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## Teaching Ethics/Doing Justice

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## Teaching Ethics/Doing Justice

### Cover Page Footnote

Professor of Law; Director, Center for Ethics & Public Service, University of Miami School of Law. I am grateful to Adrian Barker, Ellen Grant, Bruce Green, Amelia Hope, Yasmin Jacob, Dennis Lynch, Cynthia McKenzie, Russell Pearce, Deborah Rhode, Jessi Tamayo, Karen Throckmorton, and Frank Valdes for their comments and support. I also wish to thank Caroline de Posada, Nathaniel Tobin, and the University of Miami School of Law library staff for their research assistance, as well as the editors of the Fordham Law Review for their celebration of the scholarship of Deborah Rhode.

# TEACHING ETHICS/DOING JUSTICE

*Anthony V. Alfieri\**

## INTRODUCTION

Many teach ethics in the hope of doing justice. Others do justice in the hope of teaching ethics. An idealistic few try to integrate the two: they seek to teach ethics *and* do justice. This Essay is about the idealistic few, both students and faculty who work daily to incorporate ethics and justice in law school-sponsored, community-based interdisciplinary clinics. The Center for Ethics & Public Service at the University of Miami School of Law stands among such clinics.<sup>1</sup> During the past nine years, more than 200 graduate and undergraduate students and scores of faculty, administrators, and civic leaders have engaged in a joint venture partnership to develop innovative curricular and clinical models for teaching ethical judgment, professional values, and public service. They have conducted academic colloquia and professional training workshops, introduced new graduate and undergraduate courses, and designed cross-disciplinary community service projects supplying education, policy research, and legal representation to impoverished communities. In all, they have devoted more than 42,000 hours of public service and educated more than 9000 students and citizens. Their goal is to enhance public access to education and justice.<sup>2</sup> Their patron saint is Deborah Rhode.

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\* Professor of Law; Director, Center for Ethics & Public Service, University of Miami School of Law. I am grateful to Adrian Barker, Ellen Grant, Bruce Green, Amelia Hope, Yasmin Jacob, Dennis Lynch, Cynthia McKenzie, Russell Pearce, Deborah Rhode, Jessi Tamayo, Karen Throckmorton, and Frank Valdes for their comments and support. I also wish to thank Caroline de Posada, Nathaniel Tobin, and the University of Miami School of Law library staff for their research assistance, as well as the editors of the *Fordham Law Review* for their celebration of the scholarship of Deborah Rhode.

1. For a description of similarly tailored clinics, see Margaret Martin Barry, *A Question of Mission: Catholic Law School's Domestic Violence Clinic*, 38 *How. L.J.* 135 (1994); Peter A. Joy, *The Law School Clinic As a Model Ethical Law Office*, 30 *Wm. Mitchell L. Rev.* 35 (2003); Angela McCaffrey, *Hamline University School of Law Clinics: Teaching Students to Become Ethical and Competent Lawyers for Twenty-Five Years*, 24 *Hamline J. Pub. L. & Pol'y* 1 (2002).

2. For a full description of the Center for Ethics & Public Service at the University of Miami School of Law, see Univ. of Miami Sch. of Law, Center for Ethics & Public Service, at <http://www.law.miami.edu/ceps> (last visited Nov. 9, 2004) [hereinafter Center Website].

A widely celebrated scholar and a distinguished public servant, Rhode has produced numerous books, articles, and essays on ethics, law, and the legal profession. Broadly cast and elegantly written, Rhode's unmatched body of work recently expanded with the publication of a new book entitled *Access to Justice*.<sup>3</sup> Like Rhode's prior work, *Access to Justice* deepens academic and popular understanding of the role of the legal profession in ensuring the just delivery of legal services.<sup>4</sup> At the same time, it encourages professionals and public servants to embrace justice-seeking projects.<sup>5</sup> In doing so, it establishes both a starting point and a benchmark for progress toward equal access to justice.

### I. ACCESS TO JUSTICE

The notion of equal justice animates *Access to Justice*. From this normative predicate, Rhode examines crucial matters of access, equal protection, and effective assistance in American civil and criminal justice systems. To Rhode, limiting common access to justice for low- and middle-income Americans undermines the legitimacy of the democratic process.<sup>6</sup> The themes of equal justice and democratic legitimacy echo throughout Rhode's previous scholarship in the fields of discrimination,<sup>7</sup> gender<sup>8</sup> and feminism,<sup>9</sup> ethics,<sup>10</sup> and

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3. Deborah L. Rhode, *Access to Justice* (2004).

4. *Id.* at 3-7; see also Deborah L. Rhode, *In the Interests of Justice: Reforming the Legal Profession* (2000); Deborah L. Rhode, *Access to Justice*, 69 *Fordham L. Rev.* 1785 (2001) [hereinafter Rhode, *Access to Justice*]; Deborah Rhode, *Access to Justice: Connecting Principles to Practice*, 17 *Geo. J. Legal Ethics* 369 (2004).

5. See Rhode, *supra* note 3, at 3-7; see also Deborah L. Rhode, *Equal Justice Under Law: Connecting Principle to Practice*, 12 *Wash. U. J.L. & Pol'y* 47 (2003); Deborah L. Rhode, *In Pursuit of Justice*, 51 *Stan. L. Rev.* 867 (1999); Deborah L. Rhode, *Law, Lawyers, and the Pursuit of Justice*, 70 *Fordham L. Rev.* 1543 (2002).

6. Rhode, *supra* note 3, at 3-5.

7. See *Brown at Fifty: The Unfinished Legacy* (Deborah L. Rhode & Charles J. Ogletree, Jr. eds., 2004); Deborah L. Rhode, *Equal Rights in Retrospect*, 1 *Law & Ineq.* 1 (1983); Deborah L. Rhode, *Myths of Meritocracy*, 65 *Fordham L. Rev.* 585 (1996); Deborah L. Rhode, *Occupational Inequality*, 1988 *Duke L.J.* 1207; Deborah L. Rhode, *Sex-Based Discrimination: Common Legacies and Common Challenges*, 5 *S. Cal. Rev. L. & Women's Stud.* 11 (1995).

8. See *The Difference "Difference" Makes: Women and Leadership* (Deborah L. Rhode ed., 2003); Deborah L. Rhode, *Justice and Gender: Sex Discrimination and the Law* (1989); *The Politics of Pregnancy: Adolescent Sexuality and Public Policy* (Annette Lawson & Deborah L. Rhode eds., 1993); Deborah L. Rhode, *Speaking of Sex: The Denial of Gender Inequality* (1997); *Theoretical Perspectives on Sexual Difference* (Deborah L. Rhode ed., 1990); Deborah L. Rhode, *Gender and the Profession: The No-Problem Problem*, 30 *Hofstra L. Rev.* 1001 (2002); Deborah L. Rhode, *Gender and Professional Roles*, 63 *Fordham L. Rev.* 39 (1994); Deborah L. Rhode, *Keynote Address: The Difference "Difference" Makes*, 55 *Me. L. Rev.* 15 (2003); Deborah L. Rhode, *Perspectives on Professional Women*, 40 *Stan. L. Rev.* 1163 (1988).

9. See Katharine T. Bartlett et al., *Gender and Law: Theory, Doctrine, Commentary* (2002); Deborah L. Rhode, *Feminism and the State*, 107 *Harv. L. Rev.* 1181 (1994); Deborah L. Rhode, *Feminist Critical Theories*, 42 *Stan. L. Rev.* 617

professionalism.<sup>11</sup> In *Access to Justice*, she revisits both civil and criminal justice systems under the guidance of equal protection principles.<sup>12</sup>

Guided by egalitarian lights, Rhode discovers a gap between principle and practice in ascertaining the meaning of legal access. For definitional clarity, she searches out the purpose and scope of access, cataloging its beneficiaries and gatekeepers.<sup>13</sup> This search reveals the centrality of law to the preservation and enlargement of access as well as the core rights-based rationale for legal assistance. It also exposes the political opposition to legal services and the inadequacy of legal assistance in criminal defense and civil contexts. Rhode points to such inadequacy in contemplating self-representation<sup>14</sup> and nonlawyer assistance alternatives.<sup>15</sup> She finds these alternatives burdened by procedural hurdles, lawyer monopoly, and resource scarcity.<sup>16</sup> Daunted by the limitations of lawyers' pro bono service and the lack of a mandatory pro bono commitment,<sup>17</sup> Rhode maps an agenda for reform going beyond law, lawyers, and litigation into the realm of alternative dispute resolution.<sup>18</sup>

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(1990); Deborah L. Rhode, *Missing Questions: Feminist Perspectives on Legal Education*, 45 Stan. L. Rev. 1547 (1993); Deborah L. Rhode, *The "No-Problem" Problem: Feminist Challenges and Cultural Change*, 100 Yale L.J. 1731 (1991).

10. See *Ethics in Practice: Lawyers' Roles, Responsibilities, and Regulation* (Deborah L. Rhode ed., 2000); Deborah L. Rhode & David Luban, *Legal Ethics* (2d ed. 1995); *The Legal Profession: Responsibility and Regulation* (Geoffrey C. Hazard, Jr. & Deborah L. Rhode eds., 3d ed. 1994); Deborah L. Rhode, *Professional Responsibility: Ethics by the Pervasive Method* (1994); Deborah L. Rhode & Geoffrey C. Hazard, Jr., *Professional Responsibility and Regulation* (2002); Deborah L. Rhode, *Annotated Bibliography of Educational Materials on Legal Ethics*, 11 Geo. J. Legal Ethics 1029 (1998).

11. See Deborah L. Rhode, *Opening Remarks: Professionalism*, 52 S.C. L. Rev. 458 (2001); Deborah L. Rhode, *Professionalism in Professional Schools*, 27 Fla. St. U. L. Rev. 193 (1999); Deborah L. Rhode, *The Professionalism Problem*, 39 Wm. & Mary L. Rev. 283 (1998); see also Deborah L. Rhode, *If Integrity Is the Answer, What Is the Question?*, 72 Fordham L. Rev. 333 (2003); Deborah L. Rhode, *The Rhetoric of Professional Reform*, 45 Md. L. Rev. 274 (1986).

12. Rhode, *supra* note 3, at 31-64.

13. See also Rhode, *Access to Justice*, *supra* note 4, at 1803-04.

14. Rhode, *supra* note 3, at 14-16, 81-85; see also Margaret Martin Barry, *Accessing Justice: Are Pro Se Clinics a Reasonable Response to the Lack of Pro Bono Legal Services and Should Law School Clinics Conduct Them?*, 67 Fordham L. Rev. 1879 (1999).

15. See Deborah L. Rhode, *The Delivery of Legal Services by Non-Lawyers*, 4 Geo. J. Legal Ethics 209 (1990); Deborah L. Rhode, *Professionalism in Perspective: Alternative Approaches to Nonlawyer Practice*, 22 N.Y.U. Rev. L. & Soc. Change 701 (1996).

16. Rhode, *supra* note 3, at 81-85.

17. See Deborah L. Rhode, *Social Responsibility and the Legal Profession: Making Pro Bono Mandatory?*, 9 Responsive Community 41, 41-42 (1999).

18. Rhode, *supra* note 3, at 5-23.

At the outset, Rhode's reform agenda confronts litigation and its discontents.<sup>19</sup> Unsurprisingly, the main source of discontent lies in economic disparity and unequal resources. Rather than address this disparity by marshalling empirical evidence or revising litigation rules, lawyers trade in anecdote and rehearse debate over the causes of frivolous litigation and malpractice liability.<sup>20</sup> Rhode rejects reliance on anecdotal logic and well-worn debate. Instead, she reconceives the problem of disparity in terms of inefficiency and inequity.<sup>21</sup> Reconceptualizing disparity in systemic terms links issues of compensation, excessive fees and expenses, and institutional errors to an overreliance on law itself.<sup>22</sup> This linkage shifts the ground of analysis to tort reform and no-fault compensation systems, even in the functional regulation of professional misconduct.<sup>23</sup>

To lay the groundwork for this shift, Rhode offers a useful historical perspective on the development of legal rights and social wrongs.<sup>24</sup> Surveying early understandings of access to justice, she traces the evolution of the right to counsel in criminal proceedings from English precedents to early American practices, noting reform efforts and constitutional dictates.<sup>25</sup> Similarly, she tracks the emergence of civil legal services for the poor through private charity and legal aid channels, remarking on the role of the organized bar and the uneven record of assistance.<sup>26</sup> Astutely, she connects the growth of legal aid as a public responsibility to traditions of pro bono and public interest representation.<sup>27</sup> In carefully parsing those traditions, Rhode uncovers tensions in customary restraints on competition and restrictions on advertising, solicitation, fees, and group legal services.<sup>28</sup> Tying the purported logic of such restraints to anti-competitive practices and overbroad regulation of nonlawyer services and unauthorized-practice prohibitions, she challenges the professional monopoly of the bar.<sup>29</sup>

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19. See Deborah L. Rhode, *The Profession and Its Discontents*, 61 Ohio St. L.J. 1335 (2000).

20. Rhode, *supra* note 3, at 24-29.

21. *Id.* at 31-38.

22. See Deborah L. Rhode, *Too Much Law, Too Little Justice: Too Much Rhetoric, Too Little Reform*, 11 Geo. J. Legal Ethics 989 (1998).

23. Rhode, *supra* note 3, at 24-46.

24. *Id.* at 47-78.

25. *Id.* at 47-58.

26. *Id.* at 50-60; see also Deborah L. Rhode, *Why the ABA Bothers: A Functional Perspective on Professional Codes*, 59 Tex. L. Rev. 689 (1981).

27. Rhode, *supra* note 3, at 62-69; see also Deborah L. Rhode, *The Profession and the Public Interest*, 54 Stan. L. Rev. 1501 (2002).

28. Rhode, *supra* note 3, at 69-74.

29. *Id.* at 71-78; see also Ralph C. Cavanagh & Deborah L. Rhode, Project, *The Unauthorized Practice of Law and Pro Se Divorce: An Empirical Analysis*, 86 Yale L.J. 104 (1976); Deborah L. Rhode, *Policing the Professional Monopoly: A Constitutional and Empirical Analysis of Unauthorized Practice Prohibitions*, 34 Stan. L. Rev. 1 (1981).

Rhode's bold challenge opens pro bono discourse to the introduction of alternative models of legal assistance.<sup>30</sup> By way of example, she points to litigant self-representation in small claims courts.<sup>31</sup> Like prior experiments, these new models encounter resistance from the legal profession.<sup>32</sup> Moreover, they strain against the inflexibility of formal rules and the inequality of daily economic realities.<sup>33</sup> Rhode acknowledges the presence of bar opposition and juridical hostility.<sup>34</sup> Yet, she discerns a framework for reform in the rise of multidisciplinary practices, group legal services databanks, unbundled services, and lawyer support networks.<sup>35</sup> Released from the traditional strictures of advertising and solicitation, these anti-monopolistic trends render lawyers' services more accessible to the poor and to people of moderate means.<sup>36</sup>

Rhode furnishes a trenchant analysis of legal access for the poor under the distributive principle of triage.<sup>37</sup> Focusing on low-income communities, she greets the challenges of triage by carefully assessing legal need, eligibility criteria, and decision-making procedure.<sup>38</sup> This assessment entails an admission of resource limitations and embattled priorities.<sup>39</sup> Rhode fairly attributes quarrels over legal services priorities to ideological critiques from both liberal and conservative camps.<sup>40</sup> To resolve those ongoing quarrels, she recommends expanding the scope of legal assistance with more funds and fewer eligibility restrictions.<sup>41</sup> Further, she counsels establishing a system of legal services collaboration and coordination in low-income advocacy research and training.<sup>42</sup>

Rhode's proffered resolution of class-based inequality within the civil justice system extends to the criminal justice system as well.<sup>43</sup> For Rhode, the infirmities of class injustice afflict the criminal justice system with equal force.<sup>44</sup> Indeed, in her view, the system suffers from a form of institutionalized injustice.<sup>45</sup> Manifested in overextended and

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30. Rhode, *supra* note 3, at 79-102.

31. *Id.* at 84.

32. *Id.* at 82-83.

33. *Id.* at 84-85.

34. *Id.* at 88-89.

35. *Id.* at 90-102.

36. *Id.* at 96-102.

37. *Id.* at 105.

38. *Id.* at 105-08.

39. *Id.* at 105-06.

40. *Id.* at 108-12.

41. *Id.* at 112-17.

42. *Id.* at 117-21.

43. *Id.* at 122-44.

44. *Id.* at 122-23.

45. *Id.*

underfunded indigent defense systems and declining due process safeguards, the system fails both routine cases and unpopular causes.<sup>46</sup>

Rhode is unsparing in documenting systemic deficiencies in criminal justice, castigating courts for their ineffective judicial oversight and lawyers for their insufficient performance standards.<sup>47</sup> She finds such deficiencies particularly glaring in capital punishment trials where the ineffective assistance of defense counsel appears rampant.<sup>48</sup> Cruelly incongruent, capital defense errors are often unsusceptible to proof of deficient performance and grievous prejudice.<sup>49</sup> Seizing an abolitionist stance, Rhode urges greater lawyer competence, wider funding of defense systems, and lesser reliance on the death penalty.<sup>50</sup>

Having summarized the woeful errors and incongruities of the civil and criminal justice systems for low- and middle-income Americans, Rhode attempts to reinvigorate the principle and practice of pro bono obligation.<sup>51</sup> She launches this attempt under the historical rationale of pro bono responsibilities, especially the justifications for mandatory service.<sup>52</sup> Justifications of pro bono responsibilities, however, clash with the rules and realities of bar practices and court appointments.<sup>53</sup> Conceding those obstacles despite the sometimes laudable extent of bar contributions, Rhode seeks alternative opportunities in the structure of law school pro bono programs and the well-settled traditions of student and faculty service.<sup>54</sup>

Both abundant and compelling, pro bono opportunities survive law school often to be defeated by opposing workplace influences and incentives.<sup>55</sup> Rhode mentions such influences in reviewing empirical surveys of workplace motivations and impediments.<sup>56</sup> The surveys roughly correlate workplace pro bono policies and career pro bono commitments.<sup>57</sup> When policies favor participation by highlighting personal rewards and professional benefits, sustained commitments and high rates of satisfaction frequently ensue.<sup>58</sup> To augment pro bono participation, Rhode prescribes a cluster of reform initiatives

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46. *Id.* at 123-31.

47. *Id.* at 131-37.

48. *Id.* at 137-42.

49. *Id.* at 140-41.

50. *Id.* at 142-44.

51. *Id.* at 145-84.

52. *Id.* at 146-52.

53. *Id.* at 152-54.

54. *Id.* at 154-60; see also Deborah L. Rhode, *Cultures of Commitment: Pro Bono for Lawyers and Law Students*, 67 *Fordham L. Rev.* 2415 (1999); Deborah L. Rhode, *Legal Education: Professional Interests and Public Values*, 34 *Ind. L. Rev.* 23 (2000); Deborah L. Rhode, *The Pro Bono Responsibilities of Lawyers and Law Students*, 27 *Wm. Mitchell L. Rev.* 1201 (2000); Deborah L. Rhode, *The Professional Responsibilities of Professional Schools*, 49 *J. Legal Educ.* 24 (1999).

55. Rhode, *supra* note 3, at 163-70.

56. *Id.* at 160-73.

57. *Id.*

58. *Id.* at 168-78.



ranging from the adoption of reporting obligations and best practice standards to the installation of pro bono requirements with expanded opportunities and resources.<sup>59</sup> None of these initiatives inculcates pro bono responsibilities throughout law school or across disciplines. Furthermore, none establishes collaborative public/private partnerships or mentoring relationships. For an example of such initiatives, turn to the Center for Ethics & Public Service.<sup>60</sup>

## II. THE CENTER FOR ETHICS & PUBLIC SERVICE

Founded in 1996, the Center for Ethics & Public Service is an interdisciplinary clinic devoted to the values of ethical judgment,<sup>61</sup> professional responsibility,<sup>62</sup> and public service in law and society.<sup>63</sup> The Center provides training in ethics and professional values to eight graduate schools at the University of Miami and to eleven departments within the College of Arts and Sciences, including the Division of Student Affairs and Varsity Athletics.<sup>64</sup> The Center also provides professional ethics training to the Florida business, civic, education, and legal communities.<sup>65</sup> Additionally, the Center supplies legal representation in health rights-related public benefits and immigration cases to poor individuals, and economic development and self-help advocacy training to poor communities.<sup>66</sup> Staffed by more than seventy Law School and University student fellows and interns under faculty supervision, the Center operates three practice groups in the fields of ethics education, professional training, and community service.<sup>67</sup> The practice groups encompass bar and bench training, education, and pro bono projects.<sup>68</sup>

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59. *Id.* at 178-84.

60. See Center Website, *supra* note 2.

61. On ethical judgment, see David Luban & Michael Millemann, *Good Judgment: Ethics Teaching in Dark Times*, 9 *Geo. J. Legal Ethics* 31 (1995). See also Laurie Morin & Louise Howells, *The Reflective Judgment Project*, 9 *Clinical L. Rev.* 623 (2003); Donald A. Schön, *Educating the Reflective Legal Practitioner*, 2 *Clinical L. Rev.* 231 (1995).

62. For a discussion of ethics teaching in clinical programs, see Peter A. Joy, *The Ethics of Law School Clinic Students as Student-Lawyers*, 45 *S. Tex. L. Rev.* 815 (2004); Peter A. Joy and Robert R. Kuehn, *Conflict of Interest and Competency Issues in Law Clinic Practice*, 9 *Clinical L. Rev.* 493 (2002); James E. Moliterno, *In-House Live-Client Clinical Programs: Some Ethical Issues*, 67 *Fordham L. Rev.* 2377 (1999); James E. Moliterno, *Legal Education, Experiential Education, and Professional Responsibility*, 38 *Wm. & Mary L. Rev.* 71 (1996); James E. Moliterno, *On the Future of Integration Between Skills and Ethics Teaching: Clinical Legal Education in the Year 2010*, 46 *J. Legal Educ.* 67 (1996); and Joan L. O'Sullivan et. al., *Ethical Decisionmaking and Ethics Instruction in Clinical Law Practice*, 3 *Clinical L. Rev.* 109 (1996).

63. On the contested nature of moral character and judgment, see Deborah L. Rhode, *Moral Character as a Professional Credential*, 94 *Yale L.J.* 491 (1985).

64. See Center Website, *supra* note 2.

65. *Id.*

66. *Id.*

67. *Id.* The Center is the recipient of national, state, and local awards from the

The Center observes three guiding principles in serving the cause of ethics, professional values, and public service. The first is the principle of interdisciplinary collaboration.<sup>69</sup> The Center draws on rich, cross-disciplinary university resources in developing joint curricular, research, and clinical practice ventures. The second is the principle of public/private partnership.<sup>70</sup> The Center strives to reach out to the private and nonprofit community to establish partnerships in sponsoring civic education and community service programs.<sup>71</sup> The third is the principle of student mentoring and leadership training. The Center seeks to train students for positions of leadership in law, private enterprise, and public service.<sup>72</sup> Mentoring enables students to cultivate moral maturity and professional expertise, and moreover, to inspire other students to pursue the calling of public leadership as citizen-lawyers.<sup>73</sup>

#### A. *Mentoring and Leadership*

The principle of mentoring animates the Center's leadership program and its Bar and Bench Group. The program combines award seminars and leadership colloquia.<sup>74</sup> The seminars provide a forum for honoring winners of the William M. Hoeveler Award, the Lawyers in Leadership Award, and the Friends of the Center Award.<sup>75</sup> The William M. Hoeveler Award honors extraordinary members of the bar and bench renowned for their long-standing dedication to ethics and public service.<sup>76</sup> The Lawyers in Leadership Award honors outstanding members of the bar and bench distinguished by their commitment to ethics and civic leadership.<sup>77</sup> The Friends of the Center Award honors civic-minded members of the South Florida community noted for their generosity to the Center for Ethics & Public Service.<sup>78</sup> The Leadership Colloquia honor leading members of the South Florida community for their devotion to ethics and public leadership.<sup>79</sup>

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American Bar Association, the Florida Supreme Court, the Florida Bar, and the Miami-Dade County Commission on Ethics & Public Trust. *Id.*

68. *Id.*

69. *Id.*

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.* Law student fellows and interns enroll in a battery of courses, including a two-semester clinical practicum and seminar. Additionally, they dedicate more than ten hours per week to Center practice group and project activities. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.*

The Bar and Bench Group amplifies the principle of professional mentoring in conducting continuing legal education ethics training workshops in the areas of bankruptcy practice,<sup>80</sup> criminal justice,<sup>81</sup> federal courts,<sup>82</sup> law firm management,<sup>83</sup> and public interest law,<sup>84</sup> and in furnishing nonprofit ethics advisory opinions.<sup>85</sup> Mentoring helps institutionalize ethical perspectives in practice.<sup>86</sup>

### B. Education in Public/Private Partnerships

The principle of public/private partnership informs the Center's Education Group in designing curricula for high schools, university colloquia, and undergraduate courses on law, public policy, and ethics.<sup>87</sup> The Education Group places fellows and interns in collaborative partnerships with high school and middle school teachers and students at local public and private schools where they jointly teach weekly classes, organize convocations, and supervise mock trials. Topics range broadly from capital punishment to just war theory.<sup>88</sup>

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80. *Id.* Center fellows and interns have published bimonthly columns on legal ethics in the newsletter published by the Bankruptcy Bar Association of the Southern District of Florida. *Id.*

81. *Id.* The Center sponsors workshops and a biennial symposium on the ethics of criminal prosecution, criminal defense, and the judiciary. The symposium is a joint venture with the American Bar Association Criminal Justice Section's Florida White Collar Subcommittee, the Supreme Court of Florida, the Florida Bar's Commission on Professionalism, and leading South Florida criminal defense lawyers, federal and state prosecutors, public defenders, and judges. *Id.*

82. *Id.* The Center trains the judicial clerks of the United States District Court for the Southern District of Florida. *Id.*

83. *Id.* The Center trains law firms in the arena of professional liability, including lawyer malpractice, risk management, and loss prevention. Furthermore, for several years, the Center engaged in a revenue-sharing partnership with a multinational information technology firm to deliver online continuing legal education courseware and curricula in ethics to law firms in local, regional, national, and international legal services markets.

84. *Id.* The Center trains lawyers, paralegals, and administrators affiliated with the Florida Immigrant Advocacy Center, Legal Services of Greater Miami, and Catholic Charities Legal Services. Additionally, for three years, the Center served as legal ethics advisor to The Alliance for Ethical Government, a county-wide consortium of public and private leaders from selected business, civic, education, legal, and faith-based communities. Alliance Fellows provided research and counsel in designing ethics guidelines for business and government in the areas of campaign practices and finance, lobbying, government purchasing, business ethics, conflicts of interest, and education. *Id.*

85. *Id.* For two years, the Center provided legal services as an expert ethics consultant to the Florida Bar in prosecuting complex disciplinary proceedings. *Id.*

86. See Deborah L. Rhode, *Ethical Perspectives on Legal Practice*, 37 Stan. L. Rev. 589 (1985); Deborah L. Rhode, *Institutionalizing Ethics*, 44 Case W. Res. L. Rev. 665 (1994).

87. Center Website, *supra* note 2.

88. *Id.* Education Group fellows and interns also have collaborated with the Eleventh Judicial Circuit of Florida and the Miami-Dade County Public School Justice Teaching Institute. Moreover, for several years, fellows and interns

Education fellows and interns also collaborate in a university-wide ethics education and mentoring colloquium program jointly sponsored by a variety of undergraduate departments, graduate schools, and student groups. The colloquium addresses contemporary issues of ethics and leadership spanning affirmative action, collegiate sports, freedom of speech, racial profiling, religion, and more.<sup>89</sup> Campus-wide dialogue gains reinforcement through Center-sponsored workshops and symposia presented in collaboration with the bar, bench, and nonprofit community on subjects drawn from the field of ethics, professionalism, and public policy.<sup>90</sup>

Center workshops and symposia have attracted thousands of law students, lawyers, and civic-minded citizens to the Law School and University.<sup>91</sup> Workshops have dealt with numerous controversies including criminal justice ethics, gender discrimination, in-house counsel, international trade, judicial selection, litigation ethics, media law, racial bias, and politics. Symposia have addressed equally provocative subjects including hate crimes and public corruption.<sup>92</sup>

In addition, Education Group fellows and interns participate in both freshman and upper-level undergraduate honors courses established in partnership with the College of Arts and Sciences and the University Honors Program. Taught by Center faculty and fellows, the courses study interdisciplinary issues in law, public policy, and ethics through class discussions, weekly journals, term papers, and group projects.<sup>93</sup>

### C. *Interdisciplinary Community Service*

The principle of interdisciplinary community service steers the Center's Pro Bono Group in administering two university-wide multi-service teaching, research, and public service clinics: the Community Development and Design Clinic and the Community Health Rights Education Clinic ("CHRE").<sup>94</sup> The CHRE is jointly sponsored by

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participated in an interdisciplinary instructional, research, and community service program serving public and private schools in Miami-Dade County jointly sponsored by the University of Miami School of Education's Center for Research and Department of Teaching and Learning. The project trained high school and middle school teachers in ethics, moral reasoning, character education, value inquiry, and citizenship. Training occurred in small cross-disciplinary study circles at the Law School and University. An affiliated ethics and civic education program called Students Teaching Students trained public and private high school students to teach middle school students about ethics, character, values, and democratic citizenship through case studies, role-playing, and mock trials. *Id.*

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. For comparable programs, see Eric S. Janus & Maureen Hackett, *Establishing a Law and Psychiatry Clinic*, 14 Wash. U. J.L. & Pol'y 195 (2004); Susan R. Jones,

the Schools of Law, Nursing (Family HIV Care and Treatment Program), and Medicine (Adolescent Medicine, Community Pediatrics, Family Medicine, Obstetrics and Gynecology, Pediatric Mobile Clinic, and School Health Initiative).<sup>95</sup> In an unprecedented cross-disciplinary collaboration for the 2004-2005 academic year, CHRE clinical faculty are team-teaching a new graduate course on medical-legal advocacy (i.e., Law, Medicine, and Nursing: Advocacy, Public Policy, and Ethics) in partnership with faculty and students from the Schools of Medicine and Nursing.

The goals of CHRE are to (1) develop a teaching and curricular model for medical-legal education and training; (2) establish a clinical practice model for the delivery of medical-legal care to under-served populations; (3) research the medical-legal needs of underserved populations, especially minority families and impoverished children; and (4) provide health rights education, self-help advocacy training, and legal representation to underserved populations at university-affiliated community clinics.<sup>96</sup> Operating in cooperation with outpatient clinics at the Schools of Medicine and Nursing and community-based health centers at local inner-city elementary schools, CHRE offers direct representation to individuals and groups in health rights-related public benefits and immigration cases.<sup>97</sup> Representation involves a law student-conducted health benefit eligibility interview and investigation (“health rights check up”) in consultation with supervising clinical faculty. It also involves a student-patient informational discussion of benefit eligibility and problem-solving approaches to ineligibility, as well as direct assistance to the patient by students and faculty through self-help advising and, when appropriate, advocacy.<sup>98</sup> In the 2002-2004 academic years, CHRE clinical fellows and interns assisted patients in 151 cases.<sup>99</sup>

The same principle of interdisciplinary service informs the Center’s Community Economic Development and Design Clinic (“CEDAD”). CEDAD is jointly sponsored by the Schools of Law and Architecture, the latter under the auspices of the Center for Urban and Community Design.<sup>100</sup> The goals of CEDAD are to (1) develop a teaching and curricular model for transactional legal skills in urban economic development; (2) establish a clinical practice model for economic development assistance to low-income communities; (3) assess the

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*Promoting Social and Economic Justice Through Interdisciplinary Work in Transactional Law*, 14 Wash. U. J.L. & Pol’y 249 (2004); and Katherine R. Kruse, *Lawyers Should Be Lawyers, but What Does that Mean?*, 14 Wash. U. J.L. & Pol’y 49 (2004).

95. Center Website, *supra* note 2.

96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*

economic development impact of government policies, banking and insurance practices, and private housing markets on low-income communities; and (4) provide economic development education and self-help advocacy training to low-income communities regarding housing, land use, municipal equity, and nonprofit governance.<sup>101</sup> In the 2002-2004 academic years, CEDAD conducted neighborhood field studies and self-help advocacy training workshops addressing community land trusts, gentrification and displacement, homeowner and tenant rights, public safety, vacant lot renewal, and zoning.<sup>102</sup>

### CONCLUSION

More pragmatic than the mission of the Center for Ethics & Public Service, Rhode's *Access to Justice* outlines a concrete roadmap for reform that calls upon expanded government funding and bar pro bono contributions coupled with enlarged eligibility for aid to underserved communities.<sup>103</sup> To be sure, neither expanded funding nor enlarged eligibility will deliver the promised commitment or satisfaction of pro bono service. Rhode recognizes the elusive quality of lawyers' pro bono commitment, declaring the need for larger structural changes in both dispute resolution and the institutional framework of legal services.<sup>104</sup>

Change without institutional accountability<sup>105</sup> and democratic

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101. *Id.* For a discussion of community economic development, see Susan D. Bennett, *Little Engines that Could: Community Clients, Their Lawyers, and Training in the Arts of Democracy*, 2002 Wis. L. Rev. 469; Scott L. Cummings, *Community Economic Development as Progressive Politics: Towards a Grassroots Movement for Economic Justice*, 54 Stan. L. Rev. 399 (2001); Michael Diamond, *Community Lawyering: Revisiting the Old Neighborhood*, 32 Colum. Hum. Rts. L. Rev. 67 (2000); Brian Glick & Matthew J. Rossman, *Neighborhood Legal Services as House Counsel to Community-Based Efforts to Achieve Economic Justice: The East Brooklyn Experience*, 23 N.Y.U. Rev. L. & Soc. Change 105 (1997); Shin Imai, *A Counter-Pedagogy for Social Justice: Core Skills for Community-Based Lawyering*, 9 Clinical L. Rev. 195 (2002); and Daniel S. Shah, *Lawyering for Empowerment: Community Development and Social Change*, 6 Clinical L. Rev. 217 (1999).

102. Center Website, *supra* note 2. For like-minded programs, see Susan Bryant and Maria Arias, *Case Study: A Battered Women's Rights Clinic: Designing a Clinical Program Which Encourages a Problem-Solving Vision of Lawyering that Empowers Clients and Community*, 42 Wash. U. J. Urb. & Contemp. L. 207 (1992); and Ann Juergens, *Teach Your Students Well: Valuing Clients in the Law School Clinic*, 2 Cornell J.L. & Pub. Pol'y 339 (1993).

103. Rhode, *supra* note 3, at 185-94.

104. *Id.*; see also Judith Resnik, *Processes of the Law: Understanding Courts and Their Alternatives* (2004); Judith Resnik, *Failing Faith: Adjudicatory Procedure in Decline*, 53 U. Chi. L. Rev. 494 (1986); Judith Resnik et al., *Individuals Within the Aggregate: Relationships, Representation, and Fees*, 71 N.Y.U. L. Rev. 296 (1996); Judith Resnik, *Many Doors? Closing Doors? Alternative Dispute Resolution and Adjudication*, 10 Ohio St. J. on Disp. Resol. 211 (1995).

105. See Deborah L. Rhode, *Defining the Challenges of Professionalism: Access to Law and Accountability of Lawyers*, 54 S.C. L. Rev. 889 (2003); Deborah L. Rhode & Paul D. Paton, *Lawyers, Ethics, and Enron*, 8 Stan. J. L. Bus. & Fin. 9 (2002).

participation, however, affords little progress in the profession and in legal education.<sup>106</sup> Fundamental progress hinges on building leadership and mentoring relationships, erecting public/private partnerships, and constructing interdisciplinary community-based systems for delivering services through direct representation,<sup>107</sup> law reform,<sup>108</sup> and community outreach.<sup>109</sup> Indeed, meaningful progress towards Rhode's goal of equal access, effective assistance, and distributive justice rests on the shoulders of citizen-lawyers working in ordinary and extraordinary collaboration with low- and middle-income communities.<sup>110</sup> Interdisciplinary, multiservice clinics like the Center for Ethics & Public Service have mentored and trained nearly 200 new citizen-lawyers in the last decade. Too few to make a movement, but enough to make a difference.

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106. See Deborah L. Rhode, *Into the Valley of Ethics: Professional Responsibility and Educational Reform*, 58 *Law & Contemp. Probs.* 139 (1995); Deborah L. Rhode, *Whistling Vivaldi: Legal Education and the Politics of Progress*, 23 *N.Y.U. Rev. L. & Soc. Change* 217 (1997).

107. See Lois H. Kanter et al., *Northeastern's Domestic Violence Institute: The Law School Clinic as an Integral Partner in a Coordinated Community Response to Domestic Violence*, 47 *Loy. L. Rev.* 359 (2001).

108. See Nancy M. Maurer, *Handling Big Cases in Law School Clinics, or Lessons from My Clinic Sabbatical*, 9 *Clinical L. Rev.* 879 (2003).

109. See Stephen Loffredo, *Poverty Law and Community Activism: Notes from a Law School Clinic*, 150 *U. Pa. L. Rev.* 173 (2001).

110. See Susan Brvant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 *Vt. L. Rev.* 459 (1993); Ascanio Piomelli, *Appreciating Collaborative Lawyering*, 6 *Clinical L. Rev.* 427 (2000); Ascanio Piomelli, *Foucault's Approach to Power: Its Allure and Limits for Collaborative Lawyering*, 2004 *Utah L. Rev.* 395; Lucie E. White, *Collaborative Lawyering in the Field?: On Mapping the Paths from Rhetoric to Practice*, 1 *Clinical L. Rev.* 157 (1994); see also Carolyn Grose, *A Field Trip to Benetton . . . and Beyond: Some Thoughts on "Outsider Narrative" in a Law School Clinic*, 4 *Clinical L. Rev.* 109 (1997).

*Notes & Observations*