

# THE ROLE OF EXPERIENTIAL LEARNING ON A LAW STUDENT'S SENSE OF PROFESSIONAL IDENTITY\*

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## INTRODUCTION

Among the most important factors for hiring new faculty members at most law schools is the promise of future scholarship.<sup>1</sup> Once hired, law faculty members spend about half of their time writing articles for journals,<sup>2</sup> usually on interesting topics related to their teaching. In addition to promoting the school's reputation, this scholarship serves to inform decisions on promotion and tenure.<sup>3</sup> While law schools prefer to have excellent teachers, it is fair to say that they make important decisions based more on scholarship than teaching effectiveness.<sup>4</sup> With so much effort and importance placed on scholarship, it is worth asking, as we do today, what a research agenda looks like in an era of reform, which seems to be where we are at this moment. There is currently a significant amount of criticism aimed at legal education and a growing feeling that what has become the standard law school experience does not fit very well in our times or does not readily lend itself to practice.<sup>5</sup> It is common to hear that law schools must change or risk finding themselves out

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1. See John D. Copeland & John W. Murry, Jr., *Getting Tossed from the Ivory Tower: The Legal Implications of Evaluating Faculty Performance*, 61 MO. L. REV. 233, 241 (1996).

2. David Segal, *What They Don't Teach Law Students: Lawyering*, N.Y. TIMES (Nov. 19, 2011), <http://www.nytimes.com/2011/11/20/business/after-law-school-associates-learn-to-be-lawyers.html?ref=davidsegal>.

3. See Copeland & Murry, *supra* note 1, at 241.

4. See *id.*

5. See A. Benjamin Spencer, *The Law School Critique in Historical Perspective*, 69 WASH. & LEE L. REV. 1949, 1951-52 (2012).

of business or irrelevant.<sup>6</sup> It seems perhaps inevitable that part of such a change will involve new directions for scholarship.

This Essay suggests that such changes offer the opportunity to reassess what legal education intends to accomplish. As law schools place greater emphasis on the practice and application of law than has historically been the case, legal scholarship will likely change as well, with increased emphasis on defining effective teaching methods that develop the skills needed to practice law in the twenty-first century, and with particular focus placed on the development of the professional as a core part of the law school experience. Change, however, is not a good in itself. Ultimately, the focus of legal education is to develop capable, adaptive professionals who will effectively remain members of the profession long enough to justify the investment of time and money that is demanded from law schools.<sup>7</sup> The practical shift in legal education, with an increased emphasis on skills that align with practice, provides an opportune time for scholars to consider how well students are prepared to assume the role of a lawyer following the training they receive over three years.

#### A. *The Goal of Professional Education*

While it may be easy to cast professional education in terms of the discrete skills that are regularly used in practice, professional education is much more than the transmission of skills and knowledge necessary to perform specialized and complex tasks. Professional education involves the formation of personal and professional ways of thinking about and embodying one's role as a member of a specialized, and arguably privileged, group granted considerable power and authority in most contemporary societies.<sup>8</sup> The access, deference, and power granted to professionals may be seen as carrying with them implicit and explicit moral obligations to exercise that privilege and power for the sake of others and for the common good.<sup>9</sup> Valuing such obligations comes from an understanding of oneself as a member of larger communities—first, the profession, and then society.

The proper goals of professional education are therefore multifaceted. Professional education must impart knowledge of

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6. See, e.g., *id.* at 2062 (“[T]he stagnation of incomes in the legal job market, a bubble in law school tuition and attendant student borrowing, and the prospect of a decline in law school applications and enrollments . . . will require all but perhaps the most elite and secure law schools to innovate or die.”).

7. See *id.* at 1956 (quoting Richard A. Posner, *The Present Situation in Legal Scholarship*, 90 YALE L.J. 1113, 1129 (1981)).

8. See David I.C. Thomson, “Teaching” *Formation of Professional Identity*, 27 REGENT U. L. REV. 303, 317 (2015).

9. See WILLIAM F. MAY, BELEAGUERED RULERS: THE PUBLIC OBLIGATION OF THE PROFESSIONAL 21 (2001).

subject matter, discrete skills, and technical application regarding tasks performed during practice. In addition, professional education should aim to develop within the student a sense of self, or identity, that runs across the teaching of knowledge, skills, and technical application and toward a personal understanding of the individual role of the profession in our society. Such an integration of the personal and professional self can be seen as the “professional identity” of the law student and future lawyer. The nurturing and development of professional identity are a profoundly important part of law school.

### B. Professional Identity

A professional group’s “identity” distinguishes that group by its unique set of attributes and values.<sup>10</sup> In the individual, “professional identity represents the process by which the person seeks to integrate his various statuses and roles, as well as his diverse experiences, into a coherent image of self.”<sup>11</sup> The formation of professional identity occurs through a progression of experiences over a course of years. Professional identity is not a stable concept but is instead “an ongoing project of construction by a given individual together with the others with whom she comes into contact.”<sup>12</sup> Indeed, the process of professional identity development is one of “continual interplay between structural and attitudinal changes that result in a self-conceptualization as a type of professional.”<sup>13</sup> This self-conceptualization frames the professional’s role in society and informs his or her professional decisions and development.<sup>14</sup>

Individual professional identity development in this ongoing process is influenced by several factors, including individual motivation, professional competence, personal commitment to the profession, and experiences of frustration.<sup>15</sup> The process of professional identity development is not an end in itself, but “is an evolving perspective that spans a practitioner’s professional

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10. Mairghread J.H. Ellis et al., *The Opinions and Attitudes of HPC Registered Level 4 Podiatry Students Towards Professionalism Pre- and Post-Work Placement: A Qualitative Study*, *PODIATRY REV.*, Mar./Apr. 2012, at 6, 9.

11. *Id.*

12. Kevin O’Connor et al., *Sponsorship: Engineering’s Tacit Gatekeeper 3* (2007) (unpublished manuscript) (emphasis omitted), <https://peer.asee.org/sponsorship-engineering-s-tacit-gatekeeper.pdf>.

13. Pamela E. Brott & Jane E. Myers, *Development of Professional School Counselor Identity: A Grounded Theory*, 2 *PROF. SCH. COUNSELING* 339, 339 (1999).

14. *Id.*

15. See Carol L. Colbeck, *Professional Identity Development Theory and Doctoral Education*, *NEW DIRECTIONS FOR TEACHING & LEARNING*, Spring 2008, at 9, 11.

career”<sup>16</sup> and begins during the years of professional education or training. Traditionally, legal education has followed what has become a standardized system—course work delivered in a lecture hall format and following the case method.<sup>17</sup> The lecture-format classroom of law school does not provide the types of experiences that have been shown to develop strong and early notions of professional identity.<sup>18</sup> Professional identity is derived from experience, not case study. Experiences that develop competence—or that frustrate the developing professional—and that integrate instruction with reflection on the role of self enhance the student’s understanding of professional identity.<sup>19</sup> Such an “experientially focused” approach to developing professional identity, as a part of what has been called the “phenomenological approach,” “allows the participant to recollect his or her own experiences and to reflect on the world of the other.”<sup>20</sup> Through such processes, the student begins to first identify and then develop a sense of identity in the professional role.

Moreover, the development of professional identity is not accomplished through isolated or discrete events. “[P]rofessional growth and development begins during one’s training for the profession, evolves during entry into the profession, and continues to develop as the practitioner identifies with the profession.”<sup>21</sup> The process of developing professional identity may be understood as the movement of the individual professional along a continuum of identity—movement that is influenced by contextual factors and personal characteristics and is ongoing for the individual in the context of work and community throughout a career. Ultimately, the development of professional identity results from a “dynamic interplay of phases as [professionals] become involved in a variety of strategies and activities when performing in the role”<sup>22</sup> expected in the profession.

Finally, one’s professional identity involves self-recognition as a certain “kind of person” in a given context.<sup>23</sup> Professional identity is, in many ways, how the professional sees himself or herself in relation to how others see that individual in a particular context. As

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16. Brott & Myers, *supra* note 13, at 346.

17. See Philip C. Kissam, *The Ideology of the Case Method/Final Examination Law School*, 70 U. CIN. L. REV. 137, 137 (2001).

18. See Homer C. La Rue, *Developing an Identity of Responsible Lawyering Through Experiential Learning*, 43 HASTINGS L.J. 1147, 1147–48 (1992).

19. See *id.* at 1148, 1155.

20. Connie Shands-Baab, *Professional Identity Development Among Graduate Students During the Field Practicum 8* (Aug. 2008) (unpublished Ph.D dissertation, Loyola University of Chicago) (citation omitted).

21. Brott & Myers, *supra* note 13, at 345.

22. *Id.* at 346.

23. James Paul Gee, *Identity as an Analytic Lens for Research in Education*, 25 REV. RES. EDUC. 99, 99 (2000).

such, identity is an ongoing process wherein the professional's notion of self and the notion of the professional held by the broader community is in continual dialogue across multiple settings, times, and frames.<sup>24</sup> Through this process, individuals develop multiple identities that are connected to their performance in society.<sup>25</sup> The traditional law school classroom, while valuable for some things, simply lacks opportunities for interplay between the student and any other constituency.<sup>26</sup>

Despite the need to develop a sense of professional identity, very little time in law school has traditionally been spent in helping students define for themselves what it means to be a lawyer and a member of a professional class.<sup>27</sup> The traditional classroom provides very little room for the process of self-recognition that leads to deeper understandings of professional identity.<sup>28</sup> The emerging emphasis on experience-based instruction may change this. By its very nature, experiential learning incorporates many of the dynamics that lead to a sense of professional identity.

#### I. A CONTEXT FOR DEVELOPING PROFESSIONAL IDENTITY AMONG LAW STUDENTS: EXPERIENTIAL LEARNING AS AN APPROACH TO FORMING SKILLS WHILE ENABLING REFLECTION ON PROFESSIONAL IDENTITY

Experiential instruction, including clinical work and field placements, places legal education in the context of proven pedagogical approaches and aligns it with established service-learning pedagogy and instruction methods.<sup>29</sup> Consequently, insights gained about the value of service learning may inform how we understand the impact of experiential instruction during law school.

Service learning is a particular pedagogy that incorporates student experiences into a course curriculum in a way that reflects what is being taught and leads to a better understanding of the course work as well as a stronger sense of personal agency for the

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24. Llewellyn Mann et al., *Professional Identity: A Framework for Research in Engineering Education* (2008) (unpublished manuscript), [hdl.cqu.edu.au/10018/27305](http://hdl.cqu.edu.au/10018/27305) (follow "View/Open" hyperlink).

25. Gee, *supra* note 23, at 99.

26. See La Rue, *supra* note 18, at 1147–48.

27. See *id.*

28. See *id.*

29. Clinical legal education fits cleanly within the broader service-learning pedagogy, although crafted to the needs of legal education. Examples of service learning in a clinical legal education context are abundant, including clinical programs that involve nearly every possible area of practice where students are instructed on a topic during a class and then apply that knowledge with a client in a practice setting.

student.<sup>30</sup> Legal clinics and well-designed field placements are excellent examples of this pedagogy. For example, students working in a transactional law clinic with clients who are small enterprises perform tasks reflective of those that are often present in a business law practice.<sup>31</sup> All work is performed under the supervision of an attorney experienced in the practice and in conjunction with classroom instruction on substantive issues relevant to the practice.<sup>32</sup> Students are required to provide the range of legal services that small enterprises need to operate, which often includes entity formation, contract review, tax advice, and similar work.<sup>33</sup> The clinic student experiences the power of being a professional through practice while reinforcing his or her understanding of the substantive law in a practice environment that allows for reflection and improvement.

Perhaps as a sign of its efficacy, service learning as an approach to teaching has gained prominence in colleges and universities across the United States over the last two decades.<sup>34</sup> In response to the growth of service learning, a significant number of universities have developed administrative offices that promote best practices of service learning and assist faculty as they develop service-learning courses, which are now offered in a wide array of topics.<sup>35</sup> While service learning has been largely associated with the applied

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30. See Joe Bandy, *What Is Service Learning or Community Engagement?*, VAND. U.: CTR. FOR TEACHING, <https://cft.vanderbilt.edu/guides-sub-pages/teaching-through-community-engagement/> (last visited Apr. 11, 2016).

31. See generally Ed Finkel, *Law School Clinics Provide Real World Training*, STUDENT LAW., Dec. 2012, at 20 (discussing various clinics and the practical experience they provide to law students); see also *Practice Areas*, WAKE FOREST U. SCH. L.: COMMUNITY L. & BUS. CLINIC, <http://community-clinic.law.wfu.edu/practice-areas/> (describing the services rendered by a transactional law clinic) (last visited Apr. 11, 2016).

32. See Finkel, *supra* note 31, at 23.

33. See Shawn P. O'Connor, *Law Schools Incorporate Entrepreneurship*, U.S. NEWS (Apr. 16, 2012, 10:00 AM), <http://www.usnews.com/education/blogs/law-admissions-lowdown/2012/04/16/law-schools-incorporate-entrepreneurship>; see also *Practice Areas*, *supra* note 31 (stating that the Wake Forest Community Law & Business Clinic has "a wide range of services available to entrepreneurs and small business owners, including: . . . [c]hoice of business entity . . . [r]eviewing, drafting or negotiating contracts and contractual clauses [and] . . . [c]ompliance with regulatory issues").

34. See Adrianna Kezar & Robert A. Rhoads, *The Dynamic Tensions of Service Learning in Higher Education: A Philosophical Perspective*, 72 J. HIGHER EDUC. 148, 150–53 (2001).

35. See Paul C. Godfrey et al., *Creating Breadth in Business Education Through Service-Learning*, 4 ACAD. MGMT. LEARNING & EDUC. 309, 319, 321 (2005) ("Many major colleges and universities have a service-learning center or office where faculty can go to get support, instruction, and resources for designing and implementing service-learning pedagogy."). Clinical legal education has always reflected the service-learning pedagogy, although different terminology applies.

sciences, the pedagogy has extended to the liberal arts and into the professional disciplines, including business, divinity, and law.<sup>36</sup>

In addition to enhancing the understanding of the material covered in a course, effective service learning is perhaps the best tool available for promoting engaged citizenship among graduate students.<sup>37</sup> In the context of legal education, such engagement includes a sense of service to clients, the bar, and the community, and consequently leads to the initial formation of professional identity. How this happens may be seen by considering the beneficiaries with an interest in the instruction: the student and the client.

#### A. *Service Learning and the Student*

Ideally, service-learning courses integrate substantive course content on the topic with meaningful work that is valued by both the student and the client being served.<sup>38</sup> The student gains the experience of practice, developing core competencies that will be used after law school, and the client obtains the legal representation that leads to the relief that is sought and needed. For the service experience to be meaningful, it is important that the student take on the role of a practitioner to the greatest degree possible.<sup>39</sup> When students are given high degrees of autonomy in performing the work component of a service-learning course, as opposed to instances when students are directly managed in all aspects of the experience, they develop greater self-esteem, stronger political engagement, and higher levels of tolerance and understanding across lines of difference.<sup>40</sup> Effective service learning provides students with responsibility, challenging tasks, and the latitude to make decisions that will impact the outcome of the work performed.<sup>41</sup> When

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36. See Richard R. Klink & Gerard A. Athaide, *Implementing Service Learning in the Principles of Marketing Course*, 26 J. MARKETING EDUC. 145, 146 (2004); Scott Seider, *Deepening College Students' Engagement with Religion and Theology Through Community Service Learning*, 14 TEACHING THEOLOGY & RELIGION 205, 205 (2011); O'Connor, *supra* note 33.

37. See Steven D. Papamarcos, *The "Next Wave" in Service-Learning: Integrative, Team-Based Engagements with Structural Objectives*, REV. BUS., Spring 2002, at 31, 31; Susan D. Steiner & Mary Anne Watson, *The Service Learning Component in Business Education: The Values Linkage Void*, 5 ACAD. MGMT. LEARNING & EDUC. 422, 422 (2006).

38. See, e.g., Finkel, *supra* note 31, at 22–23; *Service Learning Pedagogy*, LOY. U. CHI., <http://www.luc.edu/experiential/service-learning/service-learningpedagogy/> (last visited Apr. 11, 2016).

39. See William Morgan & Matthew Streb, *Building Citizenship: How Student Voice in Service-Learning Develops Civic Values*, 82 SOC. SCI. Q. 154, 166–67 (2001).

40. *Id.* at 166.

41. *Id.*; see Franklyn P. Salimbene et al., *Service-Learning and Management Education: The Bentley Experience*, 4 ACAD. MGMT. LEARNING & EDUC. 336, 336 (2005).

realistic work experiences incorporate student decision making in a manner that also integrates academic course content, highly valuable learning results.<sup>42</sup> Such learning reinforces the student's understanding of doctrinal material while also building the notion of the professional identity.

### B. *Service Learning and the Client*

The impact of service learning is not limited to the student. Reciprocity, meaning that the work delivers value to the student as well as the client in the course work, is a core value of service learning.<sup>43</sup> Reciprocity results when both the student and the client served by the work in a class receive a benefit from the work being done. Such reciprocal benefit is crucial to a service-learning course's success.<sup>44</sup> For students, this means that they see the value of their agency and can readily and immediately see the impact they can have as a professional. At the same time, the client that is served is not treated as an object of study or some other subject. Instead, the client receives something of meaningful value that assists in achieving a goal defined by the client.

Instances of reciprocity do not easily happen. To occur, faculty must work to develop relationships of trust with clients and organizations in the community where students will work.<sup>45</sup> Faculty must also prepare students to understand the needs of the clients being served.<sup>46</sup> Such preparation requires work by the faculty member outside of the classroom and off campus—often during summer or semester breaks—requiring a faculty member's long-term, consistent work commitment in partnership with the communities they serve.

### C. *Outcomes*

Service learning in a law school context promises meaningful, relevant outcomes for students. First, clinics and field placements provoke mental processes that enhance learning.<sup>47</sup> Through such courses, law students are placed in situations where they are required to process factual scenarios that involve substantive legal

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42. See Godfrey et al., *supra* note 35, at 310.

43. See Amy L. Kenworthy-U'Ren & Tim O. Peterson, *Service-Learning and Management Education: Introducing the "WE CARE" Approach*, 4 ACAD. MGMT. LEARNING & EDUC. 272, 275–76 (2005).

44. See Ellen Cushman, *Sustainable Service Learning Programs*, 54 C. COMPOSITION & COMM. 40, 43 (2002); Kenworthy & Peterson, *supra* note 43, at 275–76.

45. See Cushman, *supra* note 44, at 58.

46. See *id.* at 43, 49–50.

47. Brook K. Baker, *Learning to Fish, Fishing to Learn: Guided Participation in the Interpersonal Ecology of Practice*, 6 CLINICAL L. REV. 1, 9–10 (1999).

issues and require analysis.<sup>48</sup> The student's experience, therefore, reflects the practice of law that will follow licensure. These types of experiences have also been shown to lead to enhanced fact retention and mastery of complex ideas and processes.<sup>49</sup> Students in service-learning courses have been shown to understand course material better and retain it longer,<sup>50</sup> leading law students to a better understanding of both the substantive law as well as the role of the lawyer.<sup>51</sup>

Second, like all service learning, clinics and field placements promote outcomes that are of concern to and valued by law schools.<sup>52</sup> Experiential education provides a forum for linking professional training and civic engagement.<sup>53</sup> Service learning leads to enhanced critical thinking and problem solving,<sup>54</sup> civic engagement and volunteerism,<sup>55</sup> social responsibility,<sup>56</sup> and self-efficacy.<sup>57</sup> Clinical legal education places students in the complex interpersonal dynamics that shape the practice of law and requires them to take

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48. See, e.g., Maureen E. Laflin, *Toward the Making of Good Lawyers: How an Appellate Clinic Satisfies the Professional Objectives of the MacCrate Report*, 33 GONZ. L. REV. 1, 28 (1997) ("[Appellate clinic students] must combine the facts in their case with relevant case law, molding them together in their own story, their theory of the case.").

49. Enhanced fact and complex idea retention occurs when teaching is linked with experiences that allow for the student to apply the matter being taught. Steiner & Watson, *supra* note 37, at 425.

50. *Id.*

51. See Baker, *supra* note 47, at 9–10 (describing how involvement in a real legal problem provides the student with a better understanding of a lawyer's role); Laflin, *supra* note 48, at 23, 28 (explaining how the appellate clinic bolsters students' research skills and their factual and legal analyses).

52. See Todd A. Berger, *Three Generations and Two Tiers: How Participation in Law School Clinics and the Demand for "Practice-Ready" Graduates Will Impact the Faculty Status of Clinical Law Professors*, 43 WASH. U. J.L. & POL'Y 129, 145–46 (2013).

53. See Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 CLINICAL L. REV. 57, 71–72 (2009).

54. JANET EYLER & DWIGHT E. GILES, JR., WHERE'S THE LEARNING IN SERVICE-LEARNING? 120 (1999); Scott W. Lester et al., *Does Service-Learning Add Value? Examining the Perspectives of Multiple Stakeholders*, 4 ACAD. MGMT. LEARNING & EDUC. 278, 281 (2005).

55. See William M. Plater, *Civic Engagement, Service-Learning, and Intentional Leadership*, in PUBLIC WORK AND THE ACADEMY: AN ACADEMIC ADMINISTRATOR'S GUIDE TO CIVIC ENGAGEMENT AND SERVICE-LEARNING 5 (Mark Langseth & William M. Plater eds., 2004); Chuck Tomkovick et al., *Linking Collegiate Service-Learning to Future Volunteerism: Implications for Nonprofit Organizations*, 19 NONPROFIT MGMT. & LEADERSHIP 3, 15 (2008).

56. Janet S. Eyler et al., *At a Glance: What We Know About the Effects of Service-Learning on College Students, Faculty, Institutions and Communities, 1993–2000: Third Edition 2* (Aug. 31, 2001) (unpublished manuscript), <https://www.mnsu.edu/cetl/academicsservicelearning/Service-Learning.pdf>.

57. EYLER & GILES, *supra* note 54, at 39; Steven D. Papamarcos, *Giving Traction to Management Theory: Today's Service-Learning*, 4 ACAD. MGMT. LEARNING & EDUC. 325, 329 (2005).

on problem solving in real-world contexts.<sup>58</sup> This environment and context demand that students bring structure and order to the chaos of situations presented by clients.<sup>59</sup> Through this process, law students practice the technical skills of legal practice and experience the transformational power of being a professional in service to a client. Clinics and field placements lead to the very foundations of education. Education has been described as what happens when students are immersed in meaningful activities in the community in a way that provokes curiosity and a continued interest in inquiry.<sup>60</sup> This is exactly what law schools do when offering experience-based programs.

Because the service component of a service-learning class intends to help students develop both their understanding of the content as well as the professional's role in society, it is important for students to have opportunities for reflection.<sup>61</sup> It is through reflection on their work and experiences that students gain an understanding of social dynamics that are at work in the community<sup>62</sup> and the ability to identify and understand social problems.<sup>63</sup>

Finally, many experiential education programs offered through law schools require students to work in multidisciplinary environments. Students in an elder law clinic, for example, may regularly work with physicians and social workers that specialize in the needs of the elderly.<sup>64</sup> Students in transactional clinics regularly work with business professionals, and in some cases with MBA students.<sup>65</sup> Such multidisciplinary environments serve as conduits for information and resources, while also playing a role in creating and shaping the law student's sense of professional

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58. See generally Finkel, *supra* note 31 (discussing specific examples of students working in the clinical setting).

59. See Salimbene et al., *supra* note 41, at 342–43.

60. See JOHN DEWEY, *EXPERIENCE AND EDUCATION* 31, 35 (The Macmillan Co. 1949) (1938).

61. Janet Eyler, *Reflection: Linking Service and Learning—Linking Students and Communities*, 58 J. SOC. ISSUES 517, 532 (2002).

62. *Id.* at 519.

63. See Thomas H. Batchelder & Susan Root, *Effects of an Undergraduate Program to Integrate Academic Learning and Service: Cognitive, Prosocial Cognitive, and Identity Outcomes*, 17 J. ADOLESCENCE 341, 342 (1994).

64. James H. Pietsch, *Expanding Access to Justice for Socially and Economically Needy Elders Through Law School Experiential Programs*, 20 ELDER L.J. 315, 333 (2013).

65. See Seth Freeman, *Bridging the Gaps: How Cross-Disciplinary Training with MBAs Can Improve Transactional Education, Prepare Students for Private Practice, and Enhance University Life*, 13 FORDHAM J. CORP. & FIN. L. 89, 97 (2008).

identity.<sup>66</sup> Law students generally live and work in redundant social networks occupied by other law students, law professors, and lawyers. Due to the demands of high-level academic study, graduate and professional students build social networks that link individuals who are engaged in similar courses of study and professional development.<sup>67</sup> Although necessary, such networks lead to redundant sources of information, which in turn have been shown to lead to less clarity in the student's sense of professional identity.<sup>68</sup> In contrast, as graduate students participate in social networks that contain multiple contexts and nonredundant sources of information, the clarity of the students' sense of professional identity increases.<sup>69</sup> The multidisciplinary character of many clinical programs offers students a unique place to find new sources of information about being a professional and practicing law.

In these ways, clinical programs and field placements become effective tools for shaping professional identity, enhancing critical thinking, and developing civically engaged members of the legal profession. Experience-based courses that reflect a service-learning pedagogy can assist law students in developing core values around civic engagement and cultural competency,<sup>70</sup> while having experiences that allow for the student to encounter broader social issues in a manner that reflects practice.<sup>71</sup> Clinics and field placements should be expected to provide a way to teach both the substantive content of a course while helping students develop identity and core values that are central to the profession.

## II. THE NEED TO ASSESS THE IMPACT OF CLINICAL LEGAL EDUCATION ON THE TWENTY-FIRST CENTURY LAW STUDENT

Law students graduating in 2016 will find themselves confronting a very different practice environment than the one that faced graduates even a few years earlier. Law firms can no longer afford to train new lawyers, and there is a growing demand for new hires to become profitable sooner. For generations, lawyers have served as sources of information and offered clients expertise in a particular subject matter along with applied technical skills that

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66. See Herminia Ibarra et al., *Zooming In and Out: Connecting Individuals and Collectivities at the Frontiers of Organizational Network Research*, 16 *ORG. SCI.* 359, 362–63 (2005).

67. See Freeman, *supra* note 65, at 101.

68. Shoshana R. Dobrow & Monica C. Higgins, *Developmental Networks and Professional Identity: A Longitudinal Study*, 10 *CAREER DEV. INT'L* 567, 577 (2005).

69. *Id.* at 572.

70. See Godfrey et al., *supra* note 35, at 310; Lester et al., *supra* note 54, at 279.

71. See Steiner & Watson, *supra* note 37, at 425.

enabled the client to achieve a goal.<sup>72</sup> Students left law school with a broad understanding of the law and the background knowledge needed to sit for the bar exam, gain entry to the profession and begin to serve in this function. Law schools trained lawyers with an emphasis on mastering law through the case method applied in a lecture-style classroom.<sup>73</sup> This approach made sense for a very long time. The method does develop critical thinking and the ability to dissect a case, identify the relevant rule, and then apply that rule with some facility. Even when the case method made sense, however, it contained significant limits. The practice of law involves much more complex relationships than those explored through a reported case.<sup>74</sup> For example, the ability to contextualize a business transaction, which takes place as part of a latticework involving broader relationships and client concerns, is paramount to the practice but hardly teachable in the case method. The traditional case method that is applied in most law school classes is incapable of reflecting such complexities.

Remarkable as such endurance may be, survival is not the only, or even the best, test of an educational curriculum, especially given the pull of the status quo on teachers and administrators. Langdell's case method<sup>75</sup> is good for some things, but not good for others. Langdell's case method fails today because it reduces the practice of law to a fairly limited set of discrete considerations, and this is not the reality of practice in the complex, highly interconnected world students now find themselves in.<sup>76</sup> While the practice of law involves large numbers of interconnected and often times moving variables and considerations, the traditional case method provides students with a firm set of facts that have been distilled during the litigation process and a well developed rule that is then applied.<sup>77</sup> "When what is at issue is whether an appellate

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72. See Judith Welch Wegner, *Reframing Legal Education's "Wicked Problems,"* 61 RUTGERS L. REV. 867, 922 (2009).

73. *Id.* at 924.

74. See, e.g., Ronald J. Gilson, *Value Creation by Business Lawyers: Legal Skills and Asset Pricing*, 94 YALE L.J. 239, 304–05 (1984) (discussing the problem with solely using the case method in teaching business law).

75. Wegner, *supra* note 72, at 906 ("[A]ccording to Langdell's conception, case collection provided direct source material about the law's operation . . . to show students how to derive and test relevant principles while posing questions about tactics and strategy.").

76. See Todd D. Rakoff & Martha Minow, *A Case for Another Case Method*, 60 VAND. L. REV. 597, 600 (2007) ("[Langdell's case method] fails because lawyers increasingly need to think in and across more settings, with more degrees of freedom, than appear in the universe established by appellate decisions and the traditional questions arising from them.").

77. See Michelle M. Harner & Robert J. Rhee, *Deal Deconstructions, Case Studies, and Case Simulations: Toward Practice Readiness with New Pedagogies in Teaching Business and Transactional Law*, 3 AM. U. BUS. L. REV.

bench correctly decided a case, or how its decision fits into the general fabric of appellate decisions, self-evidently we have already decided that the paradigmatic institutional setting for thinking about a legal problem is the appellate court.<sup>78</sup> But for the majority of lawyers, that is not where law is practiced.

While a deep knowledge of substantive law and the interconnection among areas of law is required when advising a client, the higher-value additive functions performed by a lawyer depend on the lawyer doing more than applying discrete knowledge to a task.<sup>79</sup>

As students enter the next generation of practice, they must be prepared with the core competencies<sup>80</sup> that are suited to the dynamic world of which they will be a part. A clear sense of professional identity that involves more than simply being a provider of information or key to accessing institutions is perhaps the most core of these competencies. The lawyer must know and be comfortable in his or her role, and this can only come from experience; a reality that law schools have accepted.

#### CONCLUSION

Rigorous case method analysis of the law in the context of the traditional law school classroom has served as the standard method for professional education for lawyers for nearly one hundred years.<sup>81</sup> The current shift to a practice-focused—or at least practice-aware—curriculum will result in law schools dedicating increasing budgets to experiential learning, encouraging faculty to integrate practice into doctrinal classes, and generally responding to the new expectations placed upon them. This is a significant change that offers a great opportunity to train the next generation of lawyers in ways that will lead to a greater sense of purpose as they enter the practice of law. We might expect the law school environment to become one where students will have more frequent experiences that develop core competencies and begin to shape a sense of professional identity. It is not clear, however, that this will result. Although clinical programs and field placements may be expected to lead to such outcomes, there is very little research showing this to be the case. Drawing on the body of research surrounding service learning, we can feel comfortable that experiential education is headed in the right direction. But, as legal education moves to new

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81, 84 (2014) (“The Langdellian approach treats too many dimensions as already fixed.”).

78. Rakoff & Minow, *supra* note 76, at 600.

79. Spencer, *supra* note 5, at 2009–10.

80. Core competencies are those skills that are required for success in a given field, business, or practice. See C.K. Prahalad & Gary Hamel, *The Core Competence of the Corporation*, HARV. BUS. REV., May–June 1990, at 79, 82.

81. See Wegner, *supra* note 72, at 924.

models, research is needed that focuses on the impacts that result. Specifically, research agendas should assess the impact experiential education has on the development of professional identity among law students and lawyers.