University of St. Thomas, Saint Paul

From the SelectedWorks of Jennifer Wright

September 10, 2012

Religious Law Schools and Democratic Society

Jennifer Wright

Available at: https://works.bepress.com/jennifer_wright/3/
Many believe that, in a democratic society, the law must be approached as a purely secular, neutral system to which all members of society can assent. Discussion of religious foundations of law is condemned as inherently divisive and destructive of democratic process. Many in the legal academy believe that law school education should not involve teaching students to examine the moral foundations of the law and the legal system, and certainly should not invite and challenge law students to examine their professional role in the justice system in light of their own moral commitments and religious faiths. Law students both reflect these attitudes rooted in modern skeptical culture and respond to the tacit lessons of the law school classroom about the inappropriateness of normative discussion in legal education.

Stable democratic societies require law schools to uphold the value of normative discussion based on religious and other moral values. These societies, in order to flourish, require a widespread basic trust in the predictability, efficacy, and integrity of the legal system which regulates their basic functions. In order for such trust to continue, a large majority of the professionals constituting the legal system must behave according to durable moral values.

This article examines the importance of legal education in helping to sustain core values essential to a functioning legal system and a stable democratic society. It examines the challenges posed by cultural beliefs about the implausibility of non-relative moral values. It examines some possible secular bases for grounding absolute values. It then describes the advantages of basing non-relative values in a religious faith tradition. It discusses how religious law schools can effectively use religious truths in a reasoned manner consistent with academic values to foster their students’ effective moral professional formation. Finally, it examines the case of the University of St. Thomas School of Law, a relatively new law school founded with a mission to “integrate faith and reason in the search for truth through a focus on morality and social justice”.

**Table of Contents**

I. **Introduction and Summary of Argument** ............................................................... 2
II. **Legal Education and Democratic Society** ......................................................... 3

---

* Associate Professor of Law at the University of St. Thomas School of Law (Minneapolis). I want to offer my thanks to the faculty, staff, administrators, students and alumni at St. Thomas for being dedicated and passionate fellow pilgrims on this exciting journey. I especially want to thank those who gave me their thoughts on the St. Thomas effect through interviews, emails, and notes, Cindy Lavorato and Don LaMagdeleine for their ideas and inspiration on research methods, Virgil Wiebe, Teresa Collett, Lisa Schiltz, Jerry Organ, and Chuck Reid for their thoughtful comments on drafts, and Natolie Hochhausen, Rachel Fournelle, Christina Pilon, and Daniel Morris for their stellar research assistant work. Finally, I want to thank God for calling me to teach and work in this wonderful place, and my ever-supportive and dearly beloved husband, Tom Linder, for agreeing to uproot the family and move across the country so that I could do so.
I. INTRODUCTION AND SUMMARY OF ARGUMENT

There is an enduring mindset which holds that, in a democratic society, the law must be approached as a purely secular, neutral system to which all members of society can assent.¹ Discussion of religious (or any other absolute-truth-based) foundations of law appears to many to be inherently divisive and destructive of democratic process. In line with these attitudes, many in the legal academy believe that law school education should not involve teaching students to examine the moral foundations of the law and the legal system, and certainly should not invite and challenge law students to examine their professional role in the justice system in light of their own moral commitments and religious faiths. As the seminal Carnegie Report² states:

... in the minds of many faculty, ethical and social values are subjective and indeterminate and, for that reason, can potentially even conflict with the all-important values of the academy – values that underlie the cognitive apprenticeship: rigor, skepticism, intellectual distance, and objectivity... Many faculty who doubt the value of education for professional responsibility in law

¹ “In contemporary political theory, the indictment of those who would shape politics and law on the basis of what they regard as a correct anthropology often proceeds from the premise that it violates the requirement of ‘public reason,’ which in turn is understood as those minima on which agreement can in principle be expected.” Patrick McKinley Brennan, Are Catholics Unreliable From a Democratic Point of View? Thoughts on the Occasion of the Sixtieth Anniversary of Paul Blanshard’s AMERICAN FREEDOM AND CATHOLIC POWER, 56 VILL. L. REV. 199, 219 (2011–12).

schools equate efforts to support students’ ethical development with inculcation, which they see as illegitimate and ineffective.
The reluctance of many law faculty to engage in critical examination of the role of moral values in the development of the substantive law, in legal procedure, and in the role of lawyers in the justice system is mirrored on the part of many law students. Law students both reflect attitudes rooted in modern skeptical culture and respond to the tacit lessons of the law school classroom about the inappropriateness of normative discussion in legal education.3

Such skepticism about the value of normative discussion based on religious and other moral values runs directly counter to the demands that a stable democratic society must make on the legal academy. Modern trends, including the growth in moral subjectivism and relativism, the market’s elevation of economic self-interest as the primary motivator of human activity, extreme individualism, and the popularity of purely self-referential definitions of human well-being, if unopposed, will ultimately destroy the moral foundation which provides the continuing stability underlying democratic societies.4 These societies, in order to flourish, require a widespread basic trust in the predictability, efficacy, and integrity of the legal system which regulates their basic functions. In order for such trust to continue, a large majority of the professionals constituting the legal system must behave according to durable moral values which run counter to the skeptical moral posture described above.

In this article, I will look at the importance of legal education in helping to sustain core values essential to a functioning legal system and a stable democratic society. I will examine the challenges posed by deeply engrained cultural beliefs about the implausibility of any non-relative, reality-based moral values. I will briefly examine some possible secular bases for grounding absolute values. I will then describe the advantages of basing non-relative values in a religious faith tradition. I will discuss how religious law schools can effectively use religious truths in a reasoned manner consistent with academic values to foster their students’ effective moral professional formation. Finally, I will explore the specifics of this endeavor by examining the case of the University of St. Thomas School of Law, a relatively new law school founded with a mission to “integrate faith and reason in the search for truth through a focus on morality and social justice”.

II. LEGAL EDUCATION AND DEMOCRATIC SOCIETY

The tendency of modern society to reject the possibility of objective moral values has serious implications for the ability of a stable democratic system to endure and prosper.5 Our legal

3 “The wariness of law students toward the discourse of values is reinforced by the tendency of legal education to translate ethical questions into purely legal ones. And once they are in the legal classroom, students absorb the message that the law is malleable, indeterminate, unstable, and arbitrary from the standpoint of morality--in short, a foundation of shifting sand upon which to build any kind of normative system.” W. Bradley Wendel, Teaching Ethics in an Atmosphere of Skepticism and Relativism, 36 U.S.F. L. REV. 711, 722 (2002), citation omitted.
4 “[S]kepticism that deepens into a belief in the meaninglessnless of principles, the relativism of values or the non-existence of an ultimate reality is dangerous and crippling. Tendencies toward moral relativism and value nihilism are pervasive in the general society.” Roger C. Cramton, Ordinary Religion of the Law School Classroom, 29 J. LEGAL EDUC. 247, 253 (1977–78).
5 “The prevailing approaches suggest that normative argument about fairness and justice is either pointless or obfuscatory. . . [O]n the contrary, normative methods are available, important, helpful, and, indeed, necessary to adjudicating cases fairly and wisely. . . Morality and justice-based arguments are therefore both unavoidable and necessary to shape the contours of the legal framework of a free and democratic society.” Joseph Singer, Normative Methods for Lawyers, 56 UCLA L. REV. 899, 951 (2008–09).
system, and by extension, our economic and political systems, depend upon a broad acceptance of notions of fairness, justice, honesty, and right action, particularly on the part of the lawyers who constitute and function within this system.

Case analysis, opinion writing, and legal argument all involve and require lawyers to make, defend, and criticize arguments based on both rights, morality, and social utility in common law adjudication. . . The details of the legal rules governing social life cannot be defined by deduction or mechanical derivation from the nature of basic institutions or concepts or rules. Our common law system defines those legal rules partly by reference to moral considerations, and it is not clear that our legal system could operate at all if it put these controversial moral arguments off the table. If it is essential to a stable democratic society that lawyers accept and incorporate moral values in their professional work, while the culture of such societies tends to erode these same values, what can be done with regard to the training and formation of lawyers in the interests of democratic society?

Market pressures on lawyers toward a single-minded focus on maximizing billable hours and profits are intense. Legal education often does not provide any substantial bulwark to enable attorneys to withstand such pressures to do whatever it takes to please the client and increase the bottom line.

Modern dogmas entangle legal education – a moral relativism tending toward nihilism, a pragmatism tending toward an amoral instrumentalism, a realism tending toward cynicism, an individualism tending toward atomism, and a faith in reason and democratic processes tending toward mere credulity and idolatry. The only really effective restraint pushing back against these pressures is attorneys’ internal sense of professional identity and integrity. Lawyer discipline systems alone cannot enforce professional conduct simply by sanctioning its opposite. Unless a significant percentage of lawyers enforce professional norms on themselves and, by force of social approval, on their colleagues, these norms will become words that bear no relationship to the realities of legal

---

6 Singer, supra note 5, at 923.
7 Cramton, supra note 5, at 262; “. . . dominant beliefs and practices in legal education thwart natural human needs for growth, personality integration, and internally based motivation . . . the intense pressures and competitive success norms at most law schools begin a process that reorients students away from positive personal values and towards more superficial rewards and image-based values, leading to a loss of self-esteem, life satisfaction, and well-being.” Kennon M. Sheldon & Lawrence S. Krieger, Does Legal Education have Undermining Effects on Law Student? Evaluating Changes in Motivation, Values, and Well-Being, 22 BEHAV. SCI. & L. 261, 263 (2004).
8 WILLIAM M. SULLIVAN, WORK AND INTEGRITY: THE CRISIS AND PROMISE OF PROFESSIONALISM IN AMERICA 159 (1995) (“…the long-term viability of free institutions, and thus of individual freedom, required some means whereby the intrinsic values of activities essential to the common welfare could be protected from meltdown into the cash nexus. At a moment when the unregulated cash nexus of the market threatens to implode upon the social order it should serve, the reinvigoration and institutionalization of the ideals of integrity of function and public responsibility that professionalism represents would fill an essential need.”); Symposium, The Opportunity for Legal Education, 59 MERCER L. REV. 859, 890 (2007) (“When we neglect the development of identity, we rob our students of the purpose that brought them to law school with devastating consequences for our students and the profession they enter. There are signs of trouble: attrition rates; incidence of mental illness, such as depression, suicide, and substance abuse; and the popular negative image of lawyers.”); Carnegie Report, supra note 2, at 127 (“Large-scale changes in the conditions of practice have washed away many of the institutional pilings that supported the ideals expressed in the Model Rules.”).
practice. Enforcement of rules of professional conduct can only at best set a floor by punishing egregious misbehavior—it cannot instill an ethic of aspiration to excellence in the profession. As William Sullivan describes in Work and Integrity: The Crisis and Promise of Professionalism in America, “[a]ccording to the ethics of character, moral rules play at most a secondary role in ethical life; the real focus of ethics should be on delineation and development of good patterns of judgment and action.”

Our society needs ethical judgment and action on the part of lawyers to survive and thrive. Lawyers and judges control access to the justice system, they affect its functioning at every level, and they have enormous influence over its outcomes. Events ranging from political scandals to business and financial sector crises indicate the enormous cost to society when lawyers abandon their broader professional and societal perspective and seek only to enrich or empower themselves and/or the client before them. When brilliant lawyers use their skills and knowledge to provide tenuous legal justification for human torture, this situation seems to indicate that there is something very seriously wrong with the state of legal professionalism.

The 2007 Carnegie Foundation’s report on the state of legal education points out the importance and the power of legal education to shape the professional identities of lawyers. The Carnegie Report insists that law schools have no choice about whether they will shape their students’ professional identities, only about how they will do so.

For better or worse, the law school years constitute a powerful moral apprenticeship, whether or not this is intentional. Law schools play an important role in shaping their students’ values, habits of mind, perceptions, and interpretations of the legal world, as well as their understanding of their roles and responsibilities as lawyers and the criteria by which they define and evaluate professional success.

Law schools have an essential role to play in intentionally and thoughtfully instilling in their graduates a professional identity designed to preserve the profession and maximize the profession’s contribution to a functional system of justice and to the common good.

What is the purpose and proper function of a law school? Can the nature of the law school experience substantially affect the ethical, moral and professional identity of the lawyers that emerge from that experience? Should this kind of professional and moral shaping be the responsibility of law schools generally? How can law schools determine what kind of lawyers they want to produce? How can the effect of law school training be defined and measured? These questions are essential to the future of legal education, of the profession of law, and of

---

9 “The problem is that the whole notion of the conscientious discharge of one’s function, traditionally described as an ethic of vocation, seems to be breaking down. At the same time, the ever more Byzantine elaboration of rules fails to satisfactorily replace it. The furor over professional integrity is an expression of the great need modern societies have for professionalism as a reliable social ethic.” SULLIVAN, supra note 9, at 259.

10 SULLIVAN, supra note 8, at 197.


12 Carnegie Report, supra note 2, at 2 (“Law school provides the single experience that virtually all legal professionals share. It forms minds and shapes identities.”).

13 Id. at 139.
democratic society in general. The traditional notion that law schools’ only essential task is to teach students to “think like lawyers” has come under increasing challenge, as failures of basic social institutions, including banks, accounting firms, and institutions of government, have occurred under the noses of, and often with the active support of, the lawyers who were supposed to uphold the law.\textsuperscript{14} The American Bar Association, which has the responsibility for accrediting law schools in the United States, is considering significant changes to its accreditation standards, with a much greater focus on requirements that law schools invest in intentional ethical professional formation of their students.\textsuperscript{15} Law schools must reconsider the nature and boundaries of their essential function within the legal system and within democratic society as a whole.

Law schools can, should and must devote thought and effort to the question of the professional and ethical formation and identity of their graduates.\textsuperscript{16} When law school classes and professors appear to declare moral reasoning irrelevant to the task of learning to “think like a lawyer,” they instill and indoctrinate a particular view of the moral role of the lawyer – one that has led to personal and professional disaster for many lawyers and for society. Many faculty intentionally exclude from the law school classroom any discussion of the ethical and social implications of the law. Unfortunately, such silence unavoidably conveys an implicit – and unfortunate – message to law students about the unimportance of these crucial issues to the study and practice of law.\textsuperscript{17}

Some legal educators have assumed that moral character is already set and unchangeable by the time that people enter law school, and that it is unrealistic to expect that the law school experience will make any significant change in lawyers’ moral perspectives or choices. Many law school professors assert that they have no effect on the moral development of their students, who are, after all, adults by the time they arrive in the law school classroom. This assertion rings rather dissonantly with the claim that law professors teach law students to “think like lawyers.” The claim appears to be that law school has a profound effect on law students’ basic cognition in every area except that of moral reasoning – an odd assumption at best.\textsuperscript{18}

\textsuperscript{14} Neil W. Hamilton, Ethical Leadership in Professional Life, 6 U. ST. Thomas L. J. 358, 395 (2009) (“Legal education needs both to assess its failures of socialization that contribute to catastrophic failures of morally responsible leadership in our society and to move from rhetoric and exhortation about opportunities for ethical leadership in speeches to law students toward educational engagements to equip students for the leadership roles lawyers serve in society.”).


\textsuperscript{16} “Our current methods of teaching legal ethics focus on the understanding and analysis of the rules and obligations of the profession. . . moral reasoning and knowledge of the legal rules are not sufficient. . . The legal profession, and society, need more lawyers who possess virtues such as honesty, courage, and wisdom.” Timothy W. Floyd, Moral Vision, Moral Courage, and the Formation of the Lawyer’s Professional Identity, 28 MISS. C. L. REV. 339, 340 (2009).

\textsuperscript{17} Id. at 140 (“When faculty routinely ignore – or even explicitly rule out-of-bounds – the ethical-social issues embedded in the cases under discussion, whether they mean to or not, they are teaching students that ethical-social issues are not important to the way one ought to think about legal practice.”).

\textsuperscript{18} Walter H. Bennett, Jr., Making Moral Lawyers: A Modest Proposal, 36 CATH. U. L. REV. 45, 47–48 (1986) (“That law students are susceptible to mega-changes in their intellectual processes is the assumption underlying the belief that one can learn to ‘think like a lawyer.’ And toward this end, law schools have employed many of the tools
Research in moral development has established that, in fact, moral development is an ongoing process that continues well into adulthood and which can be shaped by postgraduate education.\(^\text{19}\) Moral character is built of many components, including explicitly cognitive ones.

First, one must perceive relevant moral concerns in the situation (moral sensitivity); this might also be labeled “moral perception.” Next, one must put those concerns together into an adequate, mature judgment about what is right or wrong (moral judgment). Further if one perceives and judges well, one must still place moral values above other values relevant to the situation, thus effectively deciding to do the moral act (moral motivation). Finally, one must effectively implement the decision to act morally, through perseverance, effective problem solving, etc. (implementation skills).\(^\text{20}\)

Law school is the logical place to teach the skills needed to recognize the moral and ethical issues that present themselves most often in the context of law practice, as well as to continue the development of the moral judgment needed to resolve these issues. Law students and new lawyers also face new challenges with respect to competing values (strict honesty in time-keeping versus strict billable hour requirements, e.g.), which will require new applications of moral judgment as professional practice habits are developed. And certainly, law school bills itself as a place to learn how to effectively implement decisions and solve problems. Finally, theories of moral identity indicate that “…when morality is important and central to one’s sense of self and identity, it heightens one’s sense of obligation and responsibility to live consistent with one’s moral concerns.”\(^\text{21}\) Law school is the place where the law student begins to develop and define her identity as a lawyer.\(^\text{22}\)


\(^{20}\) Landsman & McNeel, supra note 19, at 894–95.

\(^{21}\) Hardy & Carlo, supra note 19, at 238.

\(^{22}\) See discussion of “Integration, Integrity and Independence”, infra section VII. B. 2., below.
If law schools must begin a conscious and intentional attempt to shape the moral and professional formation of lawyers in a way that will uphold the values of the legal profession and its crucial role in society, how are they to undertake this enormous task? The Carnegie Report indicates that “[a]s far as we know, there is no research on the extent to which this influence [of law school education] results in greater incorporation of the ethical-social values of the profession into students’ personal and professional identities.” Such research is essential to the renovation of legal education and the preservation of the legal profession. Legal pedagogy is still at the point of development of theories as to how best to instill specific moral and professional values. The call at this point in time is for systematic testing of theories and study of educational outcomes. “The law school must become intentional about its own aims, educational processes, and identity. Like good students, good law schools should also be constantly learning and assessing their progress. They should be developing greater institutional intentionality.”

III. THE DIFFICULTY OF MAINTAINING CORE VALUES IN A MODERN, LIBERAL SOCIETY

Modern culture in democratic societies manifests a pervasive skepticism about the ability to justify or defend objective values. The reflexive position of many first year law students faced with a normative discussion reflects this sense that there can be no reasoned defense of absolute values. Students (and many faculty) wonder:

How can we make normative arguments in a fragmented and skeptical age? How can we justify legal rules that bind everyone when we have fundamental disagreements about the nature of the good, and our methods of reasoning seem to embody, rather than transcend, those disagreements?

Our society suffers from a “. . . skepticism that deepens into a belief in the meaninglessness of principles, the relativism of values or the non-existence of an ultimate reality . . . ” However, paradoxically, the majority of individuals do affirm, explicitly or implicitly through their behavior, that Good does exist in some non-relative way, that some moral positions are obligatory, and that the laws governing society can and should reflect these moral commitments. The very structure of everyday conversation (“put yourself in my shoes for a moment”), our shared indignation at perceived wrongs (“those investment bankers are getting million dollar bonuses for helping to trash our financial system?!”), the fact that we engage in normative evaluation on a daily basis (“what a jerk he is”) all implicitly presume existent and commonly accessible standards of value. Indeed, the role of the academy as discoverer and imparter of knowledge presupposes that there is objective knowledge to be discovered and taught, in the humanities as well as in the physical sciences.

---

23 Carnegie Report, supra note 2, at 135.
24 Id. at 182.
25 Singer, supra note 5, at 911.
26 Cramton, supra note 4, at 253.
27 “I want to believe – and so do you – in a complete, transcendent, and immanent set of propositions about right and wrong, findable rules that authoritatively and unambiguously direct us how to live righteously. I also want to believe – and so do you – in no such thing, but rather that we are wholly free, not only to choose for ourselves what we ought to do, but to decide for ourselves, individually and as a species, what we ought to be.” Arthur Allen Leff, Unspeakable Ethics, Unnatural Law, 1979 DUKE L.J. 1229, 1229 (1979).
28 “At its most basic level the coherence of the academy depends, not upon an individualistic understanding of knowledge, but upon a belief in the possibility of knowledge. And knowledge must mean something different than
What are the reasons for this intellectual skepticism about objective moral values? One key factor is the tendency since the Age of Enlightenment to equate knowledge with empirical verifiability. “...a good deal of the seductive quality of moral relativism is due to the tendency of students to assume that the only beliefs that count as ‘knowledge’ are those that can be verified through the methods of the empirical sciences.”29 In other words, that which cannot be tested in a laboratory, yielding experimental results that can be verified by others, is not truly real and does not belong to the sphere of the academy. Under this line of thought, the failure of moral thinkers to come up with a theory that compels consensus is in itself an indication that there is no underlying reality to moral values, leaving skepticism and relativism as the only intellectually respectable moral postures. Other cultural factors reinforce this sense of frustration at the lack of empirical verifiability of moral judgments:

As for the skeptics and relativists, however, I think their attitude may be explained by one or more currents in the wider intellectual culture: the occasional association in popular attitudes between non-relative ethical arguments and the political Right; the multiculturalism movement; the decidedly chilly reception given to American assertions of universal rights in international law, and the broader attack on traditional sources of authority and certainty carried out by critics who brand themselves postmodern.30

Once moral skepticism gains force, due to the visible lack of moral consensus and in reaction to the intellectual, political, social, and moral failures attributed (often fairly) to traditional absolutist moral positions, it becomes self-perpetuating in ways both subtle and obvious. “The belief that there is no right answer (beyond what individuals determine for themselves) to questions of value compounds the problem by steering people toward atomism, complacency, and a reluctance to debate ethical issues.” 31 Once ethical debate is rejected as inappropriate for the classroom, students will not acquire the skills to engage in rational normative discussion, and will therefore be even more reluctant to participate in such discussion.32 Finally, the exclusion of discussion of moral values from the classroom itself conveys a tacit judgment of the value of such values:

When faculty routinely ignore – or even explicitly rule out-of-bounds – the ethical-social issues embedded in the cases under discussion, whether they mean to or not, they are teaching students that ethical-social issues are not important to the way one ought to think about legal practice. This message shapes students’

---

29 Wendel, supra note 3, at 717.
30 Id. at 719–20 (citation omitted).
32 “...legal education tends to get students out of the habit of making ethical arguments, since the only arguments traditionally admissible in the law school classroom are those which make reference to legal concepts.” Wendel, supra note 3, at 723.
habits of mind, with important long-term effects on how they approach their work. 33

Many factors combine to create and reinforce the rejection of rationally defensible, reality-based moral claims: an inappropriate standard for evaluating moral reasoning and claims; the experience of cultural diversity and a lack of social consensus as to many moral issues; the rejection of specific authoritarian and unjust moral regimes; doubt about the value of reasoned discourse on moral questions; the resulting lack of experience in how to engage in such discourse; and, finally, the inference that moral issues are not discussed in academic settings because they are not important or appropriate to intellectual discourse. If moral claims have no basis in reason and reality, then they are optional, subjective, and, not surprisingly, ineffective in shaping choices and behaviors.

IV. POSSIBLE SECULAR SOURCES FOR CORE VALUES

Thinkers who defend non-relative moral values without recourse to religiously-based argument face a difficult challenge. They must find a source of value which will be applicable to all people, but which is grounded entirely in this world and this order of reality, without appeal to any transcendent source of authority. I have a tremendous respect for this endeavor. I believe that it fulfills an important purpose, in demonstrating the method of normative discourse in language and concepts accessible to the many people who simply reject religiously-based argument out of hand.

I am not a moral philosopher. Neither are the vast majority of lawyers, law students, or law professors. I do not aspire to plumb the depth or survey the breadth of theories of moral value. Rather, I take the practitioner’s/policy maker’s-eye view of moral theory, seeking those ideas can be both accessible and convincing to lawyers as they do their daily work within the legal system. 34 Given that initial limitation on the endeavor, I will briefly survey some arguments for founding non-relative moral values on secular foundations and assess their strengths and weaknesses as motivators of moral conduct by lawyers.

One familiar system of moral justification takes “. . . an approach inspired by Kant and attempt to locate the objectivity in ethics in the structure of reason . . .”35 If reasoned thought itself demands certain characteristics of consistency, objectivity, and recognition of the equal dignity of others, then we can appeal to thinking persons to acknowledge and act according to these values inherent in the process of thought.

The Kantian idea that people are ends-in-themselves entitled to dignity is a secular equivalent of the religious understanding that human beings are created in the image of God and are therefore of enormous importance and deserve to be treated with dignity. The liberal corollary to this view is that each person is of equal importance and entitled to equal concern and respect. This insight leads to

33 Carnegie Report, supra note 2, at 140.
34 “Lawyers and law students therefore need to know the available frameworks and vocabulary for engaging in normative argument – especially normative argument about considerations of fairness, justice, morality, and the basic values of liberty and equality underlying the contours of a free and democratic society that treats each person with equal concern and respect.” Singer, supra note 5, at 950.
35 Wendel, supra note 3, at 718.
some version of the Golden Rule, perhaps the central moral principle governing the acceptability of public reasons: the equal moral worth of persons means that one cannot claim something for oneself while denying it to others. It also means that one cannot demand something of others unless one can give reasons that we think they should be able to accept. 36

The Kantian Categorical Imperative 37, in general form, is familiar to most educated people, even if not necessarily correctly attributed or understood. I would not venture on any substantive critique of Kant’s moral theory, remembering the tears I shed as an undergraduate wrestling with the *Groundwork*. My concern here is to what extent a Kantian basis for moral values can serve as an effective foundation for lawyers in their professional endeavors. The irony of Kant’s framework is that, while he upholds a good will as the core of morality, his appeal to a purely intellectual motivation seems inadequate in many cases to move actual human beings to choose the right. Kant’s refusal to incorporate the emotions as any part of a theory of moral value means that real human beings, whose wills are often moved by the heart as much as by the head, find Kant’s arguments inadequate to motivate them to Kant’s notion of right action. Most people do not subjectively experience reason as the sole source of their autonomous actions, nor do they see their emotional commitments as external constraints on their personal autonomy. In order to have the power necessary to guide moral action, even in the face of cultural and personal impulses to the contrary, moral values must be able to motivate the entire person to right action. The demands of rational consistency, I would argue, are not enough to motivate most people, who do not identify themselves solely, or perhaps even primarily, with their intellect.

Another argument attempting to found non-relative moral values on purely secular foundations focuses on what is at base an empirical claim about human nature. According to this argument, human beings are constituted such that they will find happiness, well-being, and flourishing if certain conditions are met. These conditions, which have no metaphysical justification or source (perhaps the result of some not-yet-understood Darwinian imperative?), happen to accord with the moral values necessary to sustain a stable democratic society. In order to be truly happy, human beings must be compassionate, other-regarding, just, responsible, self-controlled, truthful, and any number of other qualities that may be defended as essential to individual and societal thriving. 38 Under this theory, it is human psychology, taken as an empirically discoverable given, that dictates the objective basis for morality. People just happen to be constituted in a given way; if we examine what it is that truly makes us happy and fulfilled, we will find that it is faithfulness to certain moral values. “Despite our various and even competing visions of what it might mean to thrive as human beings, we can perhaps agree that these traits or capacities are valuable, even vital, to our capacity to thrive in a modern democratic society.” 39

This argument has a great deal of appeal. Many studies of what makes human beings happy have yielded results that do not square with the account of human thriving offered by materialist

---

36 Singer, *supra* note 5, at 950.
37 For a complete explanation of Kant’s Categorical Imperative, see IMMANUEL KANT, GROUNDWORK FOR THE METAPHYSICS OF MORALS (Thomas K. Abbott trans., Lara Denis ed., 2005).
38 See generally, Sherman J. Clark, *Neoclassical Public Virtues: Towards an Aretaic Theory of Law-Making (and Law Teaching)*, working draft on SSRN.
39 *Id.* at 16.
market-based theories of human motivation. Current psychological research is offering fascinating views of human nature and human thriving that contradict the relativistic, individualistic, self-referential values often assumed to control human behavior. To the extent that such research establishes universal truths applicable to our common humanity, then these truths can be offered as a basis for objective moral values.

And there lies the rub. If, instead, research into human psychology establishes that, at least in some contexts or with regard to some values, human happiness and thriving are increased by principles or actions which are destructive of a stable system of justice, then we have no foundation on which to base an argument in favor of social goods over individual goods (especially where free ridership is an option). And, from an objective perspective, it would seem metaphysically significant if human flourishing does indeed track exactly the moral values required to sustain a stable and just legal system. Such an outcome would seem to beg the question, “why are people psychologically constituted thus?”. The argument from human flourishing itself can provide no answer to this question, because it simply takes human psychology as the given. A stronger argument would give a metaphysical accounting of this curiously symmetrical outcome. Without such an accounting, doubt must linger as to whether psychological researchers are actually studying objective phenomena, or whether their theory has instead pre-determined their results, through some flaw in research design.

Another ground commonly proposed to found objective moral values relies on a somewhat less ambitious argument. Without necessarily making claims that are applicable to all people everywhere, the argument is directed at the particular interlocutor, who is challenged to analyze her own, perhaps unexamined, moral values and to act consistently with those values.

The point is to get people to commit to first-order ethical evaluations, before beginning the much more complicated process of justifying them. . . Once people have offered an evaluation of an action or a person's character, the next step is to inquire into the basis for this judgment.

In fact, within a given culture, and even to some extent across cultures, we will find that the various individuals engaged in debate about moral values do in fact hold many such values in common. Indeed, only because we do in fact share some key normative values are we able to engage in such a discussion. This argument provides an essentially ad hominem response to

---

40 See, e.g., Phillip Brickman, Dan Coates & Ronnie Janoff–Bulman, Lottery Winners and Accident Victims: Is Happiness Relative?, 36(8) J. PERSONALITY & SOC. PSYCHOL. 917 (1978) (finding that lottery winners are no happier than a control group, and that paraplegics were only marginally less happy.) The relatively young discipline of positive psychology has confirmed these non-intuitive results in many other contexts. “The seeds of our inability to know how we will feel, or what makes us truly happy and when, were implicated in some intriguing, if puzzling, research showing that people adapt to misfortune much better than anyone expects. The downside, of course, is that unexpected bounties (e.g., lottery winnings, love) do not elevate our happiness for very long.” Dana S. Dunn, 27(7) J. SOC. & CLINICAL PSYCHOL. 756, 757 (2008) (reviewing Daniel Gilbert & Alfred A. Kopp, STUMBLING ON HAPPINESS (2006)).


42 “We can call this the argument from humanity. . . Whether it is a universal principle or simply a fundamental assumption of our society is less important than the fact that, at least for us, it is a fundamental assumption.” Singer, supra note 5, at 961.

43 “We act for reasons, and we can make those reasons known to others. If we disagree with someone, it is because we disagree with their reasons, but we do understand them. If we did not share concepts with persons with whom we disagreed, they would be unintelligible to us, not opponents in a debate. . . Simply to participate in the practice
the moral skeptic—challenging her to see that the way that she commonly thinks, speaks and acts is inconsistent with a belief in purely subjective or relative moral values.

But how do we ground the values we identify and assert? . . . The argument from consistency suggests that if you value this, humanity requires you to respect it for others as well. The pragmatic argument suggests that we take for granted the things that no one seriously questions. . . Evaluative assertions can provide an answer to the ‘because clause’ (expressing and explaining why certain values should be protected) by appealing to the things we in fact already believe.44

Once again, the rub comes when we encounter the arguably unusual individual, who either declines to feel bound to think and behave consistent with tacitly adopted values, or who perhaps declines to engage in normative discussion altogether.

We cannot refute the steadfast relativist with logic. The best we can do is to show that most people, most of the time, care very much that the reasons they put forward in ethical argument are reasons that others might share. Similarly, they are prepared to be moved by reasons where they are persuasive.45

It may be that this mode of argument is effective for the large majority of law students and lawyers, and that an argument that provides a common ground for normative discussion for all but the few amoral outliers is good enough for the purposes of providing a firm foundation for a stable system of justice and a stable democratic society. It is hard to imagine any moral theory that would enlist and control the actions of the amoral or willfully bad person. On the other hand, once again the lack of metaphysical grounding to explain why we tend to speak, think and act as we do undermines the stability of the moral justification offered. If our “normative reflexes” have no particular connection to reality, perhaps we can train ourselves out of these irrational allegiances, or simply ignore the inconsistency of our thoughts and actions. The foundation for ethical training and development still seems less than solid. The values we seek to defend have no claim to value of their own.

V. THE VALUE OF RELIGION AS A SOURCE OF CORE VALUES

There are undeniable advantages in turning to religious foundations in order to engage the whole person, including both mind and heart, in the quest for objective moral values. Religion provides a metaphysical grounding to explain why people tend to share certain normative assumptions and commitments and why human flourishing might depend on acting in accordance with particular moral values. Religions make the claim that certain moral values are true and good because they are ordained by and correspond to a transcendent source of Truth and Goodness. Such claims can be definitive for the believer, and may be persuasive even to the agnostic, particularly in connection with and as metaphysical foundation for other justifications for moral values (some of which are described above). Given the large number of Americans called “ethics” means to be committed to a process of giving certain kinds of reasons in justification for judgments about what one ought to do.” Wendel, supra note 3, at 744 (citation omitted).

44 Singer, supra note 5, at 966 (emphasis in original).

45 Wendel, supra note 41, at 180.
who identify themselves as believers in some divine power,\textsuperscript{46} religion is a broad-based potential foundation for the stable values necessary to sustain a democratic society in the United States.

The most basic challenge to instilling moral values lies in the apparent indeterminacy of those values.

We have trouble drawing lines in hard cases, and we have even more trouble defending our moral beliefs to those who have opposite intuitions or commitments. Disagreement seems to be permanent and inevitable – even among persons of good will who actively seek to reach agreement or to discover the truth of the matter. . . What is the foundation of assertions of justice, morality, right, and fairness? Why is a claim of justice any more than your personal opinion? Is it possible to reason about justice?\textsuperscript{47}

Attempts to establish some values as absolutely true and universally binding on a purely secular basis fall short of the ultimate goal. The essential problem of secular arguments for non-relative values is that there is no universal basis, unaffected by situational or personal contingencies, to give any particular value or set of values unquestionable validity. As a result:

there is discontent verging on despair whenever some theorist tries to develop a system in which ‘found’ ethical or legal propositions are to be treated as binding, but for which there is no supernatural grounding. . . If [God] does not exist, there is no metaphoric equivalent. No person, no combinations of people, no document however hallowed by time, no process, no premise, nothing is equivalent to an actual God in this central function as the unexaminable examiner of good and evil.\textsuperscript{48}

Whatever standard we use to justify the values we defend is subject to challenge unless it is grounded in a metaphysical reality that our interlocutors accept as true.

Western democratic societies were all founded upon certain core values, rooted in religion-based understandings of reality. These values have been translated into secular versions in the post-Enlightenment world, but have been cut adrift from the source of their claims to non-relative truth.\textsuperscript{49} Once these values are reduced to the status of contenders for subjective evaluation and adoption, they are found to be logically refutable in any number of ways. Only axioms can provide a foundation for a rationally coherent, defined system of morality. If the source of transcendent axioms is denied, then they are reduced to refutable, contingent statements.\textsuperscript{50}


\textsuperscript{47} Singer, supra note 5, at 903.

\textsuperscript{48} Leff, supra note 27, at 1232.

\textsuperscript{49} “[Enlightenment rationalism] has translated certain Christian values into secular terms and, in an age becoming increasingly secular, has given them political force. It is doubtful, however, that it could have created those values or that it can provide them with adequate metaphysical foundations.” Glenn Tinder, \textit{Can We Be Good Without God?}, ATLANTIC MONTHLY, Dec. 1989, at 68–72, 76.

\textsuperscript{50} “[Without religion] all logical ground for attributing an ultimate and immeasurable dignity to every person, regardless of outward character, disappear. . . Thus the spiritual center of Western politics fades and vanishes. If the
The current situation is still worse, with regard to defending core moral values. Not only are they refutable logically, in a purely secular arena of discussion, but there are strong incentives to reject these values based on self-interest, as discussed above. Religious faith as a basis for moral values provides not only the metaphysical justification and logical grounding for these values, but the motivational system to encourage people to uphold and act according to these values. Religion-based moral values do not offer, among their advantages, an end to moral debate. Rather, they frame a mode of discussion about moral issues that offers common ground to fellow believers, both from the same faith tradition and from other faith traditions. Religion-based moral values also offer to the individual believer a firm basis for resisting cultural forces that encourage self-interested, bottom-line-based behavior.

While there is broad overlap and agreement between religions over what moral values are mandated by God (or other name for transcendent reality), different faiths found and develop their understandings of God’s moral mandates differently. Therefore, while different religions generally agree on the first-order moral values (compassion, empathy, justice, fairness, honesty, equality, etc.), they frequently disagree on how these values are to be pursued within a society or a legal system. In order to go into greater depth and specificity about the value of religion-based moral values, I will examine the values offered by Christianity, and specifically, Roman Catholicism. I offer this examination as an example of religious justification of moral values, not as the only possible religious basis for moral values.

Catholic teachings about moral values and social justice are founded in the theory of natural law.

The Catholic contribution to the political sphere includes the claim that we are all, each of us and all of us collectively, always under the divine natural law, which, though divine in its promulgation, is known by the use of our natural powers of intelligence. This is the law on the basis of which human law can be made; this is the law that gives us our natural rights; this is the law that provides the basis for criticizing and perhaps disobeying human laws that are in fact perversion of law through their violations of human rights and the deprivations of what is good for humans.

This concept of natural law is rooted deep in American legal, political, and moral thinking. Natural law provided the foundation for the modern civil rights movement and its successor principle of personal dignity disappears, the kind of political order we are used to – one structured by standards such as liberty for all human beings and equality under the law – becomes indefensible.” Id.

51 “Without a religious point of reference, one can, as did Aristotle, arrive at and articulate a definition of the person as being in relationship with the community, and to have as one’s chief end the common good. But it is undoubtedly difficult to maintain such a vision, and even more difficult to act accordingly in daily life... Religious reflection and experience have provided not only rich insights into the nature of the human person, the community, and the definition of the common good, but also a guide to understand the implications of the vision in daily life, and a source of strength to live accordingly.” Amy J. Uelman, Can a Religious Person Be a Big Firm Litigator?, 26 FORDHAM URBAN L. J. 1069, 1077 (1998–99).

52 I am a Christian, although not a Roman Catholic. However, I teach in a Catholic law school and have therefore become more familiar with Catholic thinking and teaching regarding moral values and social justice than with that of other religious traditions.

53 Brennan, supra note 1, at 223–224.

54 “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these
social justice movements. “How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law.”

Under natural law theory, the ultimate source of validity and reality lies in God. According to Catholic social teaching based on natural law, in accordance with the will of God, human beings must integrate and act according to certain first-order moral values, including sanctity of the human person, solidarity and community with others, preferential concern for the poor and vulnerable, just distribution of economic resources, and wise stewardship of creation. Under this view of reality, first principles of natural law can be discerned by faith, while the correct application of and interaction of these principles can be ascertained through reason. Both faith and reason are essential components needed in order to move toward divine truth. While faithful, reasonable people may still disagree about what action is in accordance with truth in a given situation, their disagreement will be founded on these common grounds, giving a basis for discussion and possible reconciliation of conflicting views.

Not only does natural law give a context for reasoning about moral choices, it also provides the basis to motivate right action. For those who accept its validity, it provides a powerful counter to social pressures towards self-interested motivation and subjective values:

> Once the idea of a universal truth about the good, knowable by human reason, is lost, inevitably the notion of conscience also changes. Conscience is no longer considered in its primordial reality as an act of a person’s intelligence, the function of which is to apply the universal knowledge of the good in a specific situation and thus to express a judgment about the right conduct to be chosen here and now. Instead, there is a tendency to grant to the individual conscience the prerogative of independently determining the criteria of good and evil and then acting accordingly. Such an outlook is quite congenial to an individualist ethic, wherein each individual is faced with his own truth, different from the truth of others.

This moral vision, backstopped by a metaphysical grounding in transcendent reality, can provide the basis for inculcating moral action on the part of lawyers necessary to preserve the stability of the legal system and the democratic society which depends upon it.

> Given the overwhelming disincentives to make and to stand by a commitment to serve the common good, what will be the source of this resolve? . . . Perhaps the time has come for the profession to recognize a hidden source of will, strength and resolve to make and to stand by a commitment to serve the common good: lawyers who are inspired by religious vision, strengthened by religious experience, and willing to act on this vision.


rights, governments are instituted among men, deriving their just powers from the consent of the governed.” The Declaration of Independence (1776).

55 Martin Luther King, Jr., Letter from a Birmingham Jail (1963).


VI. HOW RELIGIOUS LAW SCHOOLS CAN INCULCATE CORE VALUES

I have examined the difficulty of effectively instilling the specific moral values necessary to the ongoing stability and smooth functioning of a system of justice in a democratic society, within the commonly prevailing Western worldview of extreme individualism, market-driven self-interest, and relativism of values. I have shown some of the challenges faced by those who attempt to ground these non-relative moral values on a purely secular basis. I have pointed out some of the advantages of imparting such values within a religious context, and have examined some of the particulars of one such context and its implications for encouraging action in accordance with moral values. Finally, I want to look at how law schools, particularly religious law schools, can effectively instill such values in their students, so that their graduates actually practice law on a daily basis in accordance with these values.

To begin with, despite the crucial role that moral values play in professionalism, the field of research into how to effectively teach moral values is young and still very much in the process of development. In addition, the legal academy, despite the growing scholarly interest in the topic, has not been eager to embrace either the central goal of instilling moral values in its graduates or the emerging pedagogical insights into how best to accomplish that goal.

Even though both the profession’s rhetoric and lawyers’ responsibilities in government and private sector decision-making call for morally responsible leadership, virtually nothing happens in the law school curriculum to help students develop leadership skills. Legal education’s failure to engage students and the profession in developing leadership skills including character and moral courage may in turn contribute to professional dereliction.

In order for law schools to begin to reverse this pattern of neglect of moral formation of law students, they need to give close attention to the developing research on appropriate pedagogy and to take prudent steps to try new teaching paradigms and assess their results.

The Carnegie Report speaks of the three crucial apprenticeships in all professional education: the cognitive apprenticeship, the practice skills apprenticeship, and the professional values and identity apprenticeship. Law schools have tended to privilege the first apprenticeship, to include the second apprenticeship in a marginalized manner, and, often, to ignore the third apprenticeship altogether, aside from a single required course in the rules of professional conduct. In order to teach law students to adopt and integrate the moral values essential to

59 “How legal education is structured has important implications for what counts as ‘ethical’ in legal practice, and it has enormous implications concerning the survival of the ideal of ‘professionalism’ in the practice of law. Beyond that, it has implications for the survival of idealism and religious faith as sources of ethical orientation and praxis within legal practice.” Patrick Brown, Ethics as Self-Transcendence: Legal Education, Faith, and an Ethos of Justice, 32 SEATTLE U. L. REV. 293, 296 (2009) (citation omitted).

60 “Current scholarship tells us little about which approaches are most effective in socializing law students and practicing lawyers into the principles of professionalism. We need leadership from both legal education, the practicing profession, and the bench both to emphasize the importance for the profession that this socialization occur and to support efforts to assess which pedagogies are most effective to help adult professionals grow over a career into an ethical professional identity.” Neil Hamilton, Professionalism Clearly Defined, 18 Prof. Law. 4, 14 (2008).


ensure professionalism and a stable, functional system of justice, law schools must examine means of integrating education in this third apprenticeship into the entire law school experience.

In order to effectively inculcate moral values in law students, there are certain steps that have been identified as crucial.

- Teaching and discussion of legal analysis of cases and statutes, the core of legal pedagogy, must consistently include the moral implications of different modes of analysis and case outcomes. Sensitivity to the moral implications of legal judgment must be included as a basic part of legal analysis from the beginning of law school.63

- Law students must be engaged in regular group discussions and individual reflection on moral issues arising in actual legal practice contexts.64 Civil and reasoned discussion especially of “hot button” moral issues must be modeled and taught.65

- Law school professors, particularly when discussing the moral implications of legal doctrine and practice, must have a realistic understanding of how these issues arise in law practice. It is therefore essential that a substantial proportion of the law faculty be experienced and successful legal practitioners.66

- Law students must be provided with role models and mentors, within the law school and within the practicing bar, who demonstrate highly integrated moral awareness in their deliberations and actions.67

- Law students must have opportunities to experience directly the moral dimensions of law practice through experiential learning opportunities, including externships and clinics as well as realistic simulations including realistic moral issues.68

- The law school must provide a consistent internal moral context, in which the institution articulates its own values and self-regulates to uphold and practice those values. When the institution fails to live up to its own values, it must provide the opportunity for critical input and the ability to accept valid criticism and to make the changes required for moral consistency.69

- Law students must be encouraged to explore their own moral values and commitments, to analyze, test, and try them for truth and consistency, and to integrate these values into all aspects of their thought, choice, and action, both in their personal lives and in their professional practice.70 Specifically, law students must examine how they will balance their personal and professional lives in light of their values and commitments.71

---

63 Id. at 142.
64 Hamilton, supra note 60, at 9.
65 Singer, supra note 5, at 950–51.
66 Muriel J. Bebeau, Promoting Ethical Development and Professionalism: Insights from Educational Research in the Professions, 5 U. St. Thomas L.J. 366, 391 (2008); “Intellectual mastery alone is, indeed, always a possible pathology of schooling – one that can subtly subvert the best efforts of professional schools by displacing the goal of learning the profession with a more self-contained academic aim of technical virtuosity, detached from attention to the ends of legal training. This danger is intensified by the fact that students who go on to become the next generation of law school faculty are drawn from the subset of students who achieve the very highest levels of technical, intellectuction mastery.” Carnegie Report, supra note 2, at 144 (and who often had a miserable and brief experience of law practice, leading them to both fear, and discount the value of, legal practice).
67 Colby & Sullivan, supra note 61, at 422.
68 Id. at 421.
69 Bebeau, supra note 66, at 391–92.
• Law students must be prepared for the challenges of maintaining these moral values and commitments in contexts where those values and commitments are not valued and may even be punished.\textsuperscript{72} The law school must identify and address specific foreseeable challenges to moral values that are common to law practice.\textsuperscript{73}

• Law students must be encouraged and assisted to find their own vocation in the law – the employment context where they can use their particular strengths and abilities and find joy and fulfillment in their work. Students must be educated to pursue intrinsic, rather than extrinsic, sources of reward and value.\textsuperscript{74}

• The law school must educate students to share responsibility for the proper functioning of the legal system and all its component institutions. Law students should expect that they will, throughout their legal careers, assess the functioning of the justice system and accept an obligation to act when justice is denied due to system failures.\textsuperscript{75}

• The law school must identify the specific moral values and qualities that it considers to be essential to professional conduct and make a convincing, reasoned case for them to law students.\textsuperscript{76}

• The law school must develop practical, reliable means of assessing its achievement of all the above goals.\textsuperscript{77}

In this difficult challenge of effectively instilling moral values in lawyers-in-training, the religiously-based law school has several major advantages over its secular peers. The first, and perhaps most basic and crucial, advantage is the ability to ground the values of the profession, essential to the continuing functioning of the justice system, in a well-reasoned claim of truth and therefore of non-relative validity and applicability. As discussed above, it is impossible to mount a consistent, rational defense of any set of values without first founding those values in some non-relative reality. Most law schools deal with this problem by ignoring it, either trusting that students will apply their own values, and that these values will suffice to make them ethical lawyers, or else rejecting altogether the formation of ethical lawyers as part of the law school’s task. Unfortunately, the secular law school classroom, from which all claims of absolute value have been excluded, does not have a neutral effect on the values that law students bring to law school. Rather, the implicit message is that moral values are unimportant and irrelevant to the


\textsuperscript{71} Neil Hamilton, \textit{supra} note 60, at 14; Schiltz, \textit{supra} note 70, at 787.

\textsuperscript{72} Colby & Sullivan, \textit{supra} note 61, at 408.


\textsuperscript{75} Colby & Sullivan, \textit{supra} note 61, at 424–25.

\textsuperscript{76} “. . . entering students may experience the other-directed values that have been set by the profession itself and communicated by the instructor as an imposition on their personal values, including their need for a career that could help them pay their school loans and begin adulthood with a secure future.” Bebeau, \textit{supra} note 66, at 375. See discussion in section III, above.

\textsuperscript{77} See generally Hamilton, \textit{supra} note 70.
study and practice of the law – in effect, affirmative teaching law students not to be ethical in law practice. 78

Religious law schools from many faith traditions can add to the advantage of being able to offer a source for absolute moral values, a rich and well-developed system of coherent moral teachings based on these values. The major religious faiths each encompass a lengthy tradition of moral thought, tested and tried over centuries, dedicated to reasoning about the significance and impact of first-order moral values, the relationship between moral values, and how to deal with value conflicts. Faith-based legal education can call on well-thought-out teachings on the relationship between moral values, moral decisions, moral actions, a good society, and a good life. In addition, religious law schools have access to the teachings of other religious traditions, to further ground their moral education of students in the fabric of moral thought through the ages. Members of one religious tradition can engage with the religiously-based arguments of another tradition far more successfully than purely secular thinkers can engage with any religiously-based thought. Once room is made in law school for a transcendent source of values, an arena of discussion is opened that is not available in a classroom limited to a purely worldly framework.

Researchers and scholars examining ethical failures on the part of the legal profession often focus on the tendency for lawyers to have one set of moral rules for their private lives and another set that governs their behavior in law practice. 79 This deep disconnect in the moral lives of lawyers leaves their decisions and actions in their professional role unanchored by their own core values and commitments.

... [D]efining personal conscience separate from professional conscience will socialize law students and lawyers to live professional lives where personal conscience is relevant in only a small subset of professional decisions. 80

A religious law school can, instead of ignoring the personal values and moral beliefs that law students bring to the classroom as irrelevant, focus the students’ growing analytical abilities on their own deeply held beliefs and values. Once these beliefs and values are legitimated in the classroom and in other law school discussion venues, then law students can be taught and encouraged to examine their own beliefs in the light of reason, make explicit their tacit assumptions, and mature and strengthen the depth and consistency of their beliefs. A religious law school also offers, as described above, a well-considered, reasoned defense of a system of beliefs, which can serve as a comparator and standard against which students can measure their own belief systems. This process of self-examination and analysis helps each law student develop a coherent single set of moral values, firmly based in a deeper understanding of who s/he is and who s/he chooses to be. 81

A religious law school, at least in many of the major religious traditions, can also make use of the crucial concept of vocation in a way that few, if any, secular law schools do. 82 While a

78 “When faculty routinely ignore – or even explicitly rule out-of-bounds – the ethical-social issues embedded in the cases under discussion, whether they mean to or not, they are teaching students that ethical-social issues are not important to the way one ought to think about legal practice.” Carnegie Report, supra note 2, at 140.
79 Schiltz, supra note 70, at 785–86.
80 Hamilton, supra note 60, at 10.
81 Id. at 10 (2008); Schiltz, supra note 70, at 785 (1998); Carnegie Report, supra note 2, at 128–32.
82 “Our responsibility as individuals then, is to discover the aptitudes, qualities, charisms and special gifts that God has given us, and then to discern prayerfully how best to foster, develop and use these gifts in our lives so that we

20
purely secular case can be made that each person should seek the kind of work that their unique combination of abilities, predilections, experiences, and values best fits him/her to do well and to love doing, such a case generally is not made in law school and/or is not compelling to law students. Endless statistics indicate that a large proportion of lawyers find themselves doing work that makes them “unhealthy, unhappy, and unethical.” In order to maintain a high standard of professionalism, practitioners must find some source of lasting joy in their work.

The religious notion of vocation as being a calling from God to fulfill the divine purpose by seeking to do the work that God intends one to do is a far more powerful and immediate motivation. It is also a notion that comes packaged with a well-developed understanding of the nature of vocation and the process for discerning it.

Law school is generally known as a competitive, cut-throat, stressful experience, in which law students are pitted against each other in the Socratic arena, to fight for survival and respect. In such a context, discussion of moral issues close to the heart is likely to be extremely personally risky and is unlikely to offer much reward in terms of honest mutual examination and analysis of the issues at stake. Competition for advantage in debate replaces any chance at honest and open dialogue. As a result, law students receive no training in a skill essential to democratic society but at risk of dying out in modern societies – the ability to engage in rational normative discussion. As a result of this lack of skill and experience in normative deliberation, we live in a society where moral and political “hot topics” generally are only discussed within the circle of those who already agree with each other. Exchanges with those with different views are marked with name-calling and vituperation – not particularly useful in finding common ground or learning from different perspectives. As a result, our public deliberation is impoverished, and our social and political decision-making is the poorer for lack of rational discussion.

A religious law school can provide a basis for community and mutual trust that permits open, honest and mutually respectful discussion of passionately held convictions. The religious values calling for respect for each person as embodying an aspect of the divine do not permit treating people with opposing viewpoints as subhuman or incapable of offering anything of worth. Living in a community that seeks to live out these values daily will generate the trust and respect necessary to reasoned normative discussion of “hot-button” issues. A religious law school will understand the need to model and teach such discussion, so rare in the broader

can enhance the common good and the kingdom of God. Law students and lawyers particularly, to whom much has been given in terms of intellectual ability, communication skills and educational opportunities, have a special responsibility to discover their gifts and to use them for the common good.” Jerome M. Organ, From Those to Whom Much Has Been Given, Much Is Expected: Vocation, Catholic Social Teaching, and the Culture of a Catholic Law School, 1 J. CATH. SOC. THOUGHT 361, 368-69 (2004); Jerome M. Organ, A Vocation-Based System of Ethics for Law Students, 45 S. TEX. L. REV. 997, 998-1003 (2004).

83 See generally Schiltz, supra note 73.

84 Colby & Sullivan, supra note 61, at 412–16.

85 Apparently, many law students expect high pay to create enough joy outside of work to compensate for its dearth in the workplace.

86 Organ, A Vocation-Based System of Ethics for Law Students, supra note 82, at 1003–05.

87 “We believe that human beings are created in the image and likeness of the living God, with a common natural vocation to live with each other creatively, and justly, and lovingly. . .” The Rev. D. Reginald Whitt, O.P., Homily at the UST School of Law Opening Mass: Why the ‘Word on the Street’ Won’t Do, (Sept. 2002) (available at http://www.stthomas.edu/law/about/whitt_article.asp (last visited May 27, 2005)).
society, to its students, in order to help them to live out their religious values in community. Religious values can provide the foundation for a community of learners who, rather than seeking comparative advantage over each other, seek to advance the knowledge, skills and wisdom of the entire community. This experience of community within the profession can then be extended to the community of lawyers, who can support and hold each other accountable to high standards of practice through mutual caring and shared values.

Finally, religious law schools enjoy a substantial advantage in motivating law students to apply moral principles to their own decision-making and choices. While every law school (at least in the United States) requires law students to take at least one course in the rules of professional conduct, little or no attention is paid to how to convince law students to incorporate the values reflected in these rules in their actual decisions and actions in the practice of law. From a purely market-based viewpoint, there is no particular reason to comply with the rules of professional conduct if one can escape detection or punishment for breaking them. Religious law schools can provide a compelling answer to the question, “why be a moral lawyer?” Religious law schools can offer a non-relative, integrated, comprehensive understanding of moral truth and right action founded in reason and in faith (the experience of the numinous or transcendent). Such an understanding of the basis of right choice and right action makes its appeal not only to the mind, but to the heart and the will as well.

VII. A CASE STUDY OF THE UNIVERSITY OF ST. THOMAS SCHOOL OF LAW

How can these theoretical advantages of religious legal education be put into effect? What must religious law schools do differently in order to realize these benefits? How will the graduates of a religious law school differ from their peers in the way that they practice law? In order to capture the potential of faith-based legal education to instill in lawyers the moral values required to preserve a stable democratic society, we will need to closely examine specific legal education programs and their effects on their graduates. In order to assess a given law school with regard to its effectiveness in development of an integrated, morally sound professional identity in its graduates, first that law school must envision with some specificity what kind of lawyer it intends to produce. Religious law schools that embark on this project must come to an internal consensus on the outcomes at which they are aiming. The desired educational effect must be defined in a way that is accepted by those who interact closely together in the educational process. In the remainder of this article, I will examine the case of the University of St. Thomas School of Law (St. Thomas) in Minneapolis, Minnesota. I will describe at some length the results of research into what the relevant stakeholders – faculty, administrators, staff, students, and alumni – are striving to achieve as the desired “St. Thomas effect”. I will outline the ways in which St. Thomas has tried to generate this effect, and particularly those ways that set St. Thomas apart from secular (and many nominally religious) law schools. I will describe preliminary research into whether St. Thomas graduates in fact display the desired St. Thomas effect. Finally, I will look ahead to future research and analysis in this ongoing endeavor, and the usefulness of the St. Thomas effect project and data to other law schools, secular and religious.

89 See generally id.
A. Putting the Mission into Effect

When the University of St. Thomas considered the re-opening of its law school, closed since 1933, in May of 1999, the trustees and administrators were moved by a desire to “do a new thing.” They faced repeated challenges to the very notion of founding of yet another law school, the fourth in the Twin Cities metropolitan area, the 187th in the country. In the year before the opening of St. Thomas, law schools in the United States graduated 38,157 new lawyers to bring the total of admitted attorneys to 1,049,751 or one attorney for every 272 people. Both at the local level, and in the national context, the question was repeatedly raised, “Where is the benefit in establishing another law school? Do we really need more lawyers?”

The answer given by the founders of St. Thomas to this question was consistent from the start. The world (the United States, the state of Minnesota, the Twin Cities) may or may not need more lawyers in general, but it badly needs more of a particular kind of lawyer. As stated by Patrick Schiltz, the founding associate/acting dean, “The paramount purpose of the law school should be to help law students integrate their religious convictions and personal values into their professional identities. This . . . would lead those students to practice law more ethically and use their legal training not to get rich, but to serve God and the most needy among us.”

St. Thomas justified its existence from its inception by a claim that it would produce a specific kind of lawyer, a lawyer who would incorporate faith and moral values in her self-definition as a lawyer, who would hold herself to a higher moral standard in the practice of law, and who would use her professional degree to seek the common good and serve the poor and vulnerable. Thus, nearly a decade before the publication of the Carnegie Report, St. Thomas focused its mission on the development of the professional identities of its students and graduates.

St. Thomas adopted as its mission and vision statement:

The mission of the University of St. Thomas School of Law, as a Catholic law school, is to integrate faith and reason in the search for truth through a focus on morality and social justice. To implement this mission, each member of the law school community is dedicated to promoting excellence in:

Professional Preparation
By providing, from a faith-based perspective, practical skills and theoretical legal education and mentoring, the law school commits to preparing students

---

90 Isaiah 43:19a (New Revised Standard Version) (“I am about to do a new thing; now it springs forth, do you not perceive it?”).
91 This figure is based on the number of law schools that are accredited by the American Bar Association and that grant the J.D. degree. American Bar Association, ABA-Approved Law Schools by Year, available at http://www.abanet.org/legaled/approvedlawschools/year.html.
92 Id.
94 Patrick J. Schiltz, Commemoration of the Fifth Anniversary of the Decision to Open the University of St. Thomas School of Law, 1 U. ST. THOMAS L.J. 1041, 1050 (2004).
95 Carnegie Report, supra note 2, at 13 (“Amid the useful varieties of mission and emphasis among American law schools, the formation of competent and committed professionals deserves and needs to be the common, unifying purpose.”).
to become accomplished servant leaders in the practice of law, in the judiciary, in public and community service, in business, and in education. The law school’s faculty and curriculum will be distinctive in supporting and encouraging students' integration of their faith and deepest ethical principles into their professional character and identity. Because a legal education is enhanced by a broad understanding of global society's many challenges, the law school will also provide students with opportunities for interdisciplinary study and experiential learning.

Scholarly Engagement and Societal Reform
The law school will undertake to expand knowledge about law and society and participate in the improvement of legal institutions and other organizations through recruitment and development of a faculty of outstanding teachers and scholars, sponsorship of academic lectures and interdisciplinary research activity, and establishment of a strong law library collection and staff. As members of a Catholic law school, faculty and students will particularly explore the intellectual integration of faith into the study of law, professional ethics, public policy, and social justice.

Service and Community
The law school will work to establish a diverse community of talented students, faculty, and staff dedicated to supporting and serving each other, the law school's mission, and the local, national, and global communities. The law school, inspired by Catholic social teaching, and members of the law school community, drawing on their own faith and values, will promote and participate in service programs designed to address the needs and improve the conditions of the disadvantaged and underserved. The law school will strive to enhance social justice and will assist students in integrating their commitments to serve society into their personal and professional lives.

In order to accomplish its mission, the faculty, staff and administration of St. Thomas took much careful thought about every aspect of the legal education it would offer students. Of course, in many ways, St. Thomas’ legal education looks very similar to that of other American law schools. In order to maintain accreditation that permits its graduates to take the bar exam and be licensed to practice law, St. Thomas must comply with American Bar Association accreditation requirements. However, St. Thomas has made specific choices about hiring and admissions criteria, scheduling, curriculum, course content, public service requirements, honors, faculty scholarship, and extracurricular activities that make it stand out from other law schools in its broad and deep focus on the mission.

---

98 There are important contributors to the St. Thomas mission that I will not be discussing here, particularly our outstanding Lawyering Skills program and our exceptional Interprofessional Center for Counseling and Legal Services. Particularly since my own appointment is in the Clinical Education Department, and I teach in the...
First, St. Thomas has maintained a firm commitment to hiring according to mission. Each potential faculty and staff hire is examined for what the person will be able to bring to advance the mission. While the faculty and staff are a fairly diverse group, representing many religious faiths and political viewpoints, all are committed to the value and importance of the mission. Similarly, prospective students are also evaluated according to their “mission fit”. While many students are admitted based on standard criteria of academic excellence, significant numbers of applicants whose academic credentials might not immediately win them admission are accepted, and sometimes offered merit-based scholarship support, based on their perceived ability to advance St. Thomas’ mission. Some of these applicants have already demonstrated a deep and mature faith that has shaped their personal formation, and has led them to seek justice and the righting of social wrongs that they have encountered. These qualities are of equal importance with outstanding academic achievement in determining who will be admitted to St. Thomas. While some St. Thomas stakeholders have expressed concerns that this emphasis on mission in the selection of faculty, staff and students could lead to a reduction in academic credentials and quality, in fact, it appears that the mission has attracted academic “stars” to St. Thomas who might not otherwise have considered a new and relatively unknown school. The St. Thomas mission has provided a “niche market”, its uniqueness attracting stellar faculty, staff and students to the law school.

St. Thomas perceives the need to make its commitment to its mission visible on a daily basis, in the routine round of classes and appointments. The school has set aside both space and time for religious practice, to try to ensure that those who seek to include prayer and worship in their daily schedule can do so. The law school has a chapel and a meditation room, open all day, every day. Catholic Mass is celebrated daily during the school year at noon. During the time from noon to 12:30, no classes, events, or meetings may be scheduled, except for those which directly relate to religious practice. Prayer services, guided meditation, yoga, and other worship and prayer opportunities are offered during this hour, so that people of all faiths have an opportunity to participate, if they choose. All-school gatherings, faculty meetings, and some classes begin with prayer. While no one is obligated to pray at St. Thomas, prayer is never considered weird or out of line, unlike in the vast majority of law schools and legal practice environments. It is made a natural, normal, organic part of the law school day.

St. Thomas offers members of its community a wide variety of opportunities to discern their vocations and to deepen their spiritual lives. Every year, students organize mission trips to serve needy people. Faculty offer vocational retreats for students at the beginning of each semester, to help students explore deeply what they are called by God to do with their lives and their gifts.

Interprofessional Center, I would love to describe the mission-related work done in these settings. However, I am focusing here primarily on what St. Thomas does that clearly sets it apart, on a mission-related basis, from most other law schools. Most law schools do have clinics and teach lawyering skills, so I will not describe these programs here.

A light-hearted attempt at one point in our early years to map the St. Thomas faculty across the political spectrum led to a great deal of amused indignation – “Why is she ranked ‘more lefty’ than I?”, “But I voted for ___!”, etc. Suffice it to say that our faculty range from far left to far right in our political views, with interesting faith-based commitments cutting across the ordinary left/right political continuum. For examples of the latter, see Susan Stabile, An Effort to Articulate a Catholic Realist Approach to Abortion, 7 U. ST. THOMAS L.J. 340 (2010); Robert K. Vischer, Subsidiarity and Suffering: The View from New Orleans, 45 J. CATH. LEGAL STUD. 183 (2007); Thomas Berg, Intellectual Property and the Preferential Option for the Poor, 5 J. CATH SOC. THOUGHT 193 (2008); Elizabeth Rose Schiltz, Should Bearing the Child Mean Bearing All the Cost? A Catholic Perspective on the Sacrifice of Motherhood and the Common Good, 10 LOGOS: A JOURNAL OF CATHOLIC THOUGHT AND CULTURE 15 (2007).
Retreats in daily living and special programs are offered each semester to help guide spiritual growth. Opportunities are provided to meet and discuss the faith journey in small groups. While some members of the community may never participate in any of these activities, their pervasive presence in the law school schedule again helps to normalize religious values and religious practice in everyday life. The large numbers who do participate find a deepened sense of community within the law school as a result. They also find many opportunities to reflect on what they believe, what they value, and how these beliefs and values will be integrated into their professional identity and their practice as lawyers (or law professors or law school administrators).

These gatherings also bring members of the law school community together without regard to status or hierarchy. Community members learn to understand and value each other as equals in the sight of God, breaking down many of the external divisions between professor and student, secretary and dean. St. Thomas works to create an inclusive, caring, respectful community. When students, faculty, or staff are faced with life crises, from the serious to the mundane, the community supports them and prays for them. Students know that the St. Thomas faculty and administration care about them and will listen and spend time trying to help with problems, especially those beyond the normal travails of law school. But there is sympathy for those too, and help in putting them in proper perspective. Abusive behavior in the classroom, by faculty or students, is not tolerated. All members of the community are called to treat each other with respect and civility, and all call each other to account for failure to do so.

In terms of curriculum, one of the most obvious difference from other law schools is the required course in Foundations of Justice taught in the first year. This course was designed to:

[introduce] students to the foundational moral commitments shaping both the structure of our system of justice and the multiple roles of the law in administering that system. Each line of inquiry is explored through both Catholic texts and texts from other religious or philosophical traditions, and my examining the multiple roles of the lawyer – as advocate for powerless or powerful clients, as policy-maker, as judge, as voter, as community member and as family member. The course is designed to give students tools for discerning and articulating the moral dimension of legal practice, and to provide a common vocabulary for continued consideration of this dimension in the remainder of their law school courses.100

Students read, reflect and discuss the moral implications of legal issues and examine specifically what moral values they will bring to their practice of law. The discussions in the Foundations course provide a chance to begin modeling and teaching modes of civil normative discourse on “hot-button” topics.

A bound set of the extensive readings assigned for the course is available to each St. Thomas faculty member. Faculty are aware of the issues that the students have addressed in Foundations, and faculty are familiar with the sources that the students used. This provides a basis for all faculty to use and build on these ideas and concepts in their own courses. Every faculty member is expected to seek opportunities to incorporate the mission into the teaching of his/her own courses, from Poverty Law to Mergers and Acquisitions. Faculty are asked periodically to report

100 Foundations of Justice Syllabus, Fall 2009.
on their methods of incorporating the mission into their classes. Faculty retreats offer opportunities to brainstorm new ways of bringing the mission into every course and classroom.

A second major curricular innovation at St. Thomas is the required, three-year Mentor Externship. Each St. Thomas student is assigned a practicing attorney or judge as a mentor each year. Mentors are trained in the program’s requirements and goals. Law students must spend substantial time each year observing and reflecting on the practice of law as demonstrated by their mentors. They also participate in a seminar in the second and third year in which they discuss in small groups the many professionalism issues that arise in practice. Students write multiple reflective papers on both their experiences in the field and their classroom work.

The Mentor Externship brings law students into contact with a wider variety of role models in the practice of law, who are trained to help law students see and understand the messy realities of professionalism in practice. Students are also taught to reflect on and integrate their own values and commitments in the face of the challenges that are likely to confront them in practice. They develop reflective learning skills that will enable them to continue integrating lessons from experience throughout their legal careers.

In order to “address the needs and improve the conditions of the disadvantaged and underserved,” and “assist students in integrating their commitments to serve society into their personal and professional lives”\textsuperscript{101}, St. Thomas requires all of its law students to complete at least 50 hours of community service during their law school careers. This requirement makes concrete the need to, and the challenge of, integrating service to the broader community into a busy and challenging professional life. Studies of pro bono requirements in law schools give conflicting results about whether such programs actually increase the amount of pro bono work done by graduates. Surveys of law graduates have consistently found that they believe that a pro bono requirement in law school increased the likelihood that they would do pro bono work in the future.\textsuperscript{102} On the other hand, the only study of actual pro bono participation by lawyers found no difference between those whose law schools required pro bono work and those whose law schools did not.\textsuperscript{103} The results of this study indicate that the design of the pro bono program is crucial in determining its effects on students. A law school pro bono program, to have a positive effect on lawyers’ attitudes toward, and future involvement in, pro bono work must

\begin{quote}
\ldots provide positive public interest experiences and ensure that they are available to the maximum number of students. Moreover, the value of pro bono service needs to be reflected and reinforced throughout the law school experience in both curricular coverage and resource priorities.\textsuperscript{104}
\end{quote}

St. Thomas’ public service requirement meets the standards for an effective pro bono program. It offers students a wide variety of opportunities to fulfill the requirement. The requirement is not limited to legal work, because attorneys’ obligations to serve the greater community are not limited to their role as attorneys, but rather are rooted in what it means to be a morally sound and integrated human being. While St. Thomas does not impose a similar requirement on its faculty and staff (an opportunity for improvement?), faculty and staff are encouraged to meet a similar requirement. The entire law school is called to participate in twice-

\begin{footnotesize}
\textsuperscript{101} See, e.g., Mission & Vision, supra note 96.
\textsuperscript{102} DEBORAH L. RHODE, PRO BONO IN PRINCIPLE AND IN PRACTICE 47 (2005).
\textsuperscript{103} Id. at 154–65.
\textsuperscript{104} Id. at 165.
\end{footnotesize}
annual Public Service Days, where members of the community work together to serve the needs of the poor and marginalized. This working together both builds community bonds and symbolizes the importance of such service to the law school. The importance of public service is reflected and emphasized by the significant investment of law school resources in the public service program and the award of the honors to those who excel in public service.

Another way that St. Thomas puts its mission into practice is in whom it chooses to honor. The highest honors given by St. Thomas to students, faculty, staff, adjuncts, mentors, or alumni are the Mission Awards. These are presented annually at an all-school luncheon to those members of the community who have done outstanding work in carrying out the mission of St. Thomas. The Living the Mission Awards, given each year to the student in each class who has done the most to advance the mission that year, are accompanied by substantial checks. All mission award recipients are listed in a display in the law school atrium and are recognized at commencement, as are students who have posted the highest hours of community service and pro bono legal work. St. Thomas affirms its mission-based values by those it holds up for honor and emulation.

Finally, St. Thomas faculty devote a great deal of their scholarly research and writing to topics related to the mission of the law school. While St. Thomas faculty write in the broad range of doctrinal areas common at other law schools, a large proportion of the faculty also sometimes write on faith, morality, social justice, and professionalism. In the 254 articles published in the St. Thomas’ legal studies research paper series on SSRN, 117 deal in some way with one or more of these topics, and 23 relate specifically to the education of law students in relation to these topics. Given that most of the faculty were drawn to teach at St. Thomas because of the mission, it is not surprising that many of them are also drawn to think, research, and write about subjects related to the mission. In addition, the presence of the Holloran Center for Ethical Leadership in the Professions and the Terrance Murphy Institute for Catholic Thought, Law, and Public Policy, both located in the law school and staffed largely by law school faculty, provide additional resources for scholarship in mission-related areas.

B. Evaluating the Outcome - What Defines “The St. Thomas Lawyer”?

I have described the most significant, concrete ways in which St. Thomas has attempted to put its faith-based mission into effect. However, these efforts were all initiated in some sense in the dark. There was little useful research that could guide St. Thomas’ efforts to instill its mission in its students. St. Thomas was required to take what guidance it could from limited data in different fields (moral development, adult learning theory, etc.) and makes reasoned

---


106 “... the Holloran Center’s purpose is to develop leading-edge interdisciplinary research, curriculum, and other programs that focus on the formation of accomplished ethical leaders.” University of St. Thomas School of Law Draft 2010 AALS Self-Study 5 (2010).

107 Id. (“... the Murphy Institute seeks to ‘explore the various interactions between law and Catholic thought on topics ranging from workers’ rights to criminal law to marriage and family’”).

108 “As far as we know, there is no research on the extent to which this influence [of law school education] results in greater incorporation of the ethical-social values of the profession into students’ personal and professional identities.” Carnegie Report, supra note 2, at 135.
choices about the best way to pursue its mission. In order to evaluate and refine its program, St. Thomas must commit to ongoing self-evaluation and assessment. This assessment must include the development of a clear picture of what success in mission will look like. What will the desired “St. Thomas lawyer” look like? How will she differ from peers in the practice of law? In the ordering of her personal life? In order to search for “the St. Thomas effect”, we must:

1) define clearly the distinguishing characteristics that St. Thomas intends to foster in its graduates;
2) identify useful indicators of the presence or absence of those characteristics, and:
3) gather data to determine whether St. Thomas graduates in fact possess the desired characteristics to a degree exceeding what we find in the general population of lawyers.

I conducted an initial small-scale largely qualitative study to identify the kind of lawyer St. Thomas is seeking to produce. I began by: 1) reading all available written descriptions of the goals and mission of the law school; 2) reading all scholarly writing by St. Thomas professors and administrators related to the education, socialization, identity and value formation of lawyers; 3) conducting unstructured interviews with a broad sample of St. Thomas faculty, staff and administrators; 4) conducting a semi-structured survey of a random sample of the first graduating class a year after their graduation; 5) distributing an initial draft of an article describing the St. Thomas effect to all law school faculty, staff and administrators and soliciting comments and criticisms; and 6) presenting my preliminary findings at a colloquium attended by faculty and staff, and incorporating the many of the suggestions I received. In this process, I identified common themes and key concepts which emerged repeatedly from all sources. I summarize these key findings below.

1. The Law as Vocation

The first defining quality of the kind of lawyers that St. Thomas seeks to produce is that they view the law as a vocation to which they are called, rather than only as a career that they choose.109 As Jerome Organ, professor and former associate dean, wrote:

Our responsibility as individuals then, is to discover the aptitudes, qualities, charisms and special gifts that God has given us, and then to discern prayerfully how best to foster, develop and use these gifts in our lives so that we can enhance the common good and the kingdom of God. Law students and lawyers particularly, to whom much has been given in terms of intellectual ability, communication skills and educational opportunities, have a special responsibility to discover their gifts and to use them for the common good.110

109 Rev. Whitt, supra note 87. (“We believe that human beings are created in the image and likeness of the living God, with a common natural vocation to live with each other creatively, and justly, and lovingly. . . We want to appreciate the law as God sees it, so that we can be of service to the human family that God loves.”); Thomas M. Mengler, What’s Faith Got to do With It? (With Apologies to Tina Turner), 35 U. TOL. L. REV. 145 (2003) (“The most inspiring part of our mission is our commitment to establish a law school dedicated to graduating lawyers who view their professional lives as a calling or vocation.”).

110 Organ, From Those to Whom Much Has Been Given, Much Is Expected, supra note 82, at 368–69.
The St. Thomas lawyer thus has a sense of a duty to seek out the best and highest use of her skills and abilities. She has an obligation to find her proper work in the world, and, in whatever workplace she finds herself, to discover her role in making that place better. The St. Thomas lawyer will engage in continual reflection about her career, seeing it as a coherent whole, seeking to shape it according to her deepest values.111

St. Thomas lawyers won’t all find themselves doing the same kind of work. St. Thomas does not expect that its alumni will all work for non-profit public interest organizations, for example. St. Thomas lawyers will be called to a wide variety of jobs and fields based on the unique abilities and vocations of each graduate, from legal aid and public defenders offices, to small, medium and large firms, to in-house work, to government employment, etc.112 However, we might expect that the pattern of employment distribution will be different for St. Thomas graduates from that of graduates of other law schools. Job choice, when viewed as a function of vocation, greatly de-emphasizes some common determining factors in the pursuit of legal employment – i.e., salary, status and power – while emphasizing the opportunity to make positive changes in some part of the world. It would be logical to assume that such differences in priorities would be reflected in somewhat different job choices.

2. Integration, Integrity and Independence

St. Thomas’s mission, in contrast to the worldview reinforced at most law schools, focuses on the integration of two modes of knowing that are often seen as contradictory in western cultures – faith and reason.113 St. Thomas asserts in its mission statement that these two modes are not in opposition, but will reinforce and supplement each other in the search for truth.114 The St. Thomas lawyer will call upon faith-based moral and ethical values as well as logic and reason in seeking the answers to questions she faces in her life and in her law practice. The St. Thomas lawyer will seek the “right” answer in both broad senses of the word – the answer that best comports with reality and the answer that is consonant with the highest good. These two modes of knowing come from the same roots in our language, and the St. Thomas lawyer will affirm their congruity in her life and practice.

This integration of faith and reason in seeking answers will express itself in an internal integration of character in the St. Thomas lawyer – also known as integrity.115 “An attorney who

---

111 Interview with Mitch Gordon, Associate Professor, University of St. Thomas School of Law (July 8, 2005) (on file with author).
112 Interview with Elizabeth Brown, Associate Professor, University of St. Thomas School of Law (July 12, 2005) (on file with author).
113 Schiltz, supra note 81, at 753 (“If we are to assist our students in internal integration, we must be willing to discuss with them their religious convictions and the role that those convictions will play in their professional lives… Apparently, …few law professors are willing to put religion on the table. According to Thomas Shaffer, ‘the [legal] academy, more than any other, has systematically discouraged and disapproved of invoking …religious tradition as important or even as interesting.’… Religion is generally ignored in discussions about legal ethics and in the materials that students use in studying ethics.”) (quoting Thomas L. Shaffer, AMERICAN LAWYERS AND THEIR COMMUNITIES: ETHICS IN THE LEGAL PROFESSION 214 (1991); Thomas L. Shaffer, LAWYERS IN THE UNITED STATES: A BRIEF MORAL HISTORY 41, 75 (1995)).
114 Mission & Vision, supra note 96 (“The University of St. Thomas School of Law, as a Catholic law school, is dedicated to integrating faith and reason in the search for truth through a focus on morality and social justice.”).
115 Integrity Definition, MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY (11th. ed. 2003) (1. firm adherence to a code of especially moral or artistic values: incorruptibility; 2. an unimpaired condition: soundness; 3. the quality or state of being complete or undivided: completeness).
is integrated internally uses the same moral compass in all aspects of her life. She does not have
one set of ethics for home and another for the office.”116 The St. Thomas lawyer will resist this
destructive tendency, so common in law practice.117 She will address the decisions in her life
with a single, integrated approach.118 The morals and values that govern dealings with family
and friends will equally direct interactions with clients, work colleagues, opposing parties,
opposing counsel, court personnel, etc.

The St. Thomas lawyer, relying on this single, integrated set of values, will resist cultural
pressures of law practice to conform to expected behavior in violation of those values. Her
behavior and choices will be guided by this internal compass, rather than being subject to
conventional mores or expectations.119 The St. Thomas lawyer will be able to resist pressures to
act contrary to her values, and will push back against and attempt to change cultural expectations
and values that she finds unacceptable.120

3. Drawing on the Springs of Living Water121

Not every lawyer who graduates from St. Thomas will be a religious believer. However, we
expect that relatively few students will choose to attend St. Thomas if they find its focus on faith
in legal education and law practice distasteful or irrelevant. Therefore, it is expected and desired
that the St. Thomas lawyer will be more likely than the average attorney to have an active

116 Schiltz, supra note 81, at 732.
117 Id. at 785–86 (“Most of our students will encounter strong pressure to develop one set of ethics for work and
another for home. We can anticipate this pressure and help our students to resist it if, as we introduce them to their
new life in the law, we also challenge them to bring along their personal values.”) (footnote omitted); Teresa Stanton
Collett, To Be a Professing Woman, 27 TEX. TECH L. REV. 1051, 1051 (1996) (“Such a false sense of self is not
uncommon among lawyers. But ultimately, like all falsehoods, it proves to be enslaving or deadening.”).
118 Mission & Vision, supra note 96 (“The law school’s faculty and curriculum will be distinctive in supporting and
couraging students’ integration of their faith and deepest ethical principles into their professional character and
identity.”); Response from Jessica Sanborn to Survey of Members of Original Graduating Class (Sept. 16, 2005) (on file with author) [hereinafter, Survey] (“I think that St. Thomas should be trying to make lawyers who do not need to
compartmentalize their profession, their faith, and their social consciousness. Rather, St. Thomas lawyers should be
able to integrate these aspects of their person.”); Response from Jennifer Hon, Survey, supra (Aug. 29, 2005) (“I
hope that lawyers from St. Thomas strive everyday to practice law ethically and staying true to their core values and
beliefs.”); Email from Cari L. Haaland, Director of Admissions, University of St. Thomas School of Law (July 8,
2005) (on file with author) (“Our message has always been that the St. Thomas attorney will not check her faith at
the door of the classroom or the law firm. No matter what her faith or belief system she will incorporate her
personal ethics/values into her professional decisions.”).
omitted) (“The road out of amoral lawyering starts with a profession-wide emphasis on greater moral sensitivity and
self-awareness among attorneys. Certainly this effort must begin in law schools, where the legal ethics curriculum
all too often focuses strictly on the inculcation of profession-wide norms, giving short shrift to the personal and
professional benefits of integrating one’s own moral claims with one’s work.”); Interview with Dan Liebenson,
Associate Professor, University of St. Thomas School of Law (May 27, 2005) (on file with author); Interview with
Greg Sisk, Orestes A. Brownson Professor, University of St. Thomas School of Law (June 23, 2005) (on file with
author); Interview with Scott Swanson, Director of Academic Achievement, University of St. Thomas School of
Law (July 15, 2005) (on file with author).
120 Interview with Brown, supra note 112; Interview with Gordon, supra note 111; Organ, A Vocation-Based System
of Ethics for Law Students, supra note 82, at 1008 (“[J]ust as the cultures of the organizations of which law students
are a part exert a gravitational force upon the law students, so too do law students exert a gravitational force upon
the other members of their law school community and the profession by the ethical choices they make.”).
121 John 4:14 (New Revised Standard Version) (“The water that I will give will become in them a spring of water
gushing up to eternal life.”).
religious faith and practice that informs her life and her values.\textsuperscript{122} As Dean Thomas Mengler states:

We expect our community to explore the spiritual side of our lives, the implications of religion for development of the law and legal profession, and, most profoundly, the extent to which our faith and core values should guide and shape our professional choices, actions and directions.\textsuperscript{123}

The St. Thomas lawyer will find her faith a bulwark for her fidelity to her own values and an inspiration for her work on behalf of clients. “We want to appreciate the law as God sees it, so that we can be of service to the human family that God loves.”\textsuperscript{124} Membership in a faith community will ground and reinforce the moral and ethical values that will inform the St. Thomas lawyer’s legal practice.

For religious lawyers, connecting the motivational force of faith with the practice of law gives them reason to transcend the profession’s murky, unambitious vision of profit-oriented lawyering. Such integration not only brings coherence to the lawyer’s professional and personal identities, but stands to benefit the profession by raising the bar as to what it means to be a good lawyer.\textsuperscript{125}

An important aspect of a legal practice that integrates faith as a fundamental component lies in the nature of faith as essentially communitarian.\textsuperscript{126} U.S. society and its legal system both tend to be strongly individualistic, even atomistic, in orientation. Religious faith provides an important counterweight to this conception of the law and legal practice. Religious community provides the individual lawyer with support, critique and feedback from others who share her values and goals – factors essential to the ability to maintain those values and goals in the secular and individualistic world of law practice.\textsuperscript{127}

\begin{footnotes}
\item[122] Robert K. Vischer, \textit{Heretics in the Temple of Law: The Promise and Peril of the Religious Lawyering Movement}, 19 \textit{J.L. & RELIGION} 427, 450-51 (2004) (citations omitted) (“At its best, religious faith motivates individuals to better themselves and their communities, to put others above self, and to invest with meaning the otherwise mundane, materialist conception of existence. Among lawyers, these qualities are sorely needed, both to heighten a lawyer’s sense of satisfaction with their chosen vocation and to enrich the quality and ethical aspirations of the legal services provided.”); Sisk, \textit{supra} note 119; Swanson, \textit{supra} note 119; Sanborn, \textit{supra} note 118.
\item[123] Mengler, \textit{supra} note 109, at 146–47.
\item[124] Whitt, \textit{supra} note 87; \textit{see also} Schiltz, \textit{supra} note 113.
\item[125] Vischer, \textit{supra}, note 122, at 454–55 (citation omitted).
\item[126] Virgil Wiebe, Director of Clinical Education & Associate Professor, University of St. Thomas School of Law, Comments (approximately Apr. 12, 2006); Vischer, \textit{supra} note 122, at 431 (“…community is at the core of every major religion, and lawyers’ efforts to break out of the prevailing professional paradigm are centered in community – specifically, communities of other religious lawyers. It is the fundamentally communal nature of religious lawyering that has been left largely unexplored, both in term of the promise it holds for lawyers seeking to integrate their faith with their professional lives, and in terms of the tensions it creates with the liberal project, tensions spawned both by the communal and religious aspects of the movement.”); Collett, \textit{supra} note 117, at 1059 (“Staying focused on God and our families while practicing law is not easy. Certainly it cannot be done alone. To remain faithful and focused requires an active prayer life and the support of a community of believers in the work place.”).\textsuperscript{127} Vischer, \textit{supra}, note 122, at 442-43 (“First, to the extent that communities of religious lawyers facilitate the integration of faith and practice, these groups bring coherence to the lives of religious lawyers. Second, . . . these groups allow lawyers to transcend the minimalist and visionless ethical regime of the profession. Third, the shared ethical norms emanating from a common faith make dialogue more possible, both within the group and with other groups. Such dialogue is a key path toward raising a lawyer’s own ethical awareness…”).
\end{footnotes}
St. Thomas is a Catholic law school; however, the vision of the St. Thomas lawyer does not include the expectation that non-Catholic students should convert to Catholicism. St. Thomas may attract a disproportionate number of Catholic students, and it is desired that Catholic graduates will be faithful and active members of the Catholic Church. However, non-Catholic graduates can fully embody the “St. Thomas effect” within the context of their own belief systems and/or faith communities. Non-believing graduates can also participate in this aspect of the St. Thomas effect through their openness to and acceptance of spiritual values, identities and communities.

4. The Servant Leader and the Listening Ear

The St. Thomas lawyer will be humble, a characteristic not usually associated with lawyers. St. Thomas’s mission is dedicated to the search for truth – an indication that the St. Thomas lawyer will not be convinced that she already has the final, complete truth.128 Honest searching requires humility about the completeness and correctness of answers already found. Honest searching also requires the ability and willingness to truly listen, to open oneself to another’s argument and be alert to the chance that it embodies an important part of the truth.

[One] . . . meaning the phrase Search for Truth conveys is humility and tolerance. We are all searching for the truth, but darn if it’s not hard to find in this world. . . Consequently, we should bring to . . . our search for truth an overriding sense of humility, and of our tolerance for difference. We should bring a warm intellectual embrace to those who are also searching – to those on the left, if we are on the right. To those who are Jewish or Muslim, if we are Christian. We should challenge the premises of others with whom we disagree, but we should do so respectfully – because we are all on the same journey, and none of us holds the tiger by the tail.129

Humility will also inform the role of the St. Thomas lawyer as a dedicated servant leader, defined as “. . . a person who is a servant first, motivated to serve others to become what they are capable of becoming.”130 The servant leader is the leader who leads, not for her own benefit or to serve her own ends, but in order to empower those she leads to achieve their own human potential and goals. The St. Thomas vision statement states that, “. . . the law school commits to preparing students to become accomplished servant leaders in the practice of law, in the judiciary, in public and community service, in business, and in education.”131 The St. Thomas lawyer will offer her skills and vision as a leader, but a leader dedicated to the growth and well being of others, not to her own aggrandizement.132

128 Interview with Gordon, supra note 111.
130 Case Statement 2, The Thomas Holloran Center for Ethical Leadership in the Professions at the University of St. Thomas School of Law (in collaboration with the University of St. Thomas College of Business) (discussing the ideas of Robert Greenleaf).
131 Mission & Vision, supra note 96.
132 Case Statement 3, The Thomas Holloran Center for Ethical Leadership in the Professions at the University of St. Thomas School of Law (in collaboration with the University of St. Thomas College of Business) (“Beyond a foundation of self-knowledge, ethics, moral courage and a commitment to stewardship, the specific skills a servant leader seeks to develop over a lifetime are: listening skills; counseling skills; consensus-building
5. The Dignity of All People

The St. Thomas lawyer will respect and honor the dignity of every human person. Catholic Social Thought holds this respect for the dignity of every human being as the first of its ten major themes. The St. Thomas lawyer must demonstrate this respect in all aspects of her professional and personal life.

This respect and honor is due regardless of whether another’s beliefs comport with those of the St. Thomas lawyer, or whether another’s actions are seen as good or evil. The St. Thomas lawyer would offer such basic, unalterable respect to defendants guilty of terrible crimes, unprofessional attorneys, abusive judges, and lying clients, to the same degree that she would offer it to models of moral behavior.

The St. Thomas attorney will not be able to demonize legal opponents, or make use of abusive or manipulative means to advance her client’s interests or her own career. Law is a profession inherently filled with conflict, but the St. Thomas lawyer will always be burdened with the realization that legal opponents are as fully human, as inherently valuable, and as worthy of respect as herself and her clients. The legal profession and the justice system also tend to be organized very hierarchically (just think about the formal indicia of respect required when addressing judges at various levels in the court system, or the nature of the relationship between junior associates and partners, or between lawyers and staff). The St. Thomas lawyer will be bound to extend the same degree of respect and honor to people at every level of the legal hierarchy, regardless of her position within that hierarchy. The St. Thomas judge or the St. Thomas senator will treat all others with the same basic honor and respect as the St. Thomas first-year associate.

6. The Client in the Round

skills; community-building skills; and vision-articulation skills (the skill of reflecting back to a group – often through stories – its highest aspirations and synthesizing a dream or vision of the group’s potential.”)

Catholic Social Teaching, Major Themes in Catholic Social Teaching, Office for Social Justice of the Archdiocese of St. Paul and Minneapolis, available at http://www.osjspm.org-major_themes.aspx; Second Vatican Council, Gaudium et Spes, Pastoral Constitution on the Church in the Modern World #29 (1965) (“All women and men are endowed with a rational soul and are created in God's image; they have the same nature and origin and, being redeemed by Christ, they enjoy the same divine calling and destiny; there is here a basic equality between all and it must be accorded ever greater recognition. . . any kind of social or cultural discrimination in basic personal rights on the grounds of sex, race, color, social conditions, language or religion, must be curbed and eradicated as incompatible with God's design.”).

Organ, From Those to Whome Much Has Been Given, Much Is Expected, supra note 82, at 379 (“We should show respect for others and recognize their dignity – whatever their ‘station’ in life – recognizing that as God’s children, they deserve our respect and love.”); see also Interview with Brown, supra note 112; see also Interview with Gordon, supra note 111.

Collett, supra note 117, at 1054 (“Recognizing the justice within the claims of others is one expression of our pursuit of justice while loving God and neighbor.”).

Id. (“We are called to build up a sense of Christian community…In the practice of law our best compels us to envision what justice requires our society become, and to direct our efforts to promoting its creation… It means treating people in a manner consistent with their human dignity. Thus, the person working in the firm copy room is to be treated with as much respect as the managing partner.”).
The St. Thomas attorney will not limit her understanding of her clients, or the counsel that she gives them, to only the strictly “legal” issues that the client’s situation presents. She will see the client as a whole person, with legal, psychological, social, medical, ethical, religious, political, and other values and goals. She will inquire into and seek to understand how legal problems fit into the client’s entire situation, and how possible legal remedies may affect other problems, goals and values of the client. The vision statement of the law school emphasizes the importance of “opportunities for interdisciplinary study,” which enable the St. Thomas lawyer to perceive both non-legal problems, and solutions that might be best provided by professionals from other disciplines. The St. Thomas lawyer will adopt “…a fundamentally therapeutic mindset in addressing client problems and concerns, by focusing on the opportunities and challenges of interprofessional collaboration.”

The St. Thomas lawyer will also see how the client’s problems and potential solutions may affect other people and society as a whole. She will seek to build a relationship with her clients such that she understands the client’s values and beliefs and can counsel the client about how different legal choices may affect those values, beyond the maximization of the client’s financial gain or legal advantage. The St. Thomas lawyer will be bound to counsel clients regarding moral and ethical consequences of client decisions and choices which the client might not otherwise consider. The St. Thomas lawyer must undertake such counseling combined with humility and respect for client dignity and autonomy, not usurping the client’s decision-making role, but putting the client’s choices in a broader social context.

7. Working for the Poorest and Weakest

137 Id. at 1051–52, (citations omitted) (“Instead of encountering people who have legal needs as whole persons, such lawyers reduce clients to the elements of their legal claims…. Similarly, the lawyer comes to understand herself only as a source of technical knowledge – a sophisticated version of the Lexis machine…. This understanding of self and relationships with others is radically inconsistent with the way we are called to understand the world.”).
138 Response from William J. Fleming, Survey, supra note 118 (Aug. 19, 2005); Collett, supra note 117, at 1052 (citation omitted) (“…love born of faith causes us to love God and seek justice. It calls us to relate to our clients in the fullness of heir present pain or desire.”).
139 Mission & Vision, supra note 96.
140 Our Mission & Vision, Interprofessional Center for Counseling and Legal Services, available at http://www.stthomas.edu/ipc/about/missionvision/ (The St. Thomas Legal Services Clinic is located within the university’s Interprofessional Center for Counseling and Legal Services, whose mission is to provide services “…through independent and collaborative counseling and legal clinics responsive to the needs of diverse and underserved populations.”).
142 Whatever Became of University of St. Thomas Law’ in Minneapolis’s First Class?, MINNESOTA LAWYER, May 22, 2006, at 1, 16. (“Caitlin Hazard Firer, a staff attorney with Western Minnesota Legal Services in Willmar, said that one of the law school’s strengths is its holistic approach to the law. ‘The professors encourage students to think about the repercussions of their actions in a greater sense – for the client and for the community as a whole,’ she said… ‘The professors encourage you to look outside the legal system for solutions,’ he [Ryan R. Palmer] said. ‘They encourage a whole-person whole-world solution to problems.’”); Interview with Margie Axtmann, Associate Director for Information Resources, University of St. Thomas School of Law (July 12, 2005) (on file with author); Sisk, supra note 41.
143 Interview with Gordon, supra note 111; Interview with Sisk, supra note 119.
144 Interview with Sisk, supra note 119.
The St. Thomas attorney will take seriously the tenets of Catholic Social Teaching that declare a preferential option must be given to the poorest and the most disadvantaged.\textsuperscript{145}

As followers of Christ, we are challenged to make a fundamental ‘option for the poor’ – to speak for the voiceless, to defend the defenseless, to assess life styles, policies, and social [and legal – JLW] institutions in terms of their impact on the poor. This ‘option for the poor’ does not mean pitting one group against another, but rather, strengthening the whole community by assisting those who are the most vulnerable. As Christians, we are called to respond to the needs of all our brothers and sisters, but those with the greatest need require the greatest response.\textsuperscript{146}

The St. Thomas lawyer should be led to “…use their legal training not to get rich, but to serve God and the most needy among us.”\textsuperscript{147} “[W]e must be particularly aware of the poor and vulnerable within our communities (and beyond those communities) who deserve our special attention as we share our time, talents and treasure.”\textsuperscript{148}

A greater proportion of St. Thomas attorneys will likely choose to work in traditional public interest settings, representing poor clients. However, the majority of St. Thomas attorneys may not be called to such work. The St. Thomas attorney, no matter where she practices, will work to expand the opportunities and the number of lawyers participating in service to the poor and disadvantaged.\textsuperscript{149} In addition, the St. Thomas lawyer will seek to provide service to the poorest among us across the board, not just in legal representation, but in food, housing, education, care of children, health care, employment, civil rights, and all other areas of life. “Community service, in our view, need not be law-related because the moral imperative to provide service to others does not derive principally from our positions as lawyers, but from our roles as members of God’s community.”\textsuperscript{150}

\textbf{8. Making a Better World}

St. Thomas “…strive[s] to enhance social justice and … [to] assist students in integrating their commitments to serve society into their personal and professional lives.”\textsuperscript{151} The St. Thomas lawyer will understand part of her role as a lawyer as working together with others to

\begin{itemize}
  \item Catholic Social Teaching, \textit{supra} note 133.
  \item U.S. Catholic Bishops, \textit{Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy} #16 (1986); \textit{Id.} at #94 (“The needs of the poor take priority over the desires of the rich; the rights of workers over the maximization of profits; the preservation of the environment over uncontrolled industrial expansion; the production to meet social needs over production for military purposes.”).
  \item Schiltz, \textit{supra} note 27, at 1050.
  \item Organ, \textit{From Those to Whom Much Has Been Given, Much Is Expected}, \textit{supra} note 82, at 379-380 (citation omitted); \textit{Mission & Vision}, \textit{supra} note 96 (“The law school, inspired by Catholic social teaching, and members of the law school community, drawing on their own faith and values, will promote and participate in service programs designed to address the needs and improve the conditions of the disadvantaged and underserved.”).
  \item Interview with Liebenson, \textit{supra} note 119; Interview with Brown, \textit{supra} note 112; Haaland, \textit{supra} note 118 (“…the St. Thomas attorney will give back to the community by either serving in a public interest legal position or doing pro-bono work advocating for the underrepresented members of the community.”).
  \item Mengler, \textit{supra} note 109, at 152.
  \item \textit{Mission & Vision, supra} note 96.
\end{itemize}
fight injustice wherever she encounters it, and trying to foster legal and social systems which promote justice for all.\textsuperscript{152}

It is imperative that no one . . . would indulge in a merely individualistic morality. The best way to fulfill one’s obligations of justice and love is to contribute to the common good according to one’s means and the needs of others, and also to promote and help public and private organizations devoted to bettering the conditions of life.\textsuperscript{153}

The St. Thomas lawyer will not be satisfied with simply doing good work for her clients; she will seek to identify structural problems in social systems, particularly the legal system, and to reform and correct these systems to enhance the common good. A disproportionate number of St. Thomas lawyers may therefore enter public employment, or work with private organizations devoted to societal change. Again, however, the St. Thomas lawyer will seek to serve the common good through social reform wherever she is called to work.

9. Living Passionately

The St. Thomas lawyer will not passively accept unethical cultures, unjust systems, or boring and pointless work done only for a paycheck. As Dean Thomas Mengler states, “…our mission is likely to draw passionate students, activists who want to use their law degrees for extraordinary purposes.”\textsuperscript{154} The St. Thomas lawyer will resist falling into cynical or resigned acceptance of forces in the world that crush the human spirit or work against all the qualities of the St. Thomas lawyer described above.\textsuperscript{155} St. Thomas lawyers will passionately seek “[that] we might prevail over the powers of evil – over cynicism and greed and oppression and indifference, in our lives and in our laws – this year, and every year, and throughout our lives and the life of this faith-based law school.”\textsuperscript{156}

10. Life in Balance

Last, but definitely not least, the St. Thomas lawyer will seek a reasonable and humane balance in her life between professional work, family life, friends, community commitments, and reflection, relaxation and self-care. The St. Thomas lawyer will not seek balance because she is a slacker, unwilling to devote herself to hard work in her profession. She will seek balance as a part of her ethical and moral obligation.

\textsuperscript{152} Interview with Axtmann, \textit{supra} note 142; Interview with Nora Fitzpatrick, Assistant Dean for Administration, University of St. Thomas School of Law (July 15, 2005) (on file with author); Neil Hamilton & Lisa Montpetit Brabbit, \textit{Fostering Professionalism Through Mentoring}, 57 \textit{J. LEGAL EDUC.} 102 (2007); Interview with Sanborn, \textit{supra} note 118 (“St. Thomas lawyers should be . . . committed to contributing toward social justice and the social welfare of our society.”).

\textsuperscript{153} Second Vatican Council, \textit{supra} note 133, at #30.

\textsuperscript{154} Mengler, \textit{supra} note 109, at 146; \textit{see also} Interview with Liebenson, \textit{supra} note 119.

\textsuperscript{155} Schiltz, \textit{supra} note 73, at 924 (“Believe in something – care about something – so that when the culture of greed presses in on you from all sides, there will be something inside of you pushing back.”).

\textsuperscript{156} Whitt, \textit{supra} note 87.
Being admitted to the bar does not absolve you of your responsibilities outside of work – to your family, to your friends, to your community, and, if you’re a person of faith, to your God. To practice law ethically, you must meet those responsibilities, which means that you must live a balanced life.  

The kind of unbalanced life lived by so many lawyers, with overwhelming billable hour requirements, will not be an option for the St. Thomas lawyer. The St. Thomas lawyer will strive for a life structure that makes her happy, while still subject to all the frustrations, pains and tragedies of everyday life.

11. Content and Process

A review of the headings under which this definition of the St. Thomas effect is organized may give rise to the question, “are there specific political, moral or ethical positions that will be taken by the St. Thomas lawyer?” In other words, is there specific content to the judgments of the St. Thomas lawyer, or is the effect rather based on the process by which the St. Thomas lawyer reaches her judgments? I would argue that the answer is, “both”, although there will be far more focus on process than on a detailed definition of content. St. Thomas is not seeking to produce lawyers who march in political lock-step, agreeing on all ethical and moral positions. St. Thomas is seeking to produce lawyers who go about the process of making moral and ethical judgments by integrating a particular understanding of the attorney’s role and identity. However, among the above-listed elements that comprise the St. Thomas effect, there are some that definitely exclude certain moral positions from the range of the St. Thomas lawyer. For instance, a respect for the dignity of all human beings would preclude moral or political positions that fail to take seriously human death, suffering, discrimination, and exploitation. A preferential option for the poor and underprivileged prohibits a strict laissez faire attitude toward the sufferings of those at the bottom of the socio-economic spectrum. St. Thomas lawyers will apply these principles in a variety of ways and come to a variety of conclusions. Still, these principles will provide a common ground of discourse among St. Thomas lawyers.

C. Measuring Success or Failure

157 Schiltz, supra note 73, at 910.
158 Sisk, supra note 119; Interview with Hon, supra note 118; Haaland, supra note 118 (“[The St. Thomas lawyer] will purposefully balance her life so as to value family and value her community through involvement in things such as church, little league, or girl scouts. Basically lead a balanced, purpose-driven, thoughtful, reflective, faith-centered life.”).
159 Robert K. Vischer, Faith, Pluralism, and the Practice of Law, 43 CATH. LAW. 17, 22-23 (2004) (quoting Congregation for the Doctrine of the Faith, Doctrinal Note on Some Questions Regarding the Participation of Catholics in Political Life 3 (Nov. 2002)) (“There is no pluralism ‘in the choice of moral principles or essential values,’ but there is a ‘legitimate plurality of temporal options’ given the ‘variety of strategies available for accomplishing or guaranteeing the same fundamental value, the possibility of different interpretations of the basic principles of political theory, and the technical complexity of many political problems.”’); Collett, supra note 28, at 117 (“All of this illustrates the need for lawyers, law students, and law professors to be devoted to the search for truth. For this to occur, law schools … must begin with a common understanding that 1. objective truth exists; 2. some aspects of it are capable of being described accurately; and 3. those descriptions are relevant to our endeavors as scholars and as lawyers.”).
After developing a detailed description of the kind of lawyer St. Thomas is trying to produce, those who work in and for the school must examine and evaluate whether it is fulfilling its asserted educational mission. If we justified the creation of St. Thomas by the claim that it would graduate a particular kind of lawyer, then we are obligated to examine our own product, to see if we are producing what was promised. If St. Thomas graduates are indistinguishable from their peers in the profession, then St. Thomas is failing to achieve the promised professional education. As the first associate dean stated:

First, Catholic law schools should do something different from non-Catholic law schools; otherwise they wouldn’t be Catholic. And second, whatever it is that Catholic law schools do differently should have some impact on their students; otherwise, it would hardly be worth doing. Thus, one test of whether a law school is Catholic is whether its graduates behave differently – make different choices – than the graduates of non-Catholic schools.¹⁶₀

Significant challenges face the researcher who wishes to assess the effects of mission-based legal education on lawyers. Some researchers have used quantitative means to assess clearly definable aspects of such complex traits as social justice or service orientation, life satisfaction, or value congruence in the lives of practicing attorneys.¹⁶¹ Qualitative methods offer another useful means to gather information about professional identity and legal career choices in a contextual, factually rich way, incorporating the viewpoint of the researcher without compromising the usefulness of the data. St. Thomas faculty and administrators continue to use a variety of methods and approaches to assess the effects of the mission-oriented choices St. Thomas has made in hiring and admissions, opportunities for prayer, worship, and reflection, community building, curriculum, public service, honors, and scholarship.¹⁶²

Research has been conducted and is ongoing by St. Thomas faculty and administration into topics related to the success of St. Thomas’ mission, including the concepts that entering law

¹⁶₀ Schiltz, supra note 94, at 1043.
¹⁶² “[W]e hope to document the extent to which our distinctive formation approach to legal education has a demonstrable impact on the moral development of our graduates. The Holloran Center hopes to work with scholars in other professions to develop instruments and tests that can measure moral development in professional students, specifically law students, so that we can determine generally whether our educational program favorably impacts the moral development of our graduates. We also hope to pursue research that isolates the potential impacts of different components of the formation approach to legal education to assess their distinctive effectiveness. This research may also include a longitudinal component that tracks the career progress and satisfaction of our graduates.” University of St. Thomas School of Law Draft 2010 AALS Self-Study at 94 (2010).
students bring to law school about the nature of lawyers’ professionalism and ethics, the moral development of students while they are in law school and afterwards, the relationship of high professional standards to effective law practice, the effect of the structure of scholarship grants on the culture of the law school, the effects of faith integration on law students, the relationship between law students’ spirituality and academic performance, the effects of mentoring on the development of professional identity, the value of storytelling in teaching ethics, and the specifics of the kind of lawyer that St. Thomas aims to produce.

1. Report on Survey Research Conducted by the Author in 2009-10

During the academic year 2009-10, I conducted research to begin to measure the degree to which St. Thomas’ first five graduating classes incorporate the values that St. Thomas has tried to instill, and whether these graduates resemble the description of the St. Thomas lawyer. In the first phase of this research, I surveyed recent law graduates. The survey was conducted via a convenience sample, not necessarily representing a random sample of the total. An email with a link to the survey was sent to the St. Thomas alumni from the classes of 2004 – 2008, a group of 601 people. In order to obtain a comparison group of graduates of other law schools, I sent a similar email to the members of the New Lawyers Section of the Minnesota State Bar Association. The New Lawyers Section “. . . is comprised of attorneys who were admitted to practice within the past six years or who are less than 36 years of age. The Section's efforts focus on professional development, community outreach and networking.” At the time of the

169 Hamilton & Brbbitt, supra note 152.
172 See infra Appendix 1.
173 Email from Jill Akervik, Registrar, University of St. Thomas School of Law (July 13, 2012).
174 See MSBA New Lawyers Section, http://www2.mnbar.org/sections/new-lawyers/index.asp (last visited June 27, 2012). Minnesota does not have an integrated bar; membership in the MSBA is voluntary, as is membership in any of its sections.
survey, the New Lawyers Section had approximately 3,500 members. There was a much higher response rate for St. Thomas graduates (21.6%) than for New Lawyers Section members (1.2%).

The survey generated both quantitative and qualitative data. Quantitative analysis of the data provided some interesting preliminary information. There were 202 responses, of which 172 (85%) were complete. The way the survey was done led to oversampling of St. Thomas graduates. Of the 172 valid responses, 130 (76%) were from St. Thomas graduates. The low response rate from non-St. Thomas graduates hindered the ability to obtain statistically significant results.

The average respondent in the sample was 30.81 years old at the time s/he filled out the survey, had been practicing for 3.23 years and had held 1.58 jobs in that time. There were no statistically significant differences between St. Thomas graduates and non-St. Thomas graduates with regards to age, years of practice, or number of jobs per year of practice. There were no significant differences between the two populations in the proportion of graduates whose first job was in a legal capacity, paid, or full-time.

The findings that achieved statistical significance all tended to support the existence of the St. Thomas Effect. These findings related to respondents’ participation in a religious community, volunteerism, and life satisfaction. Half of the St. Thomas respondents reported participating in a religious community on a regular basis, compared to 37% of the non-St. Thomas respondents. There were no significant differences between the two populations in the proportion of respondents who volunteered for a particular organization on a regular basis, and the proportion in the two populations of people who performed more than 20 hours of pro bono legal work during the previous year was not significantly different. However, St. Thomas graduates were significantly more likely to have volunteered more than 20 hours in any kind of work during the previous year. Forty-three percent of the St. Thomas graduates reported volunteering more than 20 hours in the previous year compared to 26% of non-St. Thomas respondents. This difference was found to be statistically significant at the 0.051 level.

Survey takers were asked to rate their life satisfaction on a five point scale (very dissatisfied, not satisfied, neutral, satisfied, and very satisfied). St. Thomas respondents were more likely to report that they were very satisfied, with almost a third of them indicating this response compared to less than 10% for non-St. Thomas respondents. This difference was found to be significant at the 0.005 level.

Some interesting patterns emerge in examining correlations in these data. These findings indicate a connection between some of the desired aspects of the St. Thomas Effect and overall life satisfaction. Survey results reveal that regular participation in a religious community was associated with life satisfaction. For the entire sample, 85% of those who reported regular religious participation stated that their level of life satisfaction was better-than-neutral. About a third of them reported that they were very satisfied with their lives. Similarly, regularly participating in volunteer activities was found to be associated with a better-than-neutral level of life satisfaction. Three quarters of those who volunteer regularly reported being satisfied or very satisfied with their lives as opposed to 59% of those who did not volunteer. This difference was found to be statistically significant at the 0.05 level. Volunteering more than 20 hours during the

---

175 Telephone Interview with MSBA (July 12, 2012). Some of these members would also be St. Thomas graduates. However, the survey questions identified St. Thomas graduates regardless of how they accessed the survey.

176 I am completely indebted to Vanessa Cruz, my research assistant, for her quantitative analysis of these data and for largely writing this section describing her analysis.
The previous year was also associated with life satisfaction. Of those who volunteered at that level, 80% reported better-than-neutral life satisfaction compared to 62% for those who volunteered fewer hours. This difference was found to be statistically significant at the 0.01 level. Furthermore, close to one third of the respondents who volunteered more than 20 hours in the previous year reported that they were very satisfied with their lives compared to only 18% of those who volunteered fewer hours. This difference was found to be statistically significant at the 0.05 level. Similarly, people who did more than 20 hours of pro bono legal work in the previous year were more likely to report better-than-neutral life satisfaction. Close to 80% of those who did more than 20 hours of pro bono legal work reported being satisfied or very satisfied with their lives compared to only 12% of those who worked fewer hours. This difference was found to be statistically significant at the 0.01 level.

These preliminary data indicate that St. Thomas graduates are more likely to be actively religious, to volunteer in both legal and non-legal capacities, and to be happier with their lives than their peers from other law schools. These findings relate to the qualities of a St. Thomas lawyer referenced in sections VII B. 3 (“Drawing on the Springs of Living Water”); 7 (“Working for the Poorest and Weakest”); 8 (“Making a Better World”); and 10 (“Life in Balance”); above. These data support the hypothesis that St. Thomas is achieving its goal of nurturing a different kind of lawyer in at least some of the desired ways.

In addition to the limited quantitative analysis that was possible based on the survey responses, I conducted a qualitative analysis of the essay responses to the sole essay question on the survey, “Describe briefly your most important goals in life.” There were 163 responses to this question, of which 118 could be identified as coming from St. Thomas graduates and 38 from non-St. Thomas graduates. These responses were first taken all together and coded for common themes and sub-themes. The most common theme in the responses revolved around family (n=159), followed by moral/spiritual qualities (n=133), happiness/enjoyment (n=65), financial security (n=45), professional success (n=43), friends/relationships other than family (n=30), balance (n=25), intellectual/personal growth (n=15), and health (n=12). Three respondents indicated that they had no goals. Responses frequently overlapped two or more themes, and in those cases, responses were coded under each theme. The two most common themes were broken down into sub-themes. The theme of family was broken down into raising children (n=38), providing financial support to the family (n=22), relationship with spouse (n=19), time balance in the family (n=19), good relationships in general in the family (n=17), starting or expanding a family (n=15), and happiness within the family (n=12). The theme of moral/spiritual qualities was broken down into sub-themes of service (n=82), personal moral or spiritual qualities (n=31), and qualities explicitly related to God or faith (n=20).

The coded responses from known St. Thomas graduates followed a similar pattern of prevalence of general themes (not surprisingly, since St. Thomas graduates contributed 75.6% of the total identified responses), with family leading the way (n=124), followed by moral/spiritual qualities (n=109), happiness/enjoyment (n=49), financial security (n=34), professional success (n=29), friends/relationships other than family (n=23), balance (n=18), intellectual/personal growth (n=15), and health (n=12). The theme of moral/spiritual qualities was broken down into sub-themes of service (n=82), personal moral or spiritual qualities (n=31), and qualities explicitly related to God or faith (n=20).

177 Some respondents did not indicate their law school. However, the survey was distributed first to St. Thomas graduates and a few days later to the members of the New Lawyers Section. I could be sure that all responses prior to the date that the survey was distributed to the New Lawyers Section were from St. Thomas graduates. After that date, I could not include responses that did not indicate the school the respondent graduated from in either the St. Thomas or the non-St. Thomas group.
growth (n=8), and health (n=9). One respondent indicated that s/he had no goals. The St. Thomas graduates’ responses fell into the family subthemes of raising children (n=26), providing financial support to the family (n=17), relationship with spouse (n=14), time balance in the family (n=13), good relationships in general in the family (n=13), starting or expanding a family (n=10), and happiness within the family (n=7), and the moral/spiritual qualities subthemes of service (n=65), personal moral or spiritual qualities (n=26), and qualities explicitly related to God or faith (n=18).

Of these themes, the category of moral/spiritual qualities with its subthemes is most clearly associated with the desired qualities of a St. Thomas lawyer referenced in sections VII B.2 (“Integration, Integrity and Independence”); 3 (“Drawing on the Springs of Living Water”); 4 (“The Servant Leader and the Listening Ear”); 7 (“Working for the Poorest and Weakest”); and 8 (“Making a Better World”); above. The category of balance (n=18) is also clearly related to section VII B.10 (“Life in Balance”), although this category was not as salient overall in the responses, and occurred with similar frequency among the responses of non-St. Thomas graduates (5.6% of coded responses) as those of St. Thomas graduates (4.5% of coded responses).

Comparing the responses from known St. Thomas graduates from known non-St. Thomas graduates, the most significant quantitative difference between the two groups is the greater prevalence of responses coded for moral/spiritual qualities among the St. Thomas group – 27% of all items coded for St. Thomas lawyers, as opposed to 16% of the codings for the non-St. Thomas lawyers. Sample responses of St. Thomas graduates’ description of their goals of moral/spiritual development include:178

To strive to bring every area of my life into conformity with my beliefs and to work for the recognition of true justice (‘justice’ being an understanding and appreciation of objective, moral realism in both a legal and non-legal capacity).179

My most important goal in life is to live a life consistent with my Christian values. A life in which I strive to emulate the example of Jesus Christ.180

I want to help people in some way, and make the world a better place.181

Looking at the coded responses, it is clear that St. Thomas graduates share many of the same life and career goals as non-St. Thomas graduates. The data do support the hypothesis that St. Thomas graduates are more oriented toward moral and spiritual goals than their peers who attended other law schools.

2. Other Sources of Data Relevant to the St. Thomas Effect

There are data gathered by external entities that also help shed light on the degree to which St. Thomas is accomplishing its mission. The Law School Survey of Student Engagement

178 See infra Appendix 2.
179 Id. (Respondent 11438824, coded as Moral/Spiritual Qualities–Personal).
180 Id. (Respondent 11439740, coded as Moral/Spiritual Qualities–God/Faith).
181 Id. (Respondent 11438719, coded as Moral/Spiritual Qualities–Service).
(LSSSE) is an ongoing effort by the Association of American Law Schools and the Carnegie Foundation to assess law students’ involvement in their education and their opinions about what they have learned. St. Thomas participated in the 2006, 2008, 2010, and 2012 editions of the survey, with a high rate of student participation. The LSSE data allow St. Thomas to compare its students’ responses with those of law students nationwide and with a specific peer group of religious law schools. In summary of the 2006 and 2008 results:

Our respondents reported that that their law school experience contributed more to their personal development in the areas that are most important to us than did respondents in the national pool or at our peer schools. These areas include their development of: (1) a deepened sense of spirituality; (2) a personal code of values and ethics; (3) a commitment to making contributions to the welfare of their communities; and (4) self understanding. Our mean ratings stayed fairly constant in these areas between 2006 and 2008.

In the 2006 survey, St. Thomas students’ responses were statistically significantly different from those of peers in that they reported that St. Thomas had a greater emphasis on ethics in law practice and on the spiritual and moral development of law students, a greater commitment to pro bono service, and a stronger and more supportive law school community.

[T]he LSSE data suggests that we are providing an environment in which students’ relationships with their peers, with faculty, and with the administration are more favorable than those of their peers at other law schools, and that our students find their experience profoundly more spiritually enriching than their peers at other institutions – even other law schools at religiously affiliated universities.

The 2010 and 2012 surveys continued to demonstrate significant differences between St. Thomas and its peer law schools.\footnote{The peer school group includes Case Western Reserve University School of Law, Drake University Law School, Earle Mack School of Law, Drexel University, Indiana University Maurer School of Law, Northeastern University School of Law, Ohio State University Michael E. Moritz College of Law, University of Tennessee College of Law, University of Cincinnati College of Law, University of Kentucky College of Law, University of Louisville, Louis D. Brandeis School of Law, University of Missouri-Kansas City School of Law, University of Nebraska College of Law, University of Wisconsin Law School, Valparaiso University Law School. The peer schools were chosen by St. Thomas deans based on comparable size and geographic location and full–time and non-religious status. LSSE also provides comparisons with all private religious law schools and with all schools under 500 total students.} St. Thomas students were more likely to have had serious conversations with students who are very different in terms of their religious beliefs, political views, or personal values (2010 average effect size = .31).\footnote{PowerPoint on LSSE results for 2006-12, on file with author.} The law school encouraged greater contact among law students from different economic, social, sexual orientation, racial, and/or ethnic backgrounds (2010 average effect size = .39).\footnote{Id.} Diverse perspectives were more likely to be included in class discussions or writing assignments (2010 average effect size = .47).\footnote{Id.} St. Thomas students were more likely to report that their law school experience increased their self-
understanding (2010 average effect size = .29)\(^{186}\) and helped them to develop a person code of ethics and values (2010 average effect size = .60)\(^ {187}\) than law students at peer schools. St. Thomas was more likely to encourage its students to contribute to the welfare of their communities (2010 average effect size = .56)\(^ {188}\) and to encourage the ethical practice of law (2010 average effect size = .74).\(^ {189}\) St. Thomas students reported more often that their law school experience helped them to develop a deepened sense of spirituality (2010 average effect size = .92).\(^ {190}\)

The Princeton Review conducts an annual quality of life survey that ranks law schools “[b]ased on student assessment of: whether there is a strong sense of community at the school, how aesthetically pleasing the law school is, the location of the law school, the quality of the social life, classroom facilities, and the library staff.” In terms of building a caring and mutually supportive community, St. Thomas has been ranked by the Princeton Review first or second of all law schools in the United States in terms of quality of life for law students five times in its relatively short existence.\(^ {191}\)

Another indication of St. Thomas’ success in creating the St. Thomas effect can be drawn from data regarding where St. Thomas students choose to work. The general data that are available indicate that St. Thomas graduates have entered public interest work after law school at a rate exceeding the national average. The first three graduating classes entered public interest work at a much higher rate, between 12% and 15% of the graduates, as compared to national rates of around 5%.\(^ {192}\) The percentage of St. Thomas graduates going into public interest jobs has declined somewhat in later classes, ranging around 6% to 9% from the class of 2007 to 2011, still exceeding the national average.\(^ {193}\) In March, 2008, the National Jurist, which bills itself as “the magazine for law students,” rated St. Thomas seventh in the nation in a ranking of “where public interest lawyers go to law school.”

One question not directly addressed by any of the research currently available is whether students who choose to attend St. Thomas are different from the general population of law students. It is possible that some or all of the St. Thomas effect is the result of student selection, rather than law school experience. The LSSSE results indicate that St. Thomas law students experience law school significantly differently than law students at peer schools. Law school, as experienced by students at schools around the country and over many years, has been shown to have effects that tend to discourage in many ways the formation of the kind of lawyer that St. Thomas seeks to nurture.\(^ {194}\) I believe that St. Thomas could still justify its existence it only

\(^{186}\) Id.
\(^{187}\) Id.
\(^{188}\) Id.
\(^{189}\) Id.
\(^{190}\) Id.

University of St. Thomas School of Law, Admissions Office, telephone conversation September 10, 2012.


\(^{193}\) Id.

Kennon M. Sheldon & Lawrence S. Krieger, Does Legal Education have Undermining Effects on Law Student? Evaluating Changes in Motivation, Values, and Well-Being, 22 BEHAV. SCI. & L. 261, 262 (2004) (citations omitted) (“Potential negative aspects of legal education include excessive workloads, stress, and competition for academic superiority; instructional emphasis on comparative grading, status-seeking placement practices, and other hierarchical markers of worth; lack of clear and timely feedback; excessive faculty emphasis on analysis and linear thinking, causing loss of connection with feelings, personal morals, values, and sense of self; teaching practices that
provides a uniquely supportive and welcoming home for students already aiming to become this new kind of lawyer. The data reported here indicate that it is likely that St. Thomas has not only provided such a supportive environment, but has also influenced its graduates to some extent in the desired directions.

VIII. CONCLUSION

I believe that St. Thomas’s success or failure is of vital interest to democratic society. I believe that the St. Thomas project is one example of a desperately needed change in attitude toward the education of lawyers, and indeed of professionals in general. Law schools must turn their attention to studying and thinking intentionally about the characteristics, values and professional identity of the lawyers that they produce.

I do not argue that every law school should become a religious law school. Many of the strengths of faith-based legal education described in this paper would not apply to many law students. For a devout atheist, a faith-based legal education would likely pose a serious barrier to the inculcation of moral values. We need a wide variety of moral perspectives in legal education, to match the wide variety of law students. However, if law schools choose not to play any intentional role in the shaping of the professional identity of new lawyers and the moral values that they will practice by, the ongoing stability of democratic societies will continue to be threatened. By evading their responsibility to shape the professional identity of new lawyers, law schools fail in one of their most important tasks. Lawyers all have value systems and criteria for making decisions and choosing actions in the practice of law. If law schools offer nothing to shape them, those systems and decision-making criteria will then be shaped by the prevailing social themes of extreme individualism, market-based self interest, and value relativism. These values will be the death of professionalism and the common good. If law is to survive as a profession, and if democratic societies are to thrive based on a functional system of justice, then serious scholarly and practical attention must be paid to how lawyers’ values and professional identities are shaped. It is vital to all of us that we learn whether a law school can succeed in creating a certain kind of lawyer, and that we pay great attention to exactly what kind of lawyers our law schools are, and should be, turning out.

are isolating or intimidating, and content that is excessively abstract or unrelated to the actual practice of law; and conceptions of law that suppress moral reasoning and creativity.”).