

Reform at the Micro Level: Planning for a Life in the Law

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Years ago, law schools reformed the case method by teaching Lawyering and the Legal Process and by increasing opportunities for clinical legal education. Legal education expanded from a presentation of what the law is (or should be) to a more profound consideration of how people act as lawyers. Nevertheless, these reforms have been limited by the narrow time frame in which they examine the problem: the standard approach only asks how — at particular points in time or at particular points of representation — does or should one act as a lawyer? At most, the frame expands to consider how one serves a client over the life of a case or transaction.

What if we expanded that time frame and challenged students to think about how they will act as lawyers over the span of their careers? To begin that inquiry, I propose a new law school course. This course would focus on more than just how to be a lawyer by skill, by case, or by field in some abstractly depersonalized way. The course would actually focus each student's attention inward toward himself or herself, by asking the following questions: How will I succeed in law without selling my soul or sacrificing the relationships and values that matter to me most? How will I — personally, individually, specifically — flourish as a lawyer, not just for the first five or ten years of my career, but for the next forty or even fifty years of my life in the law?¹

COURSE DESCRIPTION: PROFESSIONAL DEVELOPMENT

This course could be taught by professors who specialize in Professional Responsibility, Law Office Management, and Women and the Law or who are interested in mentoring and professional development. Adjuncts could include lawyers who have experience with legal recruiting, career development, and “career/life coaching.” Schools might require the course as

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¹ This emphasis on “flourishing” borrows from the insights of Margaret Jane Radin and Martha Nussbaum, particularly their warnings about the harm that can be done when people commodify and alienate deep elements of their identities. See MARGARET JANE RADIN, *CONTESTED COMMODITIES* 75 (1996) (quoting Martha C. Nussbaum, *Human Functioning and Social Justice: In Defense of Aristotelian Essentialism*, 20 *POL. THEORY* 202, 231 (1992)).

a capstone to the first year or as a mid-point assessment in January of the second year.

Days 1, 2, & 3: Who Are You?

On the first day, students would engage in ice-breakers to decompress from their first year and connect (or reconnect) socially with classmates. During the second and third days, the students would begin guided self-assessments.² Working with professionals who are trained in administering these tests, professors would lead students through discussion of their “results.”³ Among other topics, students would consider how, if at all, law school might be changing their personalities and their approaches to work and conflict. Of particular importance would be discussions about the “fit” between a developing professional persona and the student’s personality coming into law school. Students would reflect upon and discuss life goals and values, especially ones related to family, personal relationships, and community involvement. On the third day, students would be challenged to think about the possible implications of their practice plans as well as their course of study for the one and a half to two years of law school remaining.

Days 4 & 5: Areas and Modes of Practice: What Works Where?

This phase of the course would examine the skills, personalities, learning styles, communication patterns, and work habits that seem best suited to various modes of legal practice. Areas of practice would be assessed along a variety of vectors, including work schedules, travel demands, sources of prestige and gratification in the field, financial rewards (or lack thereof), need for in-person interaction vs. remote communication by telephone or email, deadline-driven contexts vs. self-motivated work patterns, hierarchical vs. egalitarian relationships, individual vs. team-based work projects, and informal vs. highly structured work environments. The focus would be on practice over the long-term in particular areas of law. Students would be encouraged to consider whether their skills and preferences are consistent with the requirements of their planned areas of practice.

² Some of the self-assessment could be based upon instruments such as the Myers-Briggs, the Enneagram, and the Thomas-Kilman Conflict Mode tests. Other instruments may prove more appropriate; the point is to draw from students some new information about their own approaches to learning, work, interpersonal interactions, and conflict generally.

³ If the course became institutionalized at a school, the school might consider administering the tests without comment or discussion at the start of the first year; administering them again at the end of the first year might give students some data about the ways they have changed in just one year of law school. Cf. Clark Freshman, Adele Hayes, & Greg Feldman, When ‘Not Too Bad’ May Not Be Good Enough: A Theoretical and Empirical Exploration of Efficient Emotion and Law Student Success at Grades, Negotiation, and Mental Health (2004) (unpublished paper, University of Miami, available upon request from clark_freshman@post.harvard.edu) (administering a standard instrument for measuring depression at the beginning and end of a course on Negotiation).

Days 6 & 7: Thriving in the Practice of Law

Here the emphasis would shift to best practices and success in the field. How does one progress and thrive in particular areas of practice? Special emphasis would be placed on mentoring. Students need to understand the importance of finding and developing mentors. They would be encouraged as part of the course to identify a law professor they would explicitly ask to serve as their mentor. Some students might know a practicing lawyer they would prefer to invite instead. If the students are unable to identify a professor or practitioner they would like to have as their mentor, those teaching the course could develop a pool of alumni who be willing to “match” with students.

Days 8 & 9: How Will You Flourish in the Practice of Law?

On these days, students would synthesize the general information they have gathered about themselves and the areas of legal practice in which they are most interested. They would plan a course of action that would allow them to develop professionally over a twenty, thirty, and even forty year period in the practice of law. Over the span of these two days, students would prepare “professional development plans,” breaking down their:

1. Goals: what they hope to accomplish professionally at various points in their careers;
2. Strategies: what approaches they will pursue in order to accomplish those goals;
3. Actions: what specific actions they will take in order to implement their strategies.

Students would also reflect upon and explain how their professional development plans are congruent with the personal goals and values they identified on days one through three.

Day 10: Presentations

The final day of the course would be spent presenting and discussing students’ professional development plans. Professors and fellow students would challenge presenters to discuss not only their career goals, but also the ways their family and living arrangements would support or undermine those goals. For example, students would think about where they would most like to live (in a city, town, or suburb), how commuting might affect their quality of life, whether and when they would purchase a residence, how they hope to interact with the community in which they live, etc. They would consider whether and when they hope to marry or have children, what kind of childcare would be available and affordable to them, and what expecta-

tions they would have for spouses and partners (if any) in caring for their children.

The mentors that students have identified would be invited to attend and listen to these professional development plans. Indeed, students and mentors might be divided into mentoring circles, groups of four to six students with similar practice plans. Over the course of a morning or afternoon, these groups would meet and discuss the students' plans. They could also meet at least once a semester for the time remaining in law school.

Grading

The grade for this course could be based upon some mixture of the final presentation, the written professional development plan, and the journal entries written over the two week period. The required reading would be sparse.⁴

DISCUSSION

What drives this proposal? Most fundamentally, it is this: if asked, very few female law students would say, "Oh yes, I'm paying \$30,000 or more a year; working fourteen hour days between class preparation, law journal work, moot court, and research work for a professor; interviewing with dozens of law firms and writing to hundreds of judges; all so that ten years from now I can quit the practice of law." Few would say this, but many of them will do exactly this, especially if they take a position at a law firm upon graduation. Although women have composed nearly half of the beginning associates at large law firms since 1985,⁵ only seventeen percent of law firm partnership is comprised of women.⁶ And of the women who leave law firms, nearly half, according to some estimates, will quit the practice of law altogether.⁷ Some number of those women would stay at their law firms or in the practice of law, generally, if they could find a way to balance the demands of practice with their other commitments, particularly marriage and childrearing. Their departure, in other words, is less the logical step in a

⁴ Readings could include the following: RONIT DINOVTIZER, ET AL., *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* (2004), available at http://www.nalpfoundation.org/webmodules/articles/articlefiles/87-After_JD_2004_web.pdf (last visited Mar. 14, 2008); MONA HARRINGTON AND HELEN HSI, MIT WORKPLACE CENTER, *WOMEN LAWYERS AND OBSTACLES TO LEADERSHIP* (2007), available at http://web.mit.edu/workplacecenter/docs/law-report_4-07.pdf (last visited Mar. 14, 2008); WOMEN'S BAR ASSOC. OF D.C., *CREATING PATHWAYS TO SUCCESS: ADVANCING AND RETAINING WOMEN IN TODAY'S LAW FIRMS* (2006), available at <http://www.wbadc.org/associations/1556/files/Creating%20Pathways%20Report%20PDF.pdf> (last visited Mar. 14, 2008).

⁵ WOMEN'S BAR ASSOC. OF D.C., *supra* note 4, at 6.

⁶ This 17% statistic is consistently cited. See WOMEN'S BAR ASSOC. OF D.C., *supra* note 4, at 4, 6; *But cf.* HARRINGTON & HSI, *supra* note 4, at 4.

⁷ See, e.g., HARRINGTON & HSI, *supra* note 4, at 10.

larger life plan and more a matter of necessity as the balancing act of work and family shifts from difficult to impossible.

When a woman leaves the practice of law, not only does her firm lose the value of its investment in her as a lawyer, but the profession is diminished by the departure of one of the best and the brightest. Undoubtedly, some of these departing women fall into that category. Bar Associations and law firms are examining this problem in earnest, finally realizing that it is in the firms' own interests to retain their most talented lawyers. Law schools can do more as well.

Notwithstanding the need for a course like this, there are several potential objections to it. First, one might reasonably respond, "Life is much too unpredictable to make such planning profitable." Granted, life is unpredictable. A client thinks you are the greatest lawyer she has ever worked with and offers you an attractive job in-house. You meet and fall in love with someone who lives halfway across the country (or the globe). Your first child is born with serious disabilities. The course cannot insulate future lawyers from such changes, but it can give students a better sense of the baseline from which changes should be measured. Graduates of the course might better understand how their choices stack up against the goals, values, aspirations, and preferences they once identified. If they choose to change plans, they may do so more self-consciously, rather than feeling as if they are being buffeted by forces beyond their control. In the long run, this might help them to recover from setbacks more quickly and to exploit opportunities more satisfyingly.

A second objection focuses on the volatility of U.S. legal practice. "What good," one might ask, "is planning for practice when you're twenty-three years old, if twenty years later, technology or global economics will completely change the face of legal practice in ways you are unable to foresee?" But future lawyers will be better equipped to contend with changes wrought by legal and economic forces if they have, at some point, thoughtfully assessed their own skills, work patterns, and preferences. Moreover, a professional development course might alert students to the volatility of some practice areas, so that students will pursue those fields only if they are prepared to be nimble and versatile.

A third objection to this course is that people change. "Isn't it a bit naïve," critics might say, "to suppose that the preferences and plans you have in your early twenties would or indeed should bear any relationship to the person you will be twenty or thirty years later?" People do change, in ways that can be surprising. Still, having created a record of the goals and values that drove them early on, lawyers might more accurately understand the relationship between their internal composition and their current professional condition. Again, the goal is to make decisions in self-conscious

ways, to honor both the twenty-three year old who forged a life plan and the forty-three year old who is departing from it.⁸

A final objection has to do with gender: “Why require all students to take a course that is driven by a women’s problem?” The answer, of course, is that this is not a “women’s problem.” The problem is universal in two ways. First, all have a stake in helping talented lawyers flourish professionally. Second, and perhaps more importantly, the pressures and untenable work patterns that lead many women away from firm practice also plague the men who remain. These lawyers, too, are probably departing from the life in the law they might have imagined. But instead of quitting their firms, they suffer job-related stress, substance abuse problems, divorce, and disaffection from their work.⁹ This also is a loss of human capital and diminishment of the profession. Professional planning might enable those lawyers to practice more happily while they work at their firms and also to proactively plan for the “third age” on the other side of law firm practice.¹⁰

The goal of this course is to anchor young lawyers—both women and men—with the style and mode of legal practice that will sustain them over the length of their careers, and, therefore, to help them know what to ask as they survey career options, interview for jobs, and negotiate the terms of offered employment. If students have not had the time, the energy, the structure, or the information necessary to consider these matters, the chances are small that they will ever ask for the conditions necessary for them to flourish in the law. This modest proposal—a mere eighty hours out of the thousands of hours students will spend in law school—audaciously aims to give them the tools to build longer and happier careers in the law.

⁸ For a discussion of the way earlier selves might bind and influence the actions of later selves, see generally Jennifer Gerarda Brown, *The “Sophie’s Choice” Paradox And The Discontinuous Self: Two Comments On Wertheimer*, 74 DEN. U. L. REV. 1255 (1997).

⁹ See Patrick Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 872-81 (1999).

¹⁰ See generally WILLIAM ALAN SADLER, *THE THIRD AGE: SIX PRINCIPLES FOR PERSONAL GROWTH AND REJUVENATION AFTER FORTY* (2001).