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# The Fully Formed Lawyer: Why Law Schools Should Require Public Service to Better Prepare Students for Private Practice

*Sara K. Rankin\**

## INTRODUCTION

By now, it is commonly accepted that law schools are graduating students who are under-prepared for practice in the real world.<sup>1</sup> In other words, students that perform adequately in the classroom seem to struggle or suffer—to an unnecessary<sup>2</sup> degree—when they enter practice. It is as though law schools are graduating inchoate or “partially formed” lawyers, who demonstrate classroom fluency but lack meaningful ability to grapple with the wrinkles and complexity of real-world practice. And law schools, institutions that are extremely resistant to change, often defend the status quo because to do otherwise would be an admission that change is necessary.

Some law faculty and administrators protest that it is not fair to require law schools to graduate fully formed lawyers. This is a reasonable point, but it ignores the plain reality that law schools can and must do more to prepare our students for

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<sup>1</sup> See generally ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP (2007) [hereinafter BEST PRACTICES], available at [http://www.cleaweb.org/Resources/Documents/best\\_practices-full.pdf](http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf); WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter CARNEGIE REPORT]; SECTION OF LEGAL EDUC. & ADMISSION TO THE BAR, A.B.A., LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) [hereinafter MACCRATE REPORT].

<sup>2</sup> By “unnecessary,” I mean to acknowledge that students necessarily experience some discomfort as they transition from a student into a full-time practicing lawyer. However, this degree of discomfort is unnecessarily amplified when law schools deliver students into practice with inadequate hands-on training. Discomfort is to be expected; suffering is unnecessary. Students who receive hands-on experience in law school should be better equipped to handle the messiness and complexity of practice with less stress and confusion.

practice. Of course, it is not reasonable to expect law schools to produce graduates with the same capabilities as a seasoned partner because the latter has multiple years of real-world experience and law school is only a three-year program. But what about an incoming second-year associate? Should there be such a tremendous gap in abilities and aptitudes between a new law school graduate and a lawyer with only one year of practice? What if the new graduate had attended a law school that placed a premium on training and real-world experience, but the second-year associate had not? Shouldn't the intervention of actual practice experience translate into greater skills and abilities? Of course it does.<sup>3</sup> Millions of years of human evolution tell us so; decades of clinical training repeat the refrain.<sup>4</sup>

Law schools can no longer resist reform. A magic storm is finally brewing: economic pressure,<sup>5</sup> curricular needs,<sup>6</sup> and

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<sup>3</sup> Some scholars compare the dilemma of a law student's practice-readiness to that of medical students: We don't allow medical students to graduate and practice without extensive hands-on training, so why do we allow law students to practice on human beings for the first time after graduation? Isn't the production of under-developed lawyers particularly problematic when current economic times make lawyering competence terribly important, not only for our graduates who compete in the job markets, but also for the increasing number of unrepresented clients? For examples of scholarship comparing medical school to law school, see Beverly I. Moran, *Disappearing Act: The Lack Of Values Training In Legal Education—A Case For Cultural Competency*, 38 S.U. L. REV. 1 (2010) (making the comparison with respect to values training and listing a variety of similar articles that contrast medical and law school); Jennifer S. Bard, *What We in Law Can Learn from Our Colleagues in Medicine About Teaching Students How to Practice Their Chosen Profession*, 36 J.L. MED. & ETHICS 841 (2008) (comparing pedagogical goals and practices between medical and legal education).

<sup>4</sup> See, e.g., Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907, 916 (1933) (considered by many to be the first published argument for clinical legal education); John S. Bradway, *The Legal Aid Clinic as an Educational Device*, 7 AM. L. SCH. REV. 1153, 1155–58 (1934) (describing the goals and methods of clinical education); Frank S. Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 VAND. L. REV. 321, 325–34 (1982) (applying principles of adult education to clinical teaching); Anthony G. Amsterdam, *Clinical Legal Education—A 21st-Century Perspective*, 34 J. LEGAL EDUC. 612 (1984) (outlining the justifications and promise of clinical education). More recent assessments of the benefits of clinical and experiential education affirm its value. See, e.g., CARNEGIE REPORT, *supra* note 1, at 58, 121, 125; cf. Stefan H. Krieger, *The Effect of Clinical Education on Law Student Reasoning: An Empirical Study*, 35 WM. MITCHELL L. REV. 359, 370, 396 (2008) (reporting “both benefits and limitations of clinical education” from a small empirical study).

<sup>5</sup> See BRIAN TAMANAHA, *FAILING LAW SCHOOLS* 107–85 (2012); Daniel Thies, *Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education, and the New Job Market*, 59 J. LEGAL EDUC. 598, 608–10 (2010).

<sup>6</sup> The current call for curricular reform is frequently linked to the need to improve student readiness for practice:

Both the Carnegie Report and *Best Practices* voice considerable concern with the chasm perceived to lie between legal education and the legal profession. Each considers the current state of legal education and makes generalized recommendations about how to bridge the chasm. Currently, these reports observe, the bridge is too underdeveloped to safely carry across the tens of thousands of law graduates who enter the profession each year. But through the support each project provides for modifying the traditional curriculum in

professional insistence<sup>7</sup> are generating a refreshed demand for reform that law schools ignore at their own peril. Law schools that continue to graduate inchoate or partially formed lawyers may finally become obsolete. Legal education reform must focus on training our students to be skilled lawyers, ready to enter the profession.

This symposium asks how legal education can better prepare students to enter private practice, presumably with a special focus on the necessary skills for the corporate or private sector. But the core lawyering skills every student needs do not change depending on whether they practice in the public or private sector. The bottom line is that to create practice-ready or “fully formed” lawyers, law schools should reform to prioritize hands-on training in public service.

“Public service training” in law school can take many forms, but I am specifically referring to programs that engage students (1) in real work, (2) on a real legal problem, (3) with a real client (4) that is of limited means or would otherwise be underrepresented or unrepresented.<sup>8</sup> This sort of definition is familiar to clinical legal education, but these hallmarks are also increasingly surfacing in legal writing courses, externships, and other integrated skills projects, even as early as the first year of law school.<sup>9</sup>

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the direction of contextual legal education, each offers hope that curriculum innovation can strengthen and widen the passageway.

Deborah Maranville et al., *Re-vision Quest: A Law School Guide to Designing Experiential Courses Involving Real Lawyering*, 56 N.Y.L. SCH. L. REV. 517, 524–25 (2011–12). I have also examined this link. See generally Sara K. Rankin, *Tired of Talking: A Call for Clear Strategies for Legal Education Reform: Moving Beyond the Discussion of Good Ideas to the Real Transformation of Law Schools*, 10 SEATTLE J. SOC. JUST. 11 (2011).

<sup>7</sup> See generally Clark D. Cunningham, *Should American Law Schools Continue to Graduate Lawyers Whom Clients Consider Worthless?*, 70 MD. L. REV. 499 (2011).

<sup>8</sup> There is significant debate in the academy over the definition of public interest, the appropriate contours of pro bono work, and the relationship between clinical education and social justice. See, e.g., David R. Esquivel, Note, *The Identity Crisis in Public Interest Law*, 46 DUKE L.J. 327, 328–29 (1996) (examining definitions of public interest law); Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 4 (2004); Lauren Carasik, *Justice in the Balance: An Evaluation of One Clinic’s Ability to Harmonize Teaching Practical Skills, Ethics and Professionalism with a Social Justice Mission*, 16 S. CAL. REV. L. & SOC. JUST. 23 (2006) (discussing the balance between clinic social justice missions and teaching practical skills to law students); Howard M. Erichson, *Doing Good, Doing Well*, 57 VAND. L. REV. 2087, 2107 (2004) (discussing the challenges of integrating social justice into clinical education).

<sup>9</sup> See, e.g., Mary Nicol Bowman, *Engaging First-Year Law Students Through Pro Bono Collaborations in Legal Writing*, 62 J. LEGAL EDUC. 586 (2012); Rebecca A. Cochran, *Legal Research and Writing Programs as Vehicles for Law Student Pro Bono Service*, 8 B.U. PUB. INT. L.J. 429 (1999); Michael A. Millemann & Steven D. Schwinn, *Teaching Legal Research and Writing with Actual Legal Work: Extending Clinical Education into the First Year*, 12 CLINICAL L. REV. 441 (2006); Sara K. Rankin et al., *We Have a Dream: Integrating Skills Courses and Public Interest Work in the First Year of Law School*, 17 CHAP. L. REV. 89 (2013); Nantiya Ruan, *Experiential Learning in the First-Year*

It may seem counterintuitive to suggest that the key to *private* practice skills is to emphasize *public* interest experience during law school, but there are several reasons why the private sector should support it: through public service, law students can (1) help to address the current access to counsel crisis; (2) learn their moral and professional obligations to provide pro bono service; (3) receive incomparable training in core lawyering skills; and (4) sustain their emotional and psychological health by connecting with relevant, meaningful work.

#### I. LAW STUDENTS CAN HELP TO ADDRESS THE ACCESS TO COUNSEL CRISIS

A first and fundamental point is that requiring public service throughout law school helps to address the access to counsel crisis. The crippling lack of representation for non-profits and indigent populations—people and entities that typically cannot afford legal services—is well documented.<sup>10</sup> The current economic crisis and withering funds for legal aid only exacerbates this lack of access to counsel. Law students and faculty are capable resources that can help to fill this gap.<sup>11</sup>

Although clinics are common conduits to facilitate the provision of student service to those in need,<sup>12</sup> law schools can use legal writing faculty,<sup>13</sup> externships,<sup>14</sup> and other skills programs<sup>15</sup> to engage students in real-world lawyering experiences. To maximize positive impacts on the access to counsel crisis and to extend the pedagogical benefits to students, these public service experiences can and should be offered as early as the first year of law school.<sup>16</sup>

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*Curriculum: The Public-Interest Partnership*, 8 LEGAL COMM. & RHETORIC: JALWD 191 (2011).

<sup>10</sup> See generally Douglas L. Colbert, *Clinical Professors' Professional Responsibility: Preparing Law Students to Embrace Pro Bono*, 18 GEO. J. ON POVERTY L. & POL'Y 309 (2011).

<sup>11</sup> *Id.* at 325 (discussing how “law students and faculty are natural resources for devoting their skills to address injustice” and to redress the lack of access to counsel).

<sup>12</sup> See generally Colbert, *supra* note 10.

<sup>13</sup> See *supra* note 9.

<sup>14</sup> See generally Liz Ryan Cole, *Externships: A Special Focus to Help Understand and Advance Social Justice*, in THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE 326 (Frank S. Bloch ed., 2011); Kelly S. Terry, *Externships: A Signature Pedagogy for the Apprenticeship of Professional Identity and Purpose*, 59 J. LEGAL EDUC. 240 (2009).

<sup>15</sup> Maranville et al., *supra* note 6, at 518 (acknowledging the “hybrids and varieties [of experiential courses] that defy easy categorization.”).

<sup>16</sup> See *supra* note 9.

## II. ALL LAWYERS HAVE A MORAL AND PROFESSIONAL OBLIGATION TO PROVIDE PRO BONO SERVICE

Even if the lack of counsel crisis was not compelling as it plainly is, every lawyer has a moral and professional obligation to perform pro bono work. It is never too early for students to embrace these obligations; it is never too early for faculty to model them. Service in the public interest is a core part of a lawyer's purpose and identity. For example, the ABA's Model Rules of Professional Conduct consistently and explicitly promote pro bono service and require lawyers to enhance "the quality of justice."<sup>17</sup> The New York Bar recently implemented a mandatory pro bono requirement for new attorneys, and the California and New Jersey Bars are likely to follow suit.<sup>18</sup> New York Chief Justice Jonathan Lippman, who was instrumental in passing the New York pro bono requirement, predicts that a pro bono mandate will be "the norm in the United States" in the "next five or [ten] years."<sup>19</sup> Similarly, "leaders of bar associations around the country" are embracing these professional and ethical

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<sup>17</sup> MODEL RULES OF PROF'L CONDUCT pmbl. (2012); *see also* Colbert, *supra* note 10, at 313 (discussing the Model Rules). These values are consistently embraced in ABA reports, including the MacCrate Report, which recommended that law schools educate students to "striv[e] to promote justice, fairness, and morality" and to "improve the profession." Ruan, *supra* note 9, at 195 (discussing these themes in the MacCrate Report).

<sup>18</sup> *See* Karen Sloan, *Pro Bono Mandate Picks Up Steam*, NAT'L L.J. (April 22, 2013), [http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202596770850&Pro\\_Bono\\_Mandate\\_Gains\\_Steam](http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202596770850&Pro_Bono_Mandate_Gains_Steam). In fact, the California Bar's Task Force on Admissions Regulation Reform reported that its interest in the pro bono mandate is related to the need for greater practical skills training in law school; accordingly, California plans to allow law students the flexibility to start satisfying their pro bono requirements during law school:

In our view, a new set of practical-skills requirements focusing on competency and professionalism should be adopted in California in order to better prepare new lawyers for successful transition into law practice, and many of these new requirements ought to take effect pre-admission, prior to the granting of a law license.

*Id.* At the time of this writing, the California Task Force on Admissions Regulation Reform issued a June 2013 report calling for fifteen credits of experiential learning in law school or an apprenticeship and for fifty hours of pro or low bono service as prerequisites to admission in California. STATE BAR OF CALIFORNIA, TASK FORCE ON ADMISSIONS REGULATION REFORM: PHASE I FINAL REPORT 1 (2013), *available at* [http://www.calbar.ca.gov/Portals/0/documents/bog/bot\\_ExecDir/STATE\\_BAR\\_TASK\\_FORCE\\_REPORT\\_FINAL\\_AS\\_APPROVED\\_6\\_11\\_13\\_062413.pdf](http://www.calbar.ca.gov/Portals/0/documents/bog/bot_ExecDir/STATE_BAR_TASK_FORCE_REPORT_FINAL_AS_APPROVED_6_11_13_062413.pdf). On July 1, 2013 the Clinical Legal Education Association (CLEA), the nation's largest association of law professors, made a similar petition to the Council of the American Bar Association's Section for Legal Education and Admissions to the Bar to require law schools to offer fifteen hours of experiential education in the second and third years. CLINICAL LEGAL EDUC. ASS'N, COMMENT ON DRAFT STANDARD 303(a)(3) & PROPOSAL FOR AMENDMENT TO EXISTING STANDARD 302(a)(4) TO REQUIRE 15 CREDITS IN EXPERIENTIAL COURSES 1 (2013), *available at* <http://www.cleaweb.org/Resources/Documents/2013-01-07%20CLEA%2015%20credits.pdf>. Such pre-admission practical skills training requirements can and should be directed to public service.

<sup>19</sup> *Id.*

responsibilities by stressing the role of lawyers in increasing access to justice.<sup>20</sup> To this end, the Society of American Law Teachers recently announced that a key objective of any law school reform effort should be

to facilitate a paradigmatic shift in legal pedagogy based on the guiding principle that access to justice is a core component of lawyers' professional responsibility and ethical obligations as set forth in our Model Rules of Professional conduct and should, therefore, be a core component of law school courses – regardless of subject matter.<sup>21</sup>

Students must learn this connection between public interest, pro bono work, access to justice, and a lawyer's professional and ethical obligations. As with many law school subjects, the best way to teach students about this connection is to give them real lawyering experience and to do so early on. In other words:

[L]aw schools must provide opportunities for students to develop an understanding of their status as members of a profession that has ethical norms and moral dimensions at the very start of their law school careers, instead of relegating this vital aspect of students' education to clinical and externship opportunities and a single stand-alone course on professional responsibility.<sup>22</sup>

Public service opportunities directly engage students in emotional and ethical experiences that are impossible to replicate in a standard doctrinal or casebook course. The personal investment and motivation a student feels from working for a real client on a real problem simply cannot be matched by simulations or hypotheticals.<sup>23</sup> If we want students to understand and embrace their professional and ethical obligations, there is no substitute for actual public service.

Cynics may believe I've already lost my audience: Why should corporations and businesses care about the access to counsel crisis or a lawyer's ethical or moral obligations? What's in it for the private sector? The optimist in me believes the private sector can be motivated by societal and professional good.

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<sup>20</sup> Julie A. Nice, *No Scrutiny Whatsoever: Deconstitutionalization of Poverty Law, Dual Rules of Law, & Dialogic Default*, 35 *FORDHAM URB. L.J.* 629, 666 (2008).

<sup>21</sup> For the objectives of the SALT Access to Justice Committee's Law School Curriculum Development Project, see SALT ATJ COMMITTEE'S LAW SCHOOL CURRICULUM DEVELOPMENT PROJECT (2012), available at [http://www.law.umaryland.edu/faculty/conferences/conf128/salt\\_cdp.pdf](http://www.law.umaryland.edu/faculty/conferences/conf128/salt_cdp.pdf).

<sup>22</sup> See Ruan, *supra* note 9, at 197.

<sup>23</sup> See, e.g., Rankin, *supra* note 9 (attributing improved student performance to increased motivation from actual work in the public interest); Millemann, *supra* note 9, at 444–45 (noting “[t]he closer the student comes to being responsible for some aspect of the client's matter, the greater the motivational and therefore educational value of the work”); Michael A. Millemann, *Using Actual Legal Work to Teach Legal Research and Writing*, 4 *J. ASS'N LEGAL WRITING DIRECTORS* 9, 14 (2007) (noting the “motivational force of the actual legal work” results in “more thorough and creative” student research and improved written analysis).

But for the cynics, I would suggest there is a relationship between the access to counsel crisis and societal economic health.<sup>24</sup> I would also remind them of some compelling instances where corporate counsel could have benefited from a deep and personal understanding of how to navigate ethical quandaries.<sup>25</sup> I'd point them to articles that explain how pro bono service is actually good for business.<sup>26</sup> Finally, I'd explain that requiring our students to perform public service can amount to remarkable training in core lawyering skills—the same skills that matter in the private sector.

### III. PUBLIC SERVICE CAN PROVIDE INCOMPARABLE TRAINING IN CORE LAWYERING SKILLS

It is hardly surprising that hands-on experience provides the best training in core practical skills.<sup>27</sup> This observation is the premise and beauty of clinical education, but increasingly, law schools are experimenting with hybrid courses and other integrated skills courses that engage students in real work as

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<sup>24</sup> See, e.g., Douglas G. Morris, *Can Constitutional Law Be Sequestered?*, N.Y. L.J., (2013) (discussing the negative impacts of the sequester on the entire legal system and noting, "U.S. Supreme Court Justice Stephen Breyer recently said that slashing Federal Defender budgets would ultimately be more expensive than providing a defendant with 'a decent lawyer in the first place'"), [http://www.newyorklawjournal.com/PubArticleNY.jsp?id=1202595357757&Can\\_Constitutional\\_Rights\\_Be\\_Sequestered&slreturn=20130512161246](http://www.newyorklawjournal.com/PubArticleNY.jsp?id=1202595357757&Can_Constitutional_Rights_Be_Sequestered&slreturn=20130512161246); see also Ian Urbina & Catherine Rentz, *Immigrant Detainees and the Right to Counsel*, N.Y. TIMES, (Mar. 30, 2013) (discussing links between the economy and the right to counsel for immigrants), <http://www.nytimes.com/2013/03/31/sunday-review/immigrant-detainees-and-the-right-to-counsel.html?pagewanted=all&r=0>.

<sup>25</sup> See, e.g., Eli Wald, *Lawyers and Corporate Scandals*, 7 LEGAL ETHICS 54 (2004) (discussing lawyer ethics in the Enron scandal), available at <http://ssrn.com/abstract=595564>; Mark Curriden, *The Lawyers of Watergate, How a Third Rate Burglary Provoked New Standards for Lawyer Ethics*, A.B.A. J. MAGAZINE, (June 1, 2012) (discussing how the role of lawyers in the Watergate scandal provoked revisions to lawyer ethics), [http://www.abajournal.com/magazine/article/the\\_lawyers\\_of\\_watergate\\_how\\_a\\_3rd-rate\\_burglary\\_provoked\\_new\\_standards](http://www.abajournal.com/magazine/article/the_lawyers_of_watergate_how_a_3rd-rate_burglary_provoked_new_standards); see also Zach Lowe, *Stanford Financial Scandal and Whistleblowing Rules for Lawyers*, THE AM. LAWYER, (Feb. 19, 2009) (discussing the role of lawyers in the Stanford companies litigation), [http://www.law.com/jsp/article.jsp?id=1202428390098&Stanford\\_Financial\\_Scandal\\_and\\_Whistleblowing\\_Rules\\_for\\_Lawyers&slreturn=20130310162323](http://www.law.com/jsp/article.jsp?id=1202428390098&Stanford_Financial_Scandal_and_Whistleblowing_Rules_for_Lawyers&slreturn=20130310162323).

<sup>26</sup> See, e.g., Esther F. Lardent, MAKING THE BUSINESS CASE FOR PRO BONO 2 (2000), available at [http://www2.nycbar.org/mp3/DoingWellByDoingGood/pbi\\_businesscase.pdf](http://www2.nycbar.org/mp3/DoingWellByDoingGood/pbi_businesscase.pdf); Mike Sheehan, *Pro Bono Work is Good for Your Employees*, BUSINESS WEEK, (June 29, 2012), <http://www.businessweek.com/articles/2012-06-29/pro-bono-work-is-good-for-your-employees>; see also Roy S. Ginsburg, *Pro Bono: It Pays to Be Good*, ATT'Y AT WORK (Oct. 12, 2012), <http://www.attorneyatwork.com/pro-bono-it-pays-to-be-good/>.

<sup>27</sup> See BEST PRACTICES, *supra* note 1, at 144 (contending that contextualized learning, such as that from clinical training, is the best way to teach students to be competent lawyers); CARNEGIE REPORT, *supra* note 1, at 58 (describing clinical education as a "primary means of teaching [law] students how to connect the abstract thinking formed by legal categories and procedures with fuller human contexts"); see also Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 CLINICAL L. REV. 57, 58–59 (2009) (concluding that relatively new lawyers in private practice considered clinical training their best preparation for practicing law).



early as the first year.<sup>28</sup> Public interest work is particularly fertile training ground for core lawyering skills.<sup>29</sup>

What do I mean by core lawyering skills? Others have articulated detailed menus of such skills that are beyond the scope of this essay,<sup>30</sup> but common themes emerge and necessarily echo the skills needed for practice. First, by engaging with a real client who has a real public interest problem, students are motivated to master basic lawyering skills. These basic skills include the ability to (1) find, read, and comprehend applicable law; (2) prepare a complete and organized legal analysis; (3) effectively communicate this legal analysis, both orally and in writing; and (4) perform all of these tasks in an ethical and efficient manner. But public interest experience also targets more advanced lawyering skills, including the ability to (1) interview clients and witnesses; (2) develop case theories; (3) differentiate important information from less important or unimportant information; (4) strategize, use judgment, and perform in unstructured situations; (5) problem-solve and reason; (6) cultivate a professional identity; (7) provide culturally-sensitive and ethical representation; and (8) work both independently and collaboratively. In short, public interest experience “encourages [students] to think like lawyers in a real-world, client-centered problem.”<sup>31</sup>

Of course, real-world lawyering requires concrete or technical skills, as well as judgment and problem-solving skills.<sup>32</sup> Public interest work is multi-dimensional and motivational, challenging students to develop higher-order thinking abilities, intellectual and emotional resilience, as well as self-awareness and reflection.<sup>33</sup>

Public interest work results in higher student motivation

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<sup>28</sup> See, e.g., Rankin, *supra* note 9.

<sup>29</sup> See, e.g., Cochran, *supra* note 9, at 435.

<sup>30</sup> See, e.g., Maranville et al., *supra* note 6, at 522–25 (discussing the range of skills and learning objectives among clinical educators); Krieger, *supra* note 4, at 360–62 (surveying assessments of core lawyering skills that are supported by clinical or experiential education); see also *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 511, 512–17 (1992) (discussing the nine purposes of clinical legal education).

<sup>31</sup> See Ruan, *supra* note 9, at 193.

<sup>32</sup> See, e.g., Amsterdam, *supra* note 4, at 614–15.

<sup>33</sup> See, e.g., Rankin, *supra* note 6, at 22–28 (discussing the pedagogical benefits of experiential learning, active learning, situated learning, service learning, transformative education, collaborative learning). All of these benefits are hallmarks of the public interest experiences that are the focus of this essay. See also Millemann, *supra* note 23, at 16 (comparing the pedagogical benefit of “actual legal work” to “canned problems[, which] discourage students from developing alternative factual theories, legal arguments, and theories of the case, and ill-equip them to work with uncertainty and indeterminacy, as they must in practice.”).

and engagement, which in turn, often translates into higher performance. The work “gives students a sense of personal responsibility for the legal problems of another, substantially enhancing and diversifying the educational experience by strongly motivating students to do their best work.”<sup>34</sup> I consistently observe this link between motivation and performance in my own students; my students demonstrate tremendous growth in their skills and abilities when they engage in public service because they know their work will actually matter to a real client.<sup>35</sup>

#### IV. PUBLIC SERVICE ENCOURAGES STUDENTS TO INVEST IN THEMSELVES, THEIR COMMUNITIES, AND THEIR PROFESSION

By prioritizing the engagement of students in public service, law schools not only encourage higher student motivation and performance, but they also support the moral, emotional, and psychological health of law students and the legal profession. Law students have a need—often overlooked or minimized—for moral, emotional, and psychological sustenance during law school. Public interest experience is one way law schools can legitimize and support this need.

Deep in the darkest hours of my work as a mid-level associate in private practice, I had the good fortune to read Jean Stefancic and Richard Delgado’s book, *How Lawyers Lose Their Way: A Profession Fails Its Creative Minds*.<sup>36</sup> It was the first publication I had ever read that openly criticized the soul-sucking potential of law school and the legal profession. Reading this book was profoundly therapeutic; up until that point, I assumed I was not “cut out” for private practice because I felt my greatest sense of purpose and meaning when I engaged in pro bono work.<sup>37</sup>

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<sup>34</sup> Millemann, *supra* note 23, at 16; *see also* Millemann & Schwinn, *supra* note 9, at 459 (noting that, by comparison, traditional or “canned” curricula tend to encourage student passivity and disengagement).

<sup>35</sup> *See generally* Rankin et al., *We Have a Dream*, *supra* note 9 (attributing improved student performance to increased motivation from actual work in the public interest); *see also* Millemann, *supra* note 23, at 14 (noting the “motivational force of the actual legal work” results in “more thorough and creative” student research and improved written analysis); Steven D. Schwinn, *Developmental Learning Theory and the American Law School Curriculum*, 3 J. MARSHALL L.J. 33, 44–49 (2009) (concluding that “actual legal work” in the first year helps improve student learning).

<sup>36</sup> *See* JEAN STEFANCIC & RICHARD DELGADO, *HOW LAWYERS LOSE THEIR WAY: A PROFESSION FAILS ITS CREATIVE MINDS* (2005) (exploring how legal formalism is “[h]armful for society and deadening to the soul.”).

<sup>37</sup> When I first opened this book, I had no way of knowing that I would not only join legal academia, but that I would eventually join Seattle University as a colleague of Professors Stefancic and Delgado. I am deeply grateful to them for so many of their scholarly contributions, not the least of which was the publication of this book—a

A few years later, I read the Carnegie Report, which similarly chastised law schools for creating an environment that is actually “harmful to the emotional and psychological well-being of many law students.”<sup>38</sup> As I reflected on the phenomenon of legal education, I came to understand how law school can encourage students to ignore their own self-interests; students learn this lesson so well that they carry it into the legal profession. Students are coaxed to disengage as early as the first day of law school: they are not only buried in books and the Socratic method, but they are denied the connection that brings so many of them to law school in the first place: the client who needs their help. This deprivation gradually extinguishes the “passion for justice and . . . enthusiasm for helping other people that were their strongest initial motivations for wanting to become lawyers.”<sup>39</sup>

For years, countless articles have documented how the common law school experience—especially in the first year—familiarizes students with isolation, withdrawal, depression, dissatisfaction, and distress.<sup>40</sup> The distress students experience often “has important academic and institutional repercussions as well.”<sup>41</sup> Empirical and anecdotal data shows that this hostile environment ultimately results in learned resignation.<sup>42</sup> By persuading students to neglect their own interests, legal education begins the poisoning process that often continues in practice:

General surveys reveal a grim picture of an unhappy profession, with a high rate of burnout, job dissatisfaction, divorce, depression, suicide, and drug and alcohol addiction. Job stress runs high, with unrealistic demands for billable hours, narrow specialization, inadequate opportunities for creativity, and intense competition for jobs, clients, and partnerships . . . . Many lawyers regret having entered law at all and contemplate leaving for another field. Every year, about forty thousand actually do. An entire new industry

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life-altering read for me.

<sup>38</sup> BEST PRACTICES, *supra* note 1, at 21–22.

<sup>39</sup> Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum Through Experiential Learning*, 51 J. LEGAL EDUC. 51 (2001).

<sup>40</sup> See, e.g., Cassandra M.S. Florio & Steven J. Hoffman, *Student Perspectives on Legal Education: A Longitudinal Empirical Evaluation*, 62 J. LEGAL EDUC. 162, 167 (2012); Lawrence S. Krieger, *Human Nature as a New Guiding Philosophy for Legal Education and the Profession*, 47 WASHBURN L.J. 247, 248 (2008); Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 113 (2002); Cathaleen A. Roach, *A River Runs Through It: Tapping into the Informational Stream to Move Students from Isolation to Autonomy*, 36 ARIZ. L. REV. 667, 668 (1994).

<sup>41</sup> Roach, *supra* note 40, at 667.

<sup>42</sup> See, e.g., Florio & Hoffman, *supra* note 40, at 176; Krieger, *supra* note 40, at 113; Roach, *supra* note 40, at 668.

counsels lawyers who are unhappy with their work. Counselors report that miserable lawyers come to them in droves with almost identical complaints: I feel like a hamster in a cage. I am dejected and depressed. Life is not worth living.<sup>43</sup>

Law schools can help to reverse this trend by engaging students in meaningful work, starting in the critical first year. By prioritizing public interest experience, law schools send students a powerful message that the work they do is important: it matters to a *real* client and can make a *real* difference. By prioritizing public interest experience, law schools encourage the “passion for justice”<sup>44</sup> that motivates so many students to come to law school in the first place. By prioritizing public interest experience, law schools teach students that it is appropriate for them to seek moral, psychological, and emotional sustenance.

Public interest work not only helps to humanize the student experience, but it might help to improve the emotional and psychological health of the legal profession. In other words, if law schools prioritize public interest opportunities for students, it encourages students to take care of their communities and themselves. If these messages are consistent and genuine, it may increase the likelihood our students will continue to make such investments—in the public good and in themselves—when they enter the profession.<sup>45</sup>

## CONCLUSION

This symposium asks what law schools can do to improve student readiness to practice in the private sector. But the answer does not depend on whether students practice in the private or the public sector: law schools should prioritize hands-on training in public interest work. The public good is the *raison d'être* of the legal profession. Every lawyer is obligated to

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<sup>43</sup> STEFANCIC & DELGADO, *supra* note 36, at 51 (internal citations omitted). The movement to “humanize” law schools observes that happier, healthier students mean a healthier, happier, and more competent profession. For more on the effort to humanize legal education, see generally Lawrence S. Krieger, *Human Nature as a New Guiding Philosophy for Legal Education and the Profession*, 47 WASHBURN L.J. 247, 248, 262 (2008); Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75 (2002); Ruth Ann McKinney, *Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution?*, 8 J. LEGAL WRITING INST. 229 (2002); Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871 (1999).

<sup>44</sup> Maranville, *supra* note 39, at 51.

<sup>45</sup> See Ruan, *supra* note 9, at 198 (discussing evidence that, although students often enroll in law school to serve the public interest, the “ambition to serve the public good wanes significantly during the average three years of law school.”).

use our profession to enhance the public good. But this solemn obligation is also a profound benefit: public interest work offers exceptional skills training and encourages us to invest in our emotional and psychological well-being. By prioritizing public interest experiences for our students, law schools just might start to graduate “fully formed” lawyers.