. Carrillo, *Bringing International Law Home: The Innovative Role of Human Rights Clinics in the Transnational Legal Process*, 35 *Colum. Hum. Rts. L. Rev.* 527, 533 (2004) ("[S]ocial justice mission is at the very heart of the clinical legal education movement in the United States."); Jon C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 *SMU L. Rev.* 1461 (1998) (discussing how clinical legal education furthers social justice imperatives); Steven Hartwell, *Moral Development, Ethical Conduct, and Clinical Education*, 35 *N.Y.L. Sch. L. Rev.* 131, 133 (1990) (demonstrating how clinical education fosters moral development and influences the ethical conduct of future lawyers); Frances M. Nicastro, *Southern Christian: A Call for Extra-Constitutional Remedies, Legal Clinical Education, and Social Justice*, 15 *Notre Dame J.L. Ethics & Pub. Pol'y* 333, 351 (2001) ("Given the history of clinical education, it is clear that it is aimed not only at increasing the skills of law students, but also towards meeting the goals of indigent persons. Since there is also an overarching need for lawyers to provide legal services to underrepresented communities in society, it appears that clinical education is the most viable solution to both the legal education and social justice quandary."); Thomas L. Shaffer, *On Teaching Legal Ethics with Stories About Clients*, 39 *Wm. & Mary L. Rev.* 421 (1998) (discussing legal aid clinics as centers for student moral development); Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 *Fordham L. Rev.* 1929, 1930 (2002) ("[T]he law school clinic is the primary place in the law school where students can learn to be competent, ethical, socially responsible lawyers."). See also Nan D. Hunter, *Lawyering for Social Justice*, 72 *N.Y.U. L. Rev.* 1022 (1997) (discussing literature on "critical lawyering" derived "primarily from clinical law teachers").



In founding their centers, both Santa Clara and Boalt began by looking at all the parts of the law school that were related to social justice, public interest, and public service.<sup>24</sup> Each school had many such pieces, but they were not sensibly organized within the institutional framework and not easily accessible to students, applicants, or foundations. By weaving together these separate elements, both schools are making the whole greater than the sum of the parts.

Communication and inclusion are preeminent institutional values for building a center. Key components of a successful social justice program include a curriculum that coordinates theory with practice in the traditional classroom and clinical settings; faculty scholarship and related social justice practice; involvement of students, student groups, and staff; an intellectual climate that promotes extracurricular events and work with other centers of specialization within the law school and university; and alumni/community relations and fundraising.

### Communication and Inclusion

Communication and inclusion are critical to a social justice program. Communication ensures that students, faculty, staff, and graduates will learn about the program. Valuing inclusion assures that everyone will feel welcome. Evaluate communication by assessing the institutional culture, including how information about events circulates, how faculty learn about each other's work, how students learn about faculty interests, and how students link with other students. Conventional communication methods at Boalt and Santa Clara include paper notices on bulletin boards and in mailboxes as well as electronic messages by e-mail, Web site, and weekly school bulletin. The most effective means of reaching students at Santa Clara is often by writing on the white boards in classrooms. Publishing a beginning-of-semester calendar, showing scheduled events, encourages everyone to save dates. This multilayered communication effort requires institutional staff resources.

Brand-naming events also builds institutional awareness. For example, both schools have a regular speaker series, meeting eight to ten times throughout the academic year, called Social Justice Mondays.<sup>25</sup> That brand-naming encourages faculty, staff, and students to think on Monday, "Is there a social

24. "Public interest law" has become an overinclusive term. Originally identified with progressive advocacy, today "conservative and reactionary advocates have effectively rearticulated and redeployed the term 'public interest.' These advocates now oppose many of the causes that the earlier public interest lawyers sought to advance." John O. Calmore, "Chasing the Wind": Pursuing Social Justice, Overcoming Legal Miseducation, and Engaging in Professional Resocialization, 37 Loy. L.A. L. Rev. 1167, 1169 (2004). Many organizations and lawyers who embrace the phrase "public interest" continue to do good work. But "the broad term 'public interest law' no longer fully captures either the commitment to work on behalf of marginalized, subordinated, and underrepresented clients and communities or the value placed on transformation that characterizes lawyering for social justice." Mahoney et al., *Social Justice*, *supra* note 3, at 4-5.

25. Brand-naming also supports endowment opportunities. Boalt's sessions are named Ruth Chance Social Justice Mondays in memory of a dedicated social justice alumna who served on the board of Equal Rights Advocates for many years.

justice event today?" Similarly, a reading group for first-year students bears the name Social Justice Thursdays.

Groups and individuals who are part of the social justice project need to meet regularly to foster communication and build institutional culture. For example, the Santa Clara center's advisory board meets twice a semester. Such a board ideally includes students, faculty, staff, and alumni. Building a board like this can take years. A separate student board also meets four times a year. It gives valuable feedback and planning suggestions, provides person power for events, and aids coordination of student group activities that relate to social justice.

Establishing a solid communication network requires valuing inclusion, a basic democratic objective. Inclusion is hard to achieve. Students in law school often feel alienated from their education, themselves, and each other. This alienation worsens when students confuse it with the professional persona that they feel they must adopt. Faculty, staff, and alumni may also feel disaffected or alienated in their jobs. Not infrequently I receive messages from practicing lawyers who complain of this alienation. A recent note said, "I have become a completely empty shell of the person I used to be." These lawyers seek connection to social justice work as a way to heal their professional emptiness. Similarly, many students who came to law school because they care about justice are surprised to feel the absence of that connection during their first year. Thus a link to social justice work provides a vehicle to foster inclusion and to curb professional alienation.

Professional alienation outside of the law schools remains rampant. For several decades lawyers have bemoaned the fact that the profession has changed and become more like a business, concerned only with bottom lines and billable hours. Coinciding with these developments have been reports of attorneys' increasing dissatisfaction with their jobs and their roles as lawyers.<sup>26</sup> Patrick J. Schiltz has described this professionalization that causes lawyers to lead unhealthy, unhappy, and unethical lives as they become increasingly alienated. Schiltz notes that lawyers do not reflect on the craziness of their lives any more than buffalo meditate about stampeding.<sup>27</sup> Law students, however, do have time to reflect before joining the stampede.

John Calmore urges law students to accept a resocialization away from the alienating norms of the profession.<sup>28</sup> Valuing inclusion, so that these students, lawyers, and the law school community feel part of an effort toward social justice, is an important first step in that resocialization. The presence of a

26. For sources discussing the growing number of lawyers dissatisfied with the practice of law and the various reasons for this dissatisfaction, see Donald Patrick Harris, *Let's Make Lawyers Happy: Advocating Mandatory Pro Bono*, 19 N. Ill. U. L. Rev. 287, 308 n.136 (1999). See also Jean Stefancic & Richard Delgado, *How Lawyers Lose Their Way: How a Profession Fails Its Creative Minds* (Durham, N.C., 2005).

27. On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession, 52 Vand. L. Rev. 871, 905 (1999). Schiltz describes lawyers as "among the most depressed people in America" with elevated levels of anxiety and hostility. *Id.* at 874. He also catalogs surveys reporting on career dissatisfaction among lawyers. *Id.* at 881-89.

28. Calmore, *supra* note 24.

center helps students see that they are not alone in caring about social justice; it reminds all of us that the work is ongoing. Consciousness about diversity aids the effort toward inclusion and combats alienation. Race consciousness may be unpopular in contemporary culture, but thinking about race, gender, sexual orientation, disability, and all significant identity categories both ensures diversity in subjects and speakers and helps to check the human tendency to replicate comfortable networks that only mirror oneself.

### **Curriculum: Coordinating Theory and Practice in the Traditional Classroom and Clinic**

Curricular reform is a minefield for any faculty. Processes for achieving reform vary by law school, but periodically institutions do review course offerings. This section describes curricular possibilities for different stages of reform.

Ideally the core of any social justice curriculum should include at least one seminar that students are encouraged to take in their second year, although a first-year elective course is another option. Such a class, whenever offered, provides a community-building experience for students and serves as an introduction to both scholarship and case law, providing theoretical underpinnings to social justice work. Santa Clara offers two core seminars, *Law and Social Justice*<sup>29</sup> and *Public Interest and Social Justice Practice*.<sup>30</sup> In addition to the core courses, students take at least one class that focuses on issues related to marginalized, subordinated, and underrepresented clients and causes.

29. Course description for *Law and Social Justice* (Law 268):

Work toward social justice is part of the professional responsibility of all lawyers, and an aspiration for social justice animates many law students. This course provides an opportunity to consider the relationship between law and social justice in several different contexts, including the structure of the legal profession and the delivery of legal services; the efforts to achieve social justice and civil rights through litigation in work, subsistence, housing, and procedural due process; the problem of access to courts and the role of the judiciary; and the role of lawyers working with community movements. To ground these theoretical explorations in real-life practice, the course will feature presentations by practitioners who work in the area of public interest and social justice.

Instead of a final exam or research paper, students will work in teams to produce written "case studies" of a Bay Area social justice lawyering topic of their choosing. At the end of the semester, we will hold a day-long mini-conference for students to present their work to faculty, students, and interested members of the Santa Clara and Bay Area social justice community.

See <[http://www.scu.edu/law/academics/courses/cor\\_1146.html](http://www.scu.edu/law/academics/courses/cor_1146.html)> (last visited Aug. 6, 2005).

30. Course description for *Public Interest and Social Justice Practice* (Law 408):

A how-to course emphasizing tactical considerations in public interest practice and the need for creativity by lawyers. The class materials prepared by the instructor are law review and other articles and pleadings, briefs, and other papers filed in public interest cases. Students must work on an actual or simulated public interest case or similar project such as legislative advocacy. They gather information, make strategic decisions, prepare memoranda and other legal papers, and present their projects to the class. Other topics such as attorneys' fees, alternative dispute resolution, and legislative advocacy are also explored.

See <[www.scu.edu/law/academics/courses/cor\\_1181.html](http://www.scu.edu/law/academics/courses/cor_1181.html)> (last visited Aug. 12, 2005).

Multiple choices include Race, Racism, and Law; Gender and Law; Sexual Orientation and Law; Disability Law; and Consumer Protection.<sup>31</sup> The core curriculum also recommends that students take clinical classes.

Key in any social justice curriculum is a close connection with supervised clinical instruction. Boalt's center works with the East Bay Community Law Center.<sup>32</sup> Santa Clara law students take classes connected to the Katherine and George Alexander Community Law Center<sup>33</sup> and the Northern California Innocence Project.<sup>34</sup> These offices serve as a laboratory for students to engage in community-based lawyering under supervision with a practice course associated with that clinical work.

A core social justice class can take different forms, including a lecture-size class to first-year students, a writing course, or a more traditional seminar course. Martha Mahoney has been teaching Public Interest Law as a first-year elective at Miami since 1995. She has taught between fifty and ninety first-year students, and now she caps the course at sixty to seventy.<sup>35</sup> John Calmore has

31. Another course that introduces students to the rich literature on underrepresented groups and introduces them to contemporary legal theory could be based on the materials developed in Leslie Bender & Daan Braveman, *Power, Privilege, and the Law: A Civil Rights Reader* (St. Paul, 1995).

32. See the EBCLC Web site at <<http://www.ebclc.org/mission.html>> (last visited Aug. 12, 2005) ("A core value of our society is equal access to justice. The complex nature of the legal system limits equal access, especially for people in poverty and those faced with language and cultural barriers. Well-trained legal advocates should be available to all people, regardless of economic status." EBCLC works on these issues by providing "hands-on clinical education to law students to make these future lawyers aware of indigent communities" and "desperately needed legal services to the low-income community in the areas of housing, welfare, HIV/AIDS, homelessness, and community economic development.").

Boalt's clinical program provides "opportunities for students to work on real cases as part of their legal education." Students participate in a variety of clinical projects that provide legal services directly to individual clients, such as assisting a victim of domestic violence, fighting for the rights of children in international tribunals, arguing in a federal court, helping an HIV-positive mother with her legal needs, or representing a child in a guardianship proceeding. See the program's Web site at <<http://www.law.berkeley.edu/cenpro/clinical/>> (last visited Aug. 12, 2005).

33. Formerly the East San José Community Law Center. See <[http://www.scu.edu/law/kgaclc/about\\_us.html](http://www.scu.edu/law/kgaclc/about_us.html)> (last visited Aug. 7, 2005). The Katherine and George Alexander Community Law Center provides "pro bono advice and representation in several areas including workers' rights, workers' compensation, consumer rights, and immigration rights."

34. "The NCIP, a part of the National Innocence Network, works within an educational framework to exonerate indigent California prisoners who have been wrongly convicted. . . . NCIP is dedicated to raising public awareness about the prevalence and causes of wrongful conviction as well as promoting substantive legal reforms to prevent future wrongful convictions." See <[http://www.scu.edu/law/socialjustice/ncip\\_what\\_we\\_do.html](http://www.scu.edu/law/socialjustice/ncip_what_we_do.html)> (last visited Aug. 7, 2005).

35. Mahoney explains:

There are many advantages to teaching Public Interest Law in the first year. Since it became a first-year elective, students have become more likely to take summer internships in public interest jobs. They explain to other students that it is really possible to go to law school and go forth and change the world, to work at creative and interesting public service positions even though they have borrowed for their education, and that there are many ways to be a lawyer who makes a difference. They often volunteer to work for lawyers they have met through their studies or who spoke in the course. A number of students have identified their future lines of work through this course and

incorporated writing assignments into his Social Justice Lawyering course at the University of North Carolina, teaching ten to twenty-five students.<sup>36</sup> I have taught a more traditional seminar class at both Boalt and Santa Clara. For some students this seminar is the first opportunity to discuss social justice issues in a classroom setting. The course requires students to work in groups on a case study, examining a social justice issue. The case study assignment gives students a different kind of writing practice and helps them to build their own network in the community, where they talk with all the players related to their social justice subject.<sup>37</sup>

have been able to tailor their 2nd and 3rd year studies to their plans. Some have met their future employers through the case studies and guest speakers that are part of the course.

Perhaps most importantly, the students meet each other. They form a nucleus of engagement and activism that works in many positive ways within the institution. Years ago, Robert Stover pointed out that many law professors tell students they can do public interest work, but students often tell each other that it is not really possible or it is not intellectually exciting. By creating a dynamic atmosphere among students and introducing first year students to lawyers who have had fascinating careers, the course rebuts these myths. Students develop networking ties across first-year sections that would not be achieved by their involvement in a group of different student clubs. They get off-campus for the first time during the first year. For the many students who have moved to a new community for law school, this is their introduction to the place in which they now live as well as to lawyering for social change.

Martha R. Mahoney, John O. Calmore & Stephanie M. Wildman, *Teacher's Manual to accompany Mahoney et al., Social Justice*, *supra* note 3, at 3 [hereinafter Mahoney et al., *Teacher's Manual*].

36. Calmore elaborates:

Whether taught as a writing course per se or as a course that incorporates some writing exercises, there are many benefits for students and professors when writing assignments are given. . . . Writing assignments provide a practical aspect to social justice lawyering and reflect some of the larger benefits that the course tries to provide, including support for training more sensitive and understanding attorneys, providing an outlet for student voices, and exploring the attorney's role in creatively developing the law. Writing assignments provide an opportunity to engage in some of the alternative pedagogies, such as journals, reflection pieces, strategic use of the media. As Edwards and Vance point out, "Using alternative approaches in legal writing teaches the value of both the legal voice and the personal voice, especially the voice of 'outsiders.'"

*Id.* at 4.

37. Topics in fall 2003 included:

Actual Innocence: Who Has Standing to Sue for Wrongful Convictions?  
 Arbitration in a Consumer Law Context  
 Can Communities Make Change? The Disaster Registry Program Experience  
 Diversity of Implementation of Proposition 36  
 Firearm Marketing: Responsibility and Liability  
 Inside or Outside: The Debate over Open Proceedings in Juvenile and Dependency Courts  
 Predatory Lending  
 Representing the Wrongfully Convicted in Post-Conviction Relief

For other examples of case studies on social justice issues, see Penda Hair, *Louder than Words: Lawyers, Communities and the Struggle for Justice* (New York, 2001).

These courses all use the book *Social Justice: Professionals, Communities, and Law*.<sup>38</sup> The text's premise is that social justice lawyering involves three interrelated components: (1) the organization of the profession (bringing lawyers into contact with people in need of legal services), (2) work to carve out legal claims on behalf of oppressed and underrepresented people and to defend victories that have been won, and (3) struggles for justice in the lives of people and communities for whom lawyers are only a small part of the story.

The book provides material to study these three interrelated subjects together. Part I, "A System of Lawyers: The Legal Profession and Work for Social Justice," covers the structure of the profession, delivery of legal services, and professional responsibility and ethics. Part II, "A System of Law: Shaping Claims in Social Justice Cases," surveys claims of social justice and civil rights as well as questions of access to the courts and the abuse of the power of law. Part III, "A System of Politics: Legal Work and Social Change," explores the way lawyers work with communities in three areas of struggle toward social justice: urban equality, domestic violence, and rights of sexual minorities. These areas not only signify race, gender, and sexual orientation but also represent three ways of defining community. The urban setting demonstrates geographic community; those resisting crimes against women have formed a community based on a common cause; and the sexual-identity-based community exemplifies an identity connection. In each of these communities, struggles toward legal change continue, with both victories and setbacks. Work toward social justice is the province of all lawyers. Therefore, while professional responsibility is covered at length in Part I of the textbook, it is developed further in notes, hypotheticals, and additional readings in every section. Examples of different types of social justice practices also appear throughout the text.<sup>39</sup>

The Santa Clara law school offers a Certificate in Public Interest and Social Justice Law. Students electing to concentrate in social justice law may receive this certificate at a special graduation ceremony with additional recognition at the law school graduation. The certificate requirements include fifteen academic units in approved courses, completion of a satisfactory writing project, a public interest and social justice law practicum of 150 hours, and twenty-five hours of public service.<sup>40</sup> Students may elect to earn this certificate with an emphasis on consumer law, criminal justice, or critical race jurisprudence.

Schools that hope to implement a certificate program can begin with a recommended course sequence or group relevant courses to make them accessible to students.<sup>41</sup> At most law schools many courses relate to themes in social justice or are part of the foundational education for someone entering a social justice practice. Whether by an established certificate program or course

38. Mahoney et al., *Social Justice*, *supra* note 3. The Teacher's Manual, *supra* note 35, provides sample syllabi for all three course variations.

39. Mahoney et al., *Teacher's Manual*, *supra* note 35, at 211 (Appendix on Social Justice Lawyering within the casebook text).

40. See <<http://www.scu.edu/law/socialjustice/certificate.html>> (last visited Aug. 7, 2005).

41. Advising document for Boalt students is on file with the author. See also Boalt's Social Justice Curriculum at <<http://www.law.berkeley.edu/cenpro/csj/curriculum.html>> (last visited Aug. 7, 2005).

guidelines, it is imperative to organize offerings into an advising document to help students navigate their legal education and to ensure that they take classes that will help them achieve their goals. The document can make recommendations for pro bono work and extracurricular activities as well as for skills and clinical courses.

### **Faculty Scholarship and Social Justice Practice**

Faculty scholarship and social justice practice are enhanced in a supportive setting. At Boalt a group of faculty self-identified as interested in social justice scholarship and practice. At Santa Clara seventy percent of the faculty regard their work as related to social justice. These groups meet regularly to read and discuss each other's scholarship and other work; the meetings include adjunct faculty, clinical instructors, legal writing instructors, and academic support staff.

While many formats are possible, an informal presentation of a previously distributed work in progress, followed by comments, has proved helpful to those whose written work is discussed. Those writing briefs have talked over potential case strategies and legal issues, receiving suggestions and feedback. The many institutional players interested in social justice issues need to be aware of each other's work and projects. So an important institutional benefit, in addition to support for scholarship itself, is developing connections within the institution and a sense of inclusion.

### **Involvement of Students, Student Groups, and Staff**

Social justice should be part of students' legal education as early as orientation. While ideally the entire first year will be infused with social justice concerns, a reading group expressly for first-year students provides a place for like-minded students to meet and to discuss these issues. The Social Justice Thursday series, with a different faculty member each week leading the discussion, provides an immediate community for students. The fall semester reading introduces race, gender, and other identity-based issues in conjunction with first-year courses. The second semester focuses on the role of lawyers working with communities.<sup>42</sup>

Students send unsolicited e-mails, like this one, expressing appreciation for the difference these sessions make in their educational experience:

Social Justice Thursdays set the context for some honest talk about practical things we students can do to confront race and gender issues in the classroom. It was nice to have a space where students of color were able to have honest disagreements and for everyone to think about what else is at stake.

Another student wrote that she had not ever spoken in class until she had come to five of these sessions, but then she felt empowered to start participating in her classes:

42. Readings for Social Justice Thursdays at Santa Clara are available at <[http://www.scu.edu/law/socialjustice/social\\_justice\\_thursdays.html](http://www.scu.edu/law/socialjustice/social_justice_thursdays.html)> (last visited Aug. 7, 2005).

The Center for Social Justice made me a more active participant in my first-year classes. I came to law school to learn how law relates to society. I've encountered challenging academic insights during Center for Social Justice events. My enthusiasm for these social justice topics carries over into my classes.

For the whole school, a regular speaker series (Social Justice Mondays) brings practitioners and educators to campus to describe their work and how they came to do it. Social justice faculty facilitate those sessions, spending an introductory few minutes reporting on their own work and enabling students to know them better. Many law school staff participate in these noon sessions, which again fosters an inclusive climate.

Many student groups are interested in social justice issues. Organizing these groups into a network, with an umbrella student advisory board as part of a center, facilitates communication between groups. This student board also can provide useful feedback to the center's director about student needs and concerns. Ideally, a student mentoring program keyed to small sections as well as a mentor program coordinated through career services provides different connections. The presence of a staff person in career services dedicated to social justice and public interest can be critically important.

The center also should work with the admissions office. Applicants to Santa Clara indicate an interest in social justice by checking a box in their application. When they are admitted, they get a letter from the center's director, generated by the admissions office, urging them to accept and telling them about the center's activities during the past year. Students and faculty also meet with admitted students at a spring event.

### **Intellectual Climate**

Centers for social justice contribute to the intellectual climate of their law schools and universities by sponsoring multiple extracurricular activities and by cooperating with other centers of specialization within the law school and university. Boalt and Santa Clara have a visiting practitioner program each semester. Practitioners discuss their work, counsel students about career paths, and meet in a series of dinners, receptions, classroom visits, and office hours over several days. Both centers also sponsor one significant lecture each semester, bringing nationally prominent speakers for a talk, reception, and small dinner. Boalt has a scholar-in-residence program for social justice theorists, often academics on sabbatical from other institutions. Santa Clara supports a teaching scholar program for new law teachers, providing time for aspiring scholars to write and to hone classroom skills by teaching one or two courses. Both centers offer a Social Justice Workshop, a credit course for the students.<sup>43</sup> Nationally prominent scholars present their own work in progress

43. Course description for Santa Clara's Social Justice Workshop (Law 267):

Faculty members rotate teaching this unique seminar which gives students a chance to explore with faculty contemporary, cutting-edge issues in social justice law. Past seminars have addressed Wealth & Inequality, Post-911 Constitutional Issues, and Biotechnology and Social Justice. Each course begins with an introduction defining the terms of the contemporary debate. Throughout the semester nationally prominent speakers and faculty members present papers to the seminar for discussion. Lectures by featured speakers are open to the University community.



at a forum open to the university community, providing students with an opportunity to interact with scholars other than their own teachers. Boalt and Santa Clara collaborated on the first workshop, on wealth and inequality, by sharing speakers and costs. These speakers, colloquia, and symposia provide excellent material for journals.

Work with other centers of specialization in the law school and university affords an opportunity to strengthen all programs. Proponents of any one area unfortunately tend to assume that someone interested in, for example, law and technology is probably not interested in social justice or international law. Joining together and looking at the intersections illuminates much work that can be done together.

### **Alumni/Community Relations and Fundraising**

Both Boalt and Santa Clara work with the deans and alumni relations staff to identify alumni, friends, and foundations interested in funding social justice work. Opportunities for giving include funding student financial assistance, supporting students' summer and postgraduate work, endowing lectures, and sponsoring practitioners and scholars in residence. Many graduates who were disaffected during law school are excited to see this social justice emphasis. Establishing an alumni/community advisory board, or joining that group with faculty and students, again creates and fosters interlinking networks. Inviting graduates back to campus, especially for events that provide continuing legal education credit, reconnects them with the law school and the current generation of students.

\* \* \* \* \*

We have much work to do. As Charles Reich said at one of the AALS equal justice colloquia, war has been declared against all of us who believe in equal justice.<sup>44</sup> He exhorted the audience to take this state of war seriously and to think about defenses and counterattacks. He pointed out that the dominant ideology devalues everything that is born of a communal effort. The dominant worldview values only individual wealth and that which can be commodified. It devalues justice, essentially making wealth more important than justice. The system forces justice to compete with more glamorous articles like cars, houses, and boats. In this competition justice is disadvantaged because justice has no advertising agency and no promotions, nor can it fulfill consumer dreams or desires.

We have to encourage our students to dream of justice. We need to start in law school or, preferably, even earlier. We can create the climate to nurture these dreams and thus ourselves. Forging an alliance between legal educators, practitioners, students, and communities can ensure that improving the lives of marginalized, subordinated, and underrepresented members of society remains integral to the lawyer's calling.