

**Teaching Professional Identity<sup>1</sup>**  
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## **The Concept of Professional Identity & the Three Apprenticeships**

In *Educating Lawyers: Preparation for the Profession of Law* (The Carnegie Report), The Carnegie Foundation authors identified the three apprenticeships of professional education: to think, which we teach as legal analysis; to perform, which we teach as practical skills both in legal research and writing classes and in clinics, internships, and alternative dispute resolution courses; and to conduct oneself professionally as an attorney, or professional identity. My essay describes how we can contribute to students' development and improvement of the concept of professional identity necessary both in law school and in the practice of law.

### **Professional Identity Defined**

I define professional identity as an ability to assess legal issues from a human or non-legal perspective.

Professional identity development contemplates the existential attitudes of individual authenticity and vulnerability, along with the holistic integration of intellectual tools, such as social scientific thought, into the social context. Incorporating professional identity as an attorney necessarily involves the integration of bodies of knowledge outside of the law and making and keeping personal priorities such as work-life balance.

In teaching, ask your students the following questions:

- Who else are you?
- What else do you know?
- What did you study in college?
- What people and activities are important to you?

Law doesn't exist in a vacuum; law is integrated into society.

### **Traditional purpose of Legal Profession vs. Public Perception**

Traditionally, the legal profession has been concerned with contributing to society in the form of public service and promoting justice and the public good.

As an extension of social responsibility, attorneys have a professional responsibility as officially sanctioned participants in the legal system, who are permitted to act both as officers of the court using specialized knowledge and privileges, and as client advocates.

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The ideals of the legal profession and the concomitant sense of social responsibility are easily removed from the reality of law practice, however. Our rapidly changing economic and social concerns create tensions in the traditional ethical-social values of the profession of law. Traditionally valued “ideals” about being a lawyer are becoming impossible to meet; confusion and uncertainty exist about defining goals and values. This confusion over values plays out initially during summer clerkships and later when law graduates become associates in a law firm setting.

The Carnegie Report noted undeniable problems with both the public perception of the legal profession and dissatisfaction from within the profession. Deborah Rhode reviewed survey data showing that the public perceives lawyers as “greedy and arrogant.” In addition, her research concluded that one-third of all attorneys suffer from depression or alcohol and drug addiction.<sup>2</sup>

Although attorneys working in large firms reported higher “power track” satisfaction, Rhode’s survey revealed a high level of career dissatisfaction in the large firm job setting due to lack of a sense of meaningful work. By contrast, attorneys working in smaller firms or serving in government or public interest organizations reported higher career satisfaction.

Legal education emphasizes procedural justice and teaching focuses on the adversarial system. The emphasis on procedural justice outside of the realm of a moral construct creates distorted notions in students.<sup>3</sup>

### **The Task of Law Education: Balancing Morals and Ethics vis-à-vis Law Practice**

As educators, we are uniquely situated to provide a coherent method to develop students’ identities as legal professionals. Through our activities and assignments we can help students achieve personal and professional satisfaction, which will, of course, improve both job performance and the public perception of attorneys. Teaching or really, encouraging, a professional identity involves raising both ethical and moral issues in legal scenarios. Law students are exposed to ethical considerations in professional responsibility classes. But the morality aspect of the practice of law, the concept of ethical engagement, is often overlooked in other contexts and can be encouraged within all of the law school the curriculum.

### **Teaching Professional Identity**

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<sup>2</sup> Deborah L. Rhode, *In the Interests of Justice: Reforming the Legal Profession* (Oxford University Press, USA 2003).

<sup>3</sup> Students surveyed in Rhode’s study stated: “It seems like legal thinking can justify anything”; “When I took Criminal law, I started to think of it in technical terms and stopped looking at the human side”; “Most teachers don’t bring in ethical issues. You are supposed to divorce yourself from those concerns.”

The morality and character aspects of the practice of law—the personal-ethical engagement—are often omitted from a law school curriculum. The omission of an integrated morality eventually drives student dissatisfaction during law school and employer complaints later in the workplace. In fact, matters of everyday morals or conduct, broadly discussed in the legal education context under the heading “professionalism,” are so often reduced to a never-ending discussion about how to dress in court or for job interviews, sidestepping the more important internal inquiry.

We can begin with the concept of self-reflection and peacemaking in our own assignments.



As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.

- Abraham Lincoln, Notes for a Law lecture, July 1, 1850

It is neither necessary to add an entire course called Professional Identity, however, nor to completely overhaul our current curricula or teaching methods. We can integrate professional identity concepts into our assignments, as I have done.

### **The Unfortunate Story**

My first assignment is to write what I call The Unfortunate Story<sup>4</sup> I ask students to write a story about something unfortunate that happened to them, what they did about it at the time, and whether they would do anything differently today. Students then read the story aloud to the class. Originally developed as an ice-breaker exercise, my short introductory assignment can be used to examine problem-solving abilities and involves the student's reflection on her personal role in solving problems. As I tweak this method, I intend to have students revisit the Unfortunate Story assignment at the end of the year with the benefit of a full year of law school behind them.

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<sup>4</sup> The Law Teacher, Fall 2012

Students submit a wide variety of unfortunate stories containing important self-reflection. Here are some examples of my students' Unfortunate Stories:

- Being kidnapped by Bedouins on a camel in Turkey
- Becoming blind in one eye in a sports accident
- Losing a job on a television reality show after a producer commits murder and suicide
- Being separated from a parent and later reuniting
- Discovering that an absent parent has stolen a student's identity
- Being mugged and fighting for life (and gloves) on the bitterly cold Moscow streets

Through their stories, students articulate a problem or issue and reflect upon their role in both the problem and the resolution.

### **Professional Identity Reflection in Traditional Writing Assignments**

I use my memo assignment at the end of the first semester to alleviate confusion about moral and legal obligations and to provide moral and ethical relevance to legal analysis. After the students write their final memos on, for example, negligent infliction of emotional distress, where they provide a prediction for a fictional client based on precedent, I ask them to write a reflection paper articulating their personal opinion about the outcome of the case instead, taking into consideration concerns for society as well as the client. I ask students to look at the big picture, to describe how they *really* feel about their mock client's case, and to share what resolution they might recommend outside of the considerations of case law.

### **Examples of Life in the Law**

Another way to prompt students to examine their own development as legal professionals is by bringing in guest speakers to tell of their own struggles in the practice of law and their resulting career decisions. I brought in a guest speaker who described working both as a U.S. Attorney and as a white collar criminal defense attorney, and who articulated the risks of being tied to rigid, dogmatic ideals, either as a prosecutor or as defense counsel. I also frequently bring in a corporate attorney who takes pro bono criminal cases, including murder cases, on appeal. Without fail he is always asked: "How can you represent a murderer?" Exposure to seasoned professionals in the law who have developed their own professional identities assists in the development of the students' professional identities by example.

### **Create Your Own Lessons to Incorporate Professional Identity**

Incorporating teaching professional identity into your curriculum is not challenging. Law students should expect to enhance and develop their professional identity, and to regularly contemplate their important role as future attorneys. As educators, we can readily pave the way.

I would like to hear how you incorporate professional identity into your curriculum.  
Please drop me a line.

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