Pope Francis And Pro Bono Publico

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Listening to Pope Francis last week as he made his way from Washington to New York to Philadelphia, one could be forgiven for imagining he was a poverty lawyer in robes. In these deeply historical cities, each with its own set of contemporary urban problems, his itinerary included a telling mix of secular venues: the White House, U.S. Capitol and U.N., counter-balanced by a city jail and a soup kitchen, where he had lunch with some of Washington’s neediest residents. He could have dined with lawmakers on Capitol Hill, but chose to listen to their constituents instead. The first three sites are not just symbols but engines of the law; the last two are overcrowded daily reminders that in a land of laws, not all are served equally.

If there is such a thing as higher law, Pope Francis’s trip reminded us that its imperative begins in the lowest of places, like ghettos, jails, slums and shelters, where the toll of poverty is laid bare. It is this toll that pro bono lawyers and their legal services allies confront, in smaller ways. They win individual battles but are overwhelmed; too often feeling like they are losing the war, but drawing on that experience to advocate for changes in law and policy to alleviate patterns of deprivation and depredation.

Again and again, Pope Francis shone light on challenges that pro bono lawyers across the U.S. and the globe have wrestled with for years, if not decades: the death penalty, housing and homelessness, immigration, prison reform, climate change, economic justice and, running throughout, cyclical poverty and social injustice. And he did so with refreshing hopefulness.

**Death Penalty**

The first pope to address a joint session of Congress, which also included four Supreme Court justices,
Francis renewed his call, supported by U.S. bishops, for a global abolition of capital punishment. The U.S.
remains the only Western nation to cling to the death penalty. So long as there is a death penalty in the
U.S., and so long as it is applied with racial bias, disproportionately to the poor, and often to people who
were wrongly convicted, there is a need for pro bono counsel to help the wrongly accused and
inadequately represented, and to push for reform and abolition.

**Housing and Homelessness**

In Philadelphia, Francis ate with a group of homeless people and thus, even if momentarily, brought the
eyes of the world to this often overlooked population. With his trademark simple clarity, he said, “We
can find no social or moral justification, no justification whatsoever, for lack of housing.” People who
have no place to live, no permanent home to organize and safeguard their lives, inevitably face a maze
of legal issues — such as identity theft, debt, benefits eligibility — that pro bono lawyers can help
resolve, especially in collaboration with social workers, municipalities and legal services groups.

**Immigration**

The pope’s message here was both domestic and global. Looking to our border with Mexico, Francis
aptly described conditions as “inhuman,” urging us to see our neighbors as mothers and fathers and
children rather than abstracting them as “migrants.” Pro bono attorneys have for years devoted
themselves to immigration work, including asylum, U-visa, T-visas and special juvenile status
applications. More recently, a sustained and collaborative effort among law firms and legal services
providers has devoted thousands of hours to serving unaccompanied children and families, while at the
same time advocating for structural and policy changes to make the system more humane.

**Prison Reform**

The U.S is the world’s largest jailer, with less than 5 percent of the world’s population, but over 20
percent of its prisoners. After years of mounting pressure — arising in no small part from serious
questions about privatizing prisons and profiteering from incarceration, as well as mismanagement and
recidivism — there is a growing bipartisan movement in the U.S. to reform our system of incarceration.
Pro bono lawyers are familiar with the perils of over-incarceration, litigating hundreds of prisoner rights
cases every year, working to free the innocent, and calling for systemic changes at all levels. The pope,
who visited the overcrowded Curran-Frumhold Correctional Facility in Philadelphia, is focused on the
end-game: what does mass incarceration lead to and what are the better outcomes toward which we
should be working? As had President Obama when he toured El Reno Correctional Institution in
Oklahoma, the pope’s very presence drew more attention to this issue. He offered encouragement to
“all who believe that a just and necessary punishment must never exclude the dimension of hope and
the goal of rehabilitation.”

**Climate Change**

At the White House, Francis again went to the heart of the matter, when he called climate change “a
problem that can no longer be left to a future generation.” With the impact of his recent encyclical
(“Laudato Si”) still spreading, the pope did not dwell on this point. But in that document, he directly ties
the perils of climate change (“concern for nature”) to the perils of poverty (“concern for the poor”),
noting that the negative effects of climate change fall disproportionately on the poorest, most
overpopulated regions of our world.
Economic Opportunity

“Deafening anonymity” was the phrase that Francis used to describe the experience of people trapped in poverty — including “the forgotten elderly” — lacking for food, shelter, health care, education and opportunity. He called for “serious and responsible recognition … of the millions of people living under a system which has overlooked them.” A fairer economic model, drawing on natural resources, technology and individual enterprise, would protect the vulnerable and “stimulate integral and inclusive models of development.” Pro bono lawyers who work with the poor know that to be self-represented (or practically speaking, unrepresented) in a complicated legal system is to be virtually anonymous. Creating access to justice is part of the battle, but without economic opportunity to return to (or, for young people, to be exposed to at all), desperation is the norm. “To enable men and women to escape from extreme poverty,” Pope Francis told the U.N. assembly, “we must allow them to be agents of their own destiny.” In too many zip codes in the U.S., where poverty is institutionalized, one’s destiny is preordained. And so pro bono lawyering must be creative, and lawyers are joining with other professionals not only one case at a time, but a community at a time, pursuing the goal of sustainable, systemic change.

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Of course, Pope Francis delivered strong doctrinal messages and said mass for hundreds of thousands. But that was expected. On this historic trip, his most eye-opening messages were secular. His themes were bold and consistent: our common humanity, our shared home, the possibility of change, inclusiveness and expanded opportunity. As he went, he sounded these themes across each of the legal issues discussed above, as if riding circuit or composing a serial Brandeis brief on the social imperative of access to justice and inclusion of the marginalized around a planet that is itself in need of a break. Citing Merton and Day alongside Lincoln and King, he made the case for profound changes in the law. The toll of systemic failure is too great, and the stakes too high, not to change. Small clues to what change might look like can be found in the work of pro bono lawyers across the country.

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