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UN-APOLOGIZING FOR CONTEXT AND EXPERIENCE IN LEGAL EDUCATION

JOHN MCKAY†

Most law schools give only casual attention to teaching students how to use legal thinking in the complexity of actual law practice. . . . The result is to prolong and reinforce the habits of thinking like a student rather than an apprentice practitioner, conveying the impression that lawyers are more like competitive scholars than attorneys engaged with the problems of clients.

—Carnegie Report on Legal Education¹

“Go forth and set the world on fire.”

—St. Ignatius Loyola, Founder of the Jesuits

I. INTRODUCTION

This Essay accompanies the Fifth Annual Symposium at Creighton University School of Law addressing the rapidly changing legal profession and our not-so-rapidly changing legal education and law school pedagogy. The Symposium’s focus on the changing practice of law provides an opportunity to reconsider the woefully incomplete effort by law schools to respond to the challenge of the Carnegie Report and its many preceding critics. Rather than merely pile on, however, this Essay suggests that Jesuit law schools in particular might have something to offer their colleagues—an experiential teaching style grounded in centuries old pedagogy inspired by the founder of the Jesuits, Ignatius Loyola.

The core criticism of legal education states that law students are not prepared for the ethical and competent practice of law upon graduation; therefore, law schools are being judged on how rapidly they expand clinics, externship opportunities, and otherwise allow practicum based models to intrude upon doctrinal and case method courses. These modifications in the legal instructional model remain deficient in addressing the true challenge facing law schools—the inability to train lawyers who know the law (or how to find it), who understand

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1. WILLIAM M. SULLIVAN ET AL., CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 6 (2007).

their clients, who are motivated to seek justice, and who are willing to sacrifice selfish interests in the pursuit of a greater good for others. This Essay unapologetically suggests that the core pedagogy of Catholic Jesuit education, with its faith-filled focus on context, experience, and reflection, holds a key to fill the emptiness of today's legal education.

This Essay first examines the unmet challenge in legal education to bring *relevance* to both its curriculum and its pedagogy. Next, the Essay describes the practical application of the *Ignatian Pedagogical Paradigm*, long used in Jesuit high schools and universities, to the law school classroom, focusing on context, experience, and reflection. Finally, this Essay concludes with a brief examination of the need for the unapologetic role of faith and justice in all legal teaching.

II. LEGAL EDUCATION AND THE STRUGGLE FOR CONTEXT, EXPERIENCE, AND REFLECTION

The 2007 release of the Carnegie Report marks only the most recent assault on the relevancy and effectiveness of a law degree for prospective students. Many commentators have skewered both the report and the perceived failure of law schools to respond in meaningful ways.²

More recent events, spurred in part by the huge drop in legal jobs caused by the economic recession beginning in 2008,³ indicate that relevancy based attacks on the efficacy of legal instruction and the value of a law degree will not be subsiding any time soon. Underscoring this problem in a manner understood by lawyers, students have commenced potential class action litigation against twelve law schools in state and federal courts claiming these schools inflated their graduate employment data.⁴ These and many other law schools have faced blistering criticism from the *New York Times* and other commentators, alleging in effect that law schools have misled students about the value of their law degrees and their prospects for employment. Declaring legal education to be “in crisis,” the *New York Times* editorialized on November 26, 2011:

2. For a recent and excellent survey and critical analysis, see Kristen Holmquist, *Challenging Carnegie*, 61 J. LEGAL EDUC. 353 (2012).

3. *Law Firm Jobs in 2010 – A Tale of 20 Cities*, NALP: ASS'N FOR LEGAL CAREER PROF. (Sept. 2011), http://www.nalp.org/law_firm_jobs_in_2010.

4. Allegations include deceptive acts and practices such as including temporary employment, counting nonlegal jobs, reporting salary “averages” based on higher earning jobs, and hiring recent graduates to improve their own data. Karen Sloan, *Fresh Round of Litigation Targets 12 Law Schools over Job Data*, NAT'L L.J. (Feb. 1, 2012), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202540950653&Fresh_round_of_litigation_targets_law_schools_over_jobs_data&slreturn=1.

In American law schools, the choice is not between teaching legal theory or practice; the task is to teach useful legal ideas and skills in more effective ways. The case method has been the foundation of legal education for 140 years. Its premise was that students would learn legal reasoning by studying appellate rulings. That approach treated law as a form of science and as a source of truth. That vision was dated by the 1920s. It was a relic by the 1960s. Law is now regarded as a means rather than an end, a tool for solving problems. In reforming themselves, law schools have the chance to help reinvigorate the legal profession and rebuild public confidence in what lawyers can provide.⁵

Prospective law students may be catching on to this, with applications to law schools for the fall of 2012 dropping a precipitous fifteen percent.⁶

Questioning law schools, specifically the value of legal scholarship, may yet become a national sport. Law schools, from the content of their legal instruction to the law reviews that publish articles and essays like this one, are decried as “ivory towers” and worse. In addressing the Fourth Circuit Judicial Conference in June 2011, United States Supreme Court Chief Justice John Roberts described the impact of law review articles on the highest court of the land:

Pick up a copy of any law review that you see, and the first article is likely to be, you know, the influence of Immanuel Kant on evidentiary approaches in 18th century Bulgaria. I'm sure it was of great interest to the academic that wrote it, but it isn't of much use to the bar.⁷

Not all of the pressure is on law school management and the universities that own them. Students face unprecedented pressure to secure high paying jobs in order to service the unprecedented debt that many now carry. When combined with the paucity of jobs for legal employment, the law student with discerning perspective might well question the decision to enroll in law school in the first place. Others will be forced to abandon or delay the kind of work that may have

5. Editorial, *Legal Education Reform*, N.Y. TIMES, Nov. 26, 2011, at A18, available at http://www.nytimes.com/2011/11/26/opinion/legal-education-reform.html?_r=1&scp=1&sq=american%20legal%20education%20is%20in%20crisis&st=Search; see also David Segal, *What They Don't Teach Law Students: Lawyering*, N.Y. TIMES, Nov. 20, 2011, at A1, available at <http://www.nytimes.com/2011/11/20/business/after-law-school-associates-learn-to-be-lawyers.html?ref=lawschools>.

6. Debra Cassens Weiss, *Law School Applications for Fall 2012 Drop More than 15 Percent*, A.B.A. J. (Jan. 20, 2012, 11:19 AM), http://www.abajournal.com/news/article/law_school_applications_for_fall_2012_drop_more_than_15_percent/.

7. Richard Brust, *The High Bench vs. the Ivory Tower*, A.B.A. J. (Feb. 1, 2012, 6:00 AM), http://www.abajournal.com/magazine/article/the_high_bench_vs._the_ivory_tower/. This is not to suggest the Chief Justice or any Justice will cite this Essay anytime soon.

inspired them to enter law school, a place where it might be said the idealistic young student is entrusted to the care of institutions that then proceed to crush the idealism from them like a squashed grape. Foregoing public interest work upon graduation, for example, may be entirely necessary to service enormous student loan payments—and forget about starting a family or purchasing a home.

These criticisms of our law schools, beginning most recently with the Carnegie Report, make the case for a reassessment of the basic structure of legal education. Not that these critiques have gone entirely unnoticed; many law schools have acted to increase clinical opportunities and externships, with some revising the core first year curriculum to include electives.⁸ No amount of new clinics, externships, or tinkering with the curriculum, however, addresses the core criticism that law schools fail to prepare law students to be capable, or better yet, *outstanding* lawyers dedicated to selflessly pursuing justice. While admirable, these programs do not change the prevailing Socratic dialogue marked by the lecturing professor teaching appellate cases and questioning students on their knowledge of the facts, law, and holding of the court.

Where might law schools turn to seek inspiration and a proven alternative to our apparently flawed pedagogy? The next section of this Essay suggests that one answer may lie within the centuries old teaching tradition of the Jesuits.

III. THE IGNATIAN PEDAGOGICAL PARADIGM AND LEGAL EDUCATION

Jesuit high schools, colleges, and universities throughout the United States and the world at their core subscribe to a teaching model known as the “Ignatian Pedagogical Paradigm.”⁹ This Ignatian

8. For example, Seattle University School of Law now offers first year electives “from a menu of courses designed for 1L students only.” These include practical courses on business, law management, public interest lawyering, and leadership. *Curriculum*, SEATTLE U. SCH. L., <http://www.law.seattleu.edu/Academics/Curriculum.xml> (last visited Feb. 25, 2012).

9. See IGNATIAN PEDAGOGY: A PRACTICAL APPROACH (Int’l Comm’n on the Apostolate of Jesuit Educ. ed., 1993), available at http://www.seattleu.edu/uploadedfiles/core/jesuit_education/ignatian%20pedagogy.pdf [hereinafter Int’l Comm’n on the Apostolate of Jesuit Educ.]. Many Jesuit institutions discuss the Ignatian Pedagogical Paradigm (“IPP”) and its five elements both in the context of the official Jesuit description found in IGNATIAN PEDAGOGY: A PRACTICAL APPROACH (“IPP Approach”) and in their own teaching manuals. See, e.g., *CUOnline: Guidelines for Teaching Online at Creighton University*, CREIGHTON U. 10-11, <http://www.creighton.edu/fileadmin/user/online-learning/docs/CUOnlineGuide.pdf> (last visited Apr. 4, 2012); *Ignatian Pedagogical Paradigm*, LOYOLA JESUIT COLLEGE, <http://www.loyolajesuit.org/IPP.htm> (last visited Apr. 4, 2012); *Jesuit Education*, GONZAGA U., <http://www.gonzaga.edu/about/mission/Jesuit-Education.asp> (last visited Apr. 4, 2012); Sharon J. Korth, *Ignatian Pedagogy: A Practical*

Pedagogy, grounded in the *Spiritual Exercises* of St. Ignatius Loyola, combines a vision of the human being and a three step methodological core of context, experience, and reflection. Two additional components cement its effectiveness as a valuable and effective teaching tool: a requirement that students take *action* and that students engage in *evaluation* of their own efforts, including their shortcomings and successes, against a backdrop of prayer and contemplation.

Critics of both the shortcomings of legal education and the Carnegie Report's conclusions and recommendations may appreciate the emphasis placed by the Jesuits on context and experience based learning in the classroom. These are not new ideas, of course, and are not an exclusive franchise of the Jesuits. Service-learning and adult education have long relied on such approaches; however, few can trace their success to a 500-year-old teaching tradition and "way of proceeding" as well as the Jesuits.¹⁰ Perhaps the legal academy, much criticized for its failure to properly ground law students in competence, ethics, and the faithful pursuit of justice, might borrow from this experience.

Initially, as discussed below, it must be stated that Ignatian Pedagogy is fundamentally an exercise of faith. This inspiration, however, should not disqualify its use because of mere academic snobbery directed at the religious: "Ignatian Pedagogy is inspired by faith. But even those who do not share this faith can gather valuable experiences from this document because the pedagogy inspired by St. Ignatius is profoundly human and consequently *universal*."¹¹ Ignatian Pedagogy emphasizes that the spiritual root of teaching is not simply the imparting of knowledge or skills, but rather the care for the whole person, or the *cura personalis*. In the words of Peter-Hans Kolvenbach, S.J., the past Superior General of the Jesuits, in a speech at Georgetown University in 1989:

The pursuit of each student's intellectual development to the full measure of God-given talents rightly remains a prominent goal of Jesuit education. Its aim, however, has never been simply to amass a store of information or preparation for a profession, though these are important in themselves and useful to emerging Christian leaders. The ultimate aim of Jesuit education is, rather, that full growth of the person which leads to action—action, especially, that is suffused

Approach, XAVIER U., <http://www.xavier.edu/mission-identity/programs/documents/Korth-PrecisofIgnatianPedagogy.pdf> (last visited Apr. 4, 2012); *The Ignatian Pedagogical Paradigm*, ST. ALOYSIUS' C., <http://www.stalloysius.nsw.edu.au/jesuits/ipp/default.asp> (last visited Apr. 4, 2012).

10. For an interesting look at the early history of this amazing order of priests, see JOHN W. O'MALLEY, *THE FIRST JESUITS* (1993).

11. Int'l Comm'n on the Apostolate of Jesuit Educ., *supra* note 9, at para. 6.

with the spirit and presence of Jesus Christ, the Son of God, the Man-for-Others. This goal of action, based on sound understanding and enlivened by contemplation, urges students to self-discipline and initiative, to integrity and accuracy. At the same time, it judges slipshod or superficial ways of thinking unworthy of the individual and, more important, dangerous to the world he or she is called to serve.¹²

In the words of Kolvenbach's predecessor, Fr. General Pedro Arrupe, the goal of Jesuit education is "forming men and women for others."¹³ What an interesting and perhaps liberating goal for legal education this may imply. What if we borrowed both the pedagogy of a 500-year-old teaching style and its spirituality to infuse a tired appellate case review and doctrinal method of instruction? What if we challenged students not to "think like lawyers," but to give of themselves in the pursuit of justice in each of the myriad steps required to passionately represent clients and to live their lives as lawyers for which they can be proud?

We next turn to look at the Ignatian Pedagogical Paradigm and its potential for legal instruction. The Ignatian Pedagogical Paradigm is comprised of three main elements: context, experience, and reflection. It also, however, requires action and evaluation, more core principles derived from the *Spiritual Exercises* of Ignatius Loyola.¹⁴

A. CONTEXT

Context in legal education is concerned with all factors that help or hinder the learning process. From the legal instructor's point of view, this means personal engagement with and care for the student by the instructor and creating an environment for learning and growth in commitment to values. These "values" are decidedly more expansive than those that have traditionally animated law schools. Some schools relate these values to pursuing "social justice" concerns, while others seek a higher level of "professionalism." In Ignatian Pedagogy, these values would be expressed as pursuing justice before any self-interest of the law student or lawyer. Further consideration of the "justice before self-interest" theory takes place in Section IV, below.

From a law student's point of view, *context* in an Ignatian sense refers to each student's readiness to learn and grow.

12. *Id.* at para. 12.

13. *Id.* at para. 13.

14. See, e.g., JOSEPH A. TETLOW, IGNATIUS LOYOLA: SPIRITUAL EXERCISES (1992).

B. EXPERIENCE

Ignatian Pedagogy in legal education would seek to ensure that every law student has a full learning *experience* of mind, heart, and hand, just as it has in Jesuit secondary education around the world. The Jesuits describe *experience* as a key element in their form of education:

Experience for Ignatius meant “to taste something internally.” In the first place this calls for knowing facts, concepts, principles. This requires one to probe the connotation and overtones of words and events, to analyze and evaluate ideas, to reason. . . . But Ignatian experience goes beyond a purely intellectual grasp. Ignatius urges that the whole person—mind, heart and will—should enter the learning experience. He encourages use of the imagination and the feelings as well as the mind in experience. Thus affective as well as cognitive dimensions of the human person are involved, because without internal feeling joined to intellectual grasp, learning will not move a person to action.¹⁵

Providing this experience, this “sensation of an affective nature,” is central to the idea of adapting Ignatian Pedagogy to legal instruction. Clinics and externships are obvious, though limited examples of this type of pedagogy already in use by many law schools. Yet, perhaps because these efforts lack the call to care for the whole person, to pursue God in all things, law schools have failed to make such learning available to all law students. Ignatian Pedagogy does not allow us to ration experiential based teaching and would require legal instructors to have far greater engagement with individual students and their aspirations and goals (indeed their entire lives as lawyers).

C. REFLECTION

Often characterized as the most important element within the Ignatian Pedagogical Paradigm, *reflection* is central to Ignatian Pedagogy and thus to any adaptation by legal instructors. In this process, reflection is the vehicle whereby law students make the learning experience their own, obtaining deeper conceptual meaning and adapting the learning experience for themselves and, critically, for others. As explained by the Jesuits, it describes an active kind of reflection, one that comes alive in the law school classroom:

We use the term reflection to mean a thoughtful reconsideration of some subject matter, experience, idea, purpose or spontaneous reaction, in order to grasp its significance more fully. Thus, reflection is the process by which meaning surfaces in

15. See Int’l Comm’n on the Apostolate of Jesuit Educ., *supra* note 9, at para. 42.

human experience. . . . At this level of *reflection*, the memory, the understanding, the imagination and the feelings are used to capture the meaning and essential value of what is being studied, to *discover its relationship* with other aspects of knowledge and human activity, and to *appreciate* its implications in the ongoing search for truth and freedom. . . . If learning were to stop . . . [at experience], it would not be Ignatian. For it would lack the component of *reflection* wherein students are impelled to consider the human meaning and significance of what they study and to integrate that meaning as responsible learners who grow as persons of competence, conscience and compassion.¹⁶

Law students require much greater opportunity to reflect on experiential lessons, particularly when they have engaged in exercises designed to bring practical exposure to the law practice. Instructors need to provide more feedback, both written and in the classroom, to capture the full value of the experience and to offer students a full opportunity to adapt the lessons to their own use.

D. ACTION

In this context, *action* is not merely an activity. It is rather a law student's attitudes, priorities, commitments, habits, values, ideals, and internal human growth flowing out into actions for others. The *IPP Approach* of the Jesuits defines it thusly:

Ignatius does not seek just any action or commitment. Rather, while respecting human freedom, he strives to encourage decision and commitment for the magis, the better service of God and our sisters and brothers. The term 'Action' refers to internal human growth based upon experience that has been reflected upon as well as its manifestation externally. It involves two steps: i) Interiorized Choices; ii) Choices Externally Manifested.¹⁷

The legal instructor may help relate the case study to the broader issues relevant to a student's view of the law or her place as a practitioner within it. Black letter law found in today's appellate cases may be useful, but how does this relate to the broader questions affecting the practice of law, or justice? For example, teaching students the law of torture, both internationally and under domestic U.S. law, can be accomplished without raising questions of morality, integrity, or legal ethics by referring to the statutes, cases, and legal memoranda issued by members of the Bush Administration following the attacks of September 11, 2001. However, by engaging students in questions of when

16. *Id.* at paras. 31(2), 48, 49.

17. *Id.* at paras. 61, 62.

or whether torture is justified, or if there are circumstances under which *they* would authorize torture, students actively engage in the subject matter and are unlikely to forget this lesson anytime soon.

E. EVALUATION

Within Ignatian Pedagogy, *evaluation* refers to the law student's growth in learning the values of service in the law. These values include, but are far from limited to, rote knowledge of black letter law and the ability to analyze appellate decisions or engage in basic legal skills. Rather, evaluation refers to student growth in understanding the power of a legal education to pursue the common good, to represent the poor and powerless, and to pursue justice in all things. St. Ignatius himself would recognize this element of the pedagogy, as his *Spiritual Exercises* required followers to pray the "Examen," a rigorous daily evaluation in which one seeks both the "consolations" and the "desolations" in our experiences and our spiritual lives. The Jesuits themselves described the element as it applies to our teaching: "Ignatian pedagogy, however, aims at formation which includes but goes beyond academic mastery. Here we are concerned about students' well-rounded growth as persons for others. Thus periodic evaluation of the student's growth in attitudes, priorities and actions consistent with being a person for others is essential."¹⁸

This Essay now reviews some modest steps, following the Ignatian Pedagogical Paradigm, which I have implemented in my own teaching. Ignatian Pedagogy in the high school or college classroom requires a much closer relationship between teacher and student than the cold, patrician, all-knowing "Professor Kingsfield" of *Paper Chase* fame.¹⁹ Instead, it compels the law professor to come down off the podium and walk among students because our role, "is not merely to inform, but to help the student progress in the truth."²⁰ Far too many law classrooms eschew Ignatian Pedagogy's call for context, experience, reflection, action, and evaluation.

18. *Id.* at para. 64.

19. A 1973 film depicting a first year law school student's experience. John Houseman won an Oscar as the demanding Harvard Contracts professor who famously summons an unprepared student to the front of the classroom and admonishes him, "Mr. Hart here is a dime, call your mother and tell her there is serious doubt about your becoming a lawyer." *THE PAPER CHASE* (Twentieth Century Fox Film 1973).

20. See Int'l Comm'n on the Apostolate of Jesuit Educ., *supra* note 9, at para. 26 n.4.

F. LAW SCHOOL CLASSROOM EXAMPLES IN APPLYING THE IGNATIAN PEDAGOGICAL PARADIGM

Jesuit educators in high schools and universities across the country and world have long applied the Ignatian Pedagogical Paradigm in their classrooms. Their experiences, sharpened over time, will certainly hew more closely to the five principles of context, experience, reflection, action, and evaluation than these brief examples.

For example, in my National Security Law class I apply these teaching principles, developing a closer and more meaningful relationship with my students. First, my course does not rely exclusively on an array of post 9/11 statutes; U.S. Supreme Court cases relating to Guantanamo Bay; or First, Fourth, or Fifth Amendment challenges to actions taken by the U.S. Government in response to the threat of terrorism. Instead, I meet with students in small groups to discuss their own career goals, aspirations, and fears. We talk, not just about national security, but about them and the role they hope to play in the world as lawyers. With this *context*, the law student-professor relationship takes a different path than that of lecturer-student and moves to something deeper.

Second, legal educators recognize that mere understanding of statutory language and appellate decisions in cases is an incomplete picture of the law, both in the student context and in the substantive content of this pedagogy. Therefore, I challenge National Security Law students to undertake exercises throughout the term, teaming with partners to argue motions, making presentations, and submitting various legal theories to peer questioning. Such exercises have included a fictitious terrorist bombing threat to the Washington State Ferry system, the Arizona-style immigration laws passed against local Basque shepherds, and the alleged terrorist financing laundered through contributions to a day care center in Northern Ireland. In these exercises, I require students to take case law studies, including statutory and Constitutional analysis, and apply them to practical settings using a skill set much more like that of a lawyer than a law student. This *experience*-based learning is frequently cited by students as much more meaningful and rewarding than the lecturing and case method overload.

Third, I challenge law students throughout the term to place themselves in the position of providing pivotal legal advice on issues of great importance to themselves, their clients, and to the safety and security of the world. Rather than focusing on the thin legal justifica-

tion advanced by Alberto Gonzales²¹ and John Yoo²² for the memorandum authorizing the use of waterboarding, I challenge students to advocate either side of the problem of outlining acceptable interrogation techniques. On one side, students must act as lawyers charged with attempting to obtain as much information as possible to thwart the next wave of 9/11 style attacks. On the other side, students act as lawyers representing detainees allegedly tortured in this fashion. By placing a more complete scenario before law students in which the legal analysis, while central to the problem, was not the compelling issue, students owned the legal problem much more completely. In problem after problem, my law students became associate counsel to the CIA, staff lawyers at the ACLU, and lawyers for local immigrant communities, mosques, Islamic Centers, and religious schools. The re-orientation from case study to serious *reflection* about the weighty issues of security and civil liberties in a time of terror adapts the black letter law to individual student experience and makes it their own in a way that traditional legal lecturing does not.

Finally, Ignatian Pedagogy would require both *action* and *evaluation*; however, these do not refer to the typical discussion of outcomes and statistical methodologies. Instead, this teaching style requires a decidedly Ignatian perspective where the law student experience is animated by a complete internalization of values learned in the classroom and the kind of spiritual growth that encourages future lawyers to dedicate themselves to seek a higher purpose than their wallets. The classroom experience includes frequent use of guest speakers who live out principles worth emulation by students. Interaction with people other than the scheduled professor provides enhanced opportunities for students to internalize values they select as their important and long term values, values that far exceed any contained in legal textbooks. At the conclusion of each class, I challenge students to adopt a “Mokita”²³ of their own. Consistent with these Ignatian themes, students are encouraged to move beyond the textbook to consider what values, actions, career choices, and ways of proceeding will add meaning and purpose to their lives as lawyers. These daily

21. Former White House Counsel under President George W. Bush, later serving as Attorney General. Gonzales resigned as a result of the controversial firing of the United States Attorneys in 2007.

22. A Professor of Law at the University of California, Berkeley, John Yoo was a United States Department of Justice lawyer assigned to the Office of Legal Counsel and the author of memoranda declaring that techniques such as waterboarding were not torture.

23. “Mokita” is a term from Papua, New Guinea, meaning roughly, that thing of which we all know to be true, but of which no one will speak. The “Mokitas” listed here were offered by the author during his classes in National Security Law and Advanced Constitutional Law at Seattle University School of Law.

Mokitas have included: *Why Race, Ethnic and Gender Diversity Should be Your Priority, Even if You are a White Male*; *Don't Demonize Your Opponent*; *If a Reporter Calls You, Hang Up and Call Back After You Figure Out What to Say*; *Do the Hardest Thing, First Thing in the Morning*; *Don't Double Bill Your Clients for Airplane Time*; *Be Kind to All Who Cross Your Path*; *Never Threaten Sanctions Without Independent Evaluation and Advice*; *Support Your Fellow Law Student / Lawyer Through the Issues of Life—Divorce, Sickness and Death*; *Making Money as a Lawyer is Good*; *Pro Bono Representation of the Poor is Better*; *Don't Practice Cook Book Law (Draft Your Own Forms)*; *Understanding the Lawyer's Paradox: We Seek Justice, but Thrive on Injustice*; *Be the Last One to Speak at Meetings (or, It's Amazing What Listening and Thinking Will Add to Your Contribution)*; and *Integrity is Your Greatest Asset, You've Earned it Through Hard Work But Can Lose it in an Instant*.

On the rare occasion when time has not permitted the “Mokita,” my students have approached me “demanding” their daily lesson. Some “Mokitas” are light, some are heavy, and some border on the silly—but most engender thought nonetheless. The lesson here may be that law schools should not rely solely on clinics and externships to answer the critiques of the Carnegie Report. Instead, legal educators and administrators should require experiential learning in *all* classrooms, not to replace doctrinal and case method instruction but to add richness, meaning, and relevance to the law school curriculum. Applying this form of experiential engagement with students will work in all courses, from doctrinal to clinical. Why can't Jesuit law schools lead the way on this, relying on the centuries old successes of its founder and the more recent iteration presented in the Ignatian Pedagogical Paradigm?

“Mokitas,” and experiential learning reflected in Ignatian Pedagogy, are part of an effort to help law students internalize values, see themselves making important decisions, and develop a desire to be lawyers who exercise values that serve higher purposes than themselves. This is expressed in Ignatian spirituality as seeking the “Magis” (literally, “the more”), which is a restless desire for excellence grounded in deep gratitude for God's gifts. In Ignatian spirituality, and by extension, Ignatian Pedagogy, we seek the Magis, we seek to find God in all things, and we experience profound gratitude for God's love for us. In the following section, this Essay looks at the intersection of faith and justice, and why Catholic Jesuit law schools should never apologize for their Ignatian pedagogical tradition but should embrace it as an alternative to the presently incomplete, if not failed, pedagogy of American law schools.

IV. THE ROLE OF FAITH AND JUSTICE IN LEGAL EDUCATION

Amidst the core curriculum of today's law schools, one struggles to find mention of the word "justice," let alone "faith." Inherent limits therefore apply to any discussion of their present role in legal education. Anyone who has taught in today's law schools, however, cannot be blamed for bemoaning the lack of a coherent ethos of justice in our pedagogy. As one legal commentator, and my law school colleague, so aptly put it:

But what is the specific ethos communicated by law school? What is the philosophy that it teaches by suggestion, by implication, by atmosphere, and perhaps by dogma? And how does that influence the professionalism that permeates (or is absent from) the concrete conditions of legal practice? Is it an ethos of justice, as my colleagues in the philosophy and theology departments always initially assume? Or is it something else, perhaps an ethos of technocratic or instrumental rationality, which by its restricted terms creates and sustains a kind of reflexive skepticism towards substantive goods or values?²⁴

Classes in torts, contracts, criminal law, civil procedure, and even legal ethics struggle to engage law students in the consideration of basic elements of justice. In focusing on the appellate stage of cases, we in the legal academy have managed to strip away concepts of the good and of the values based learning, leaving what seems to be only "an ethos of technocratic or instrumental rationality."²⁵

How can we pretend to train lawyers unless we have an ethos of justice? How can law schools claim to promote social justice and pursuit of the common good without adopting a pedagogy that models these traits? How can law students, many of whom enter law school to serve the underrepresented, the poor, and the powerless, learn the skills of justice-seeking, passion driven lawyering without an ethos of faith and justice?

Perhaps Jesuit law schools²⁶ might help lead the way to a complete restructuring of the law school curriculum to infuse experiential learning in *all* law school classes—not just in clinics, externships, and

24. Patrick Brown, *Ethics as Self-Transcendence: Legal Education, Faith, and an Ethos of Justice*, 32 SEATTLE U. L. REV. 293, 297 (2009).

25. *Id.*

26. There are fourteen law schools associated with Jesuit colleges and universities in America: Boston College, Creighton, Detroit Mercy, Fordham, Georgetown, Gonzaga, Loyola Chicago, Loyola Marymount, Loyola New Orleans, Marquette, St. Louis, University of San Francisco, Santa Clara, and Seattle University. One out of ten law students in America attend Jesuit law schools, which were among the first to admit women and students of color and to undertake part time and evening programs. *See Jesuit Law*

a few other courses. With the 500 year experience of Jesuit instruction, based on the *Spiritual Exercises* of Ignatius Loyola, the now modern Ignatian Pedagogy may well help to answer the unmet challenges of the Carnegie Report and other relevancy attacks on the role of law schools in preparing lawyers who will change the world.

The animation of justice by a spiritual faith can be communicated in a non-coercive way, respectful of different faith traditions (or which presumes or requires no religious faith by students at all). Ignatian Pedagogy speaks of prayer and the Jesuit founders' reliance on a discernment of God's will: "A fundamental dynamic of the *Spiritual Exercises* of Ignatius is the continual call to reflect upon the entirety of one's experience in prayer in order to discern where the Spirit of God is leading."²⁷

This call for reflection in Ignatian Pedagogy, adapted for law school use, however, need not be limited to people of religious faith. The focus in this discernment pedagogy is teaching the transition to action, rather than explicit commitment to a particular religious faith: "Hence, reflection becomes a pivotal point for Ignatius in the movement from experience to action, so much so that he consigns to the director or guide of persons engaged in the *Spiritual Exercises* primary responsibility for facilitating their progress in reflection".²⁸

Consequently, while the legal instructor may unapologetically share his or her own spiritual or even religious foundation in teaching the ideas of faith and justice, Ignatian Pedagogy need not be seen as any form of religious proselytizing or interference with academic independence. Within Jesuit law schools, infusing faith and justice into law school pedagogy can serve to animate and deepen the experience of law students who hunger for a deeper connection with the law, the needs of clients, and the faith-filled heart of justice.

V. CONCLUSION

Today's law schools are being called upon to justify enormous tuitions, decreasing job opportunities, and, perhaps, their own relevance in training future lawyers. These problems are mirrored in today's law students who find themselves saddled with enormous debt, uncertain job prospects, and a legal education that many contend leaves them ill prepared to practice law.

Ignatian Pedagogy, the teaching style of the Jesuits, may hold the key to revitalizing legal instruction, and help us in the legal teaching

Schools, HOLY CROSS, <http://academics.holycross.edu/prelaw/choose/jesuit> (last visited Feb. 25, 2012).

27. Int'l Comm'n on the Apostolate of Jesuit Educ., *supra* note 9, at para. 25.

28. *Id.*

community respond to serious claims that we ill prepare law students for careers as lawyers who truly serve the law and pursue justice. By emphasizing throughout the curriculum the core Ignatian principles of *context*, *experience*, and *reflection*, Jesuit law schools in particular can help lead the way to renewed relevance and an unapologetically faith filled vision of justice.

