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# After Ten Years: The Carnegie Report and Contemporary Legal Education

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## ARTICLE

# AFTER TEN YEARS: THE CARNEGIE REPORT AND CONTEMPORARY LEGAL EDUCATION

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### I. INTRODUCTION

*Educating Lawyers: Preparation for the Profession of Law*, which quickly became known as the “Carnegie Report,” appeared in 2007.<sup>1</sup> Its wide reception and the interest it generated were naturally gratifying to its authors. Appearing shortly after another study of law school pedagogy, the *Best Practices in Legal Education* by Roy Stuckey and colleagues (“*Best Practices*”), and fifteen years following the milestone MacCrate Report of the American Bar Association (ABA), *Educating Lawyers* became part of a large controversy in the field of legal education over whether and how law schools needed to change in order to meet professional demands and public need.<sup>2</sup> This controversy has fermented, as this conference illustrates, to involve ever more participants within the law school world and beyond in legal practice and other professions. This paper intends to make some contribution to this increasingly important conversation concerning the improvement and reshaping of legal education.

The paper will proceed in three steps. First, it will review the aims of the Carnegie Report, the context from which it came, and its public reception over the past decade. Then, it will outline the strategies for changing legal education that emerged in response to issues raised by the Carnegie Report. Finally, it will take up the question of the issues that an “update” of

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1. WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007) [hereinafter *EDUCATING LAWYERS*].

2. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION* (2007); TASK FORCE ON LAW SCH. & LEGAL PROFESSION: *NARROWING THE GAP, AM. BAR ASS’N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM* (1992).

*Educating Lawyers* would need to address, while sketching some thoughts as to how those new challenges might be approached through a focus on the formation of professional identity of lawyers.

## II. THE AIMS AND CONTEXT OF THE CARNEGIE REPORT

*Educating Lawyers* was not the first effort to study and address issues of legal education over the Carnegie Foundation for the Advancement of Teaching's century-long history. The Carnegie Foundation had published a study of the case dialogue or so-called Socratic method of law school teaching in 1914, shortly after its landmark "Flexner Report" that established the pattern of modern medical education.<sup>3</sup> This was followed by a more encompassing study by Alfred Z. Reed, *Training for the Public Profession of the Law* in 1921.<sup>4</sup> This report ignited a virtual firestorm at the ABA. Reed argued the United States had in fact two distinct bars. There was the elite bar entered through university law schools—many of which were using the case method Redlich had studied and criticized previously—that credentialed legal personnel for the federal courts and supplied a national market of large firms serving corporate enterprise and the wealthy. But there was also a larger, less prestigious bar of solo practitioners and small partnerships that served local government and smaller clients. By 1921, these practitioners were being drawn increasingly from the ranks of recent immigrants. The kind of training appropriate for entry into this local and smaller-scale pattern of practice was quite different from the training the university schools offered, Reed argued, and needed to be more practice and client oriented. However, the ABA would have none of it, and the Reed Report dropped from public view. Nonetheless, the issues Reed identified have never gone away. The final section of this paper will take up its implications for legal education today.<sup>5</sup>

A mid-century study by the Carnegie Foundation, *New Directions in Legal Education* by Herbert Packer and Thomas Ehrlich, also produced a searching look at what had, by 1972, become the dominance of the earlier elite school model of case method.<sup>6</sup> However, like Reed's efforts, it found little traction with either the Association of American Law Schools (AALS) or the ABA. By contrast with these earlier endeavors, the Carnegie Foundation's twenty-first century study came out of a quite different context.

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3. JOSEF REDLICH, CARNEGIE FOUNDATION FOR ADVANCEMENT OF TEACHING, *THE COMMON LAW AND THE CASE METHOD IN AMERICAN UNIVERSITY LAW SCHOOLS* (1914).

4. ALFRED ZANTZIGER REED, *TRAINING FOR THE PUBLIC PROFESSION OF THE LAW: HISTORICAL DEVELOPMENT AND PRINCIPAL CONTEMPORARY PROBLEMS OF LEGAL EDUCATION IN THE UNITED STATES WITH SOME ACCOUNT OF CONDITIONS IN ENGLAND AND CANADA* (1921).

5. Patterns resembling those Reed identified were also described in a landmark 2004 report for the American Bar Foundation: RICHARD DINOVIETZ ET AL., *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* (2004).

6. HERBERT L. PACKER & THOMAS EHRLICH, *CARNEGIE COMM'N ON HIGHER EDUC., NEW DIRECTIONS IN LEGAL EDUCATION* (1972).

Rather than a stand-alone survey of the field, *Educating Lawyers* was conceived and developed as part of a larger set of investigations into education for various professions, the Preparation for the Professions Program initiated in the late 1990s by the Carnegie Foundation's then-president, Lee Shulman. The program carried out studies of the preparation of engineers, Jewish and Christian clergy, nurses, and physicians, as well as an examination of how undergraduate business programs included liberal education in their curricula. The studies shared two premises: that all fields of professional education would benefit from the application of the insights of modern learning research and that careful comparison of approaches among the several professional fields could yield valuable insights for each of them.<sup>7</sup>

Taken together, these studies were efforts to examine professional preparation within higher education, seeking not only to criticize where necessary but also to propose "visions of the possible" based upon educators' most creative and ambitious efforts to address widely-perceived challenges. The studies were most concerned with how effectively the educational process can prepare students to develop and bring together knowledge, skill, and moral purpose in ways that advance the aims of the several professions within a democratic society.

#### A. *The Research and Key Ideas*

*Educating Lawyers* utilized a 1999 research project which included extensive fieldwork conducted at sixteen law schools in the United States and Canada. A research team that included both legal professionals and scholars from outside legal education visited a cross-section of institutions, public and private, ranging from coast to coast, north to south, and including two Canadian law schools. While attentive to institutions often held to represent important strengths in legal education, the sample included several among the more selective schools, several that were free-standing, one historically African-American, while two others, one Canadian and one American, were distinctive for their attention to Native American and First Nation peoples and their concerns.

The conceptual framework of the Report employed ideas common to the Carnegie professional education studies. This comparative framework articulated three universal strands of professional education. These strands

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7. Besides EDUCATING LAWYERS, the studies of the Preparation for the Professions Program included: SHERI D. SHEPPARD ET AL., EDUCATING ENGINEERS: DESIGNING FOR THE FUTURE OF THE FIELD (2009); PATRICIA E. BENNER ET AL., EDUCATING NURSES: A CALL FOR RADICAL TRANSFORMATION (2009); MARY COOKE ET AL., EDUCATING PHYSICIANS: A CALL FOR REFORM OF MEDICAL SCHOOL AND RESIDENCY (2009); ANNE COLBY ET AL., RETHINKING UNDERGRADUATE BUSINESS EDUCATION: LIBERAL LEARNING FOR THE PROFESSION (2009); CHARLES FOSTER ET AL., EDUCATING CLERGY: TEACHING PRACTICES AND PASTORAL IMAGINATION (2004).

are metaphorically designated as three formative apprenticeships, all of which are essential to full preparation for professional work.<sup>8</sup>

The first apprenticeship consists of intellectual training to learn the academic knowledge base and the capacity to think in ways that are important to the profession. In law schools, this was clearly the main focus of attention, as shown by the overwhelming salience of case-dialogue teaching. The second apprenticeship of professional education is concerned with transmitting to novices the skills and craft know-how that marks expert practitioners of the domain. The study found that law schools disconnected this from the first apprenticeship and provided it much less systematically through clinical-legal education, legal writing, etc. The third apprenticeship is concerned with providing entrants to the field effective ways to engage and make their own the ethical standards, social roles, and responsibilities of the profession, grounded in the profession's fundamental purposes. In law schools, this apprenticeship was generally marginal and often hard to clearly identify in the curriculum or staffing plan.

These dimensions of professional apprenticeship reflect contending emphases within all professional education, and as such provide a point of comparison across the different fields. In *Educating Lawyers*, the metaphor of a three-fold apprenticeship also provided the basis for a normative analysis, laying down a general template against which the Carnegie Report assessed the adequacy of preparation for professional work provided by the law schools visited. Because each professional field frames the central features of the apprenticeships differently, and each uses different strategies for accomplishing them, each field of professional education also has a distinctive pattern of emphasis among the three apprenticeships as well as different degrees and kinds of integration among them. In some fields, the integration is fairly tight, as in medicine, while in others professional education is deconstructed into three quite separate dimensions, which the study found to be the case in law. However, some law schools also provided examples of creative teaching practices that successfully integrated the three apprenticeships, examples which received attention in the study.

Using the three-apprenticeship framework as a guide, the Carnegie Report made five key findings:

1. Through the method of teaching case dialogue, law school promoted rapid socialization into the standards of legal thinking—the often-referenced “thinking like a lawyer.”
2. Law schools relied heavily on this one pedagogical method to accomplish their objective of initiating students into the knowledge and practice of the profession.

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8. WILLIAM M. SULLIVAN, *WORK AND INTEGRITY: THE CRISIS AND PROMISE OF PROFESSIONALISM IN AMERICA* 207–217 (2d ed. 2005).

3. The case-dialogue method possessed several strengths but also generated unintended consequences of excessive reliance on this one form of teaching, specifically the failure to provide systematic and effective training in the full range of capacities needed for legal practice, and neglect of effective support for developing the ethical and contextual dispositions essential to professional identity.
4. Law schools demonstrated an underdeveloped state of assessment, as compared with other professional fields, and should pay more attention to the formative as well as the summative uses of assessment in order to enhance student learning.
5. Legal education showed a structural disadvantage by approaching improvement only incrementally, missing the advantages that come with pursuing educational development in an integrated manner.

To provide guidance in responding to these findings, the Carnegie Report also outlined features of a more integrated approach to improving legal education. In seven recommendations, the authors spelled out the key features of an integrated—rather than simply additive—approach to a fuller, more effective approach to educating lawyers. The key notion was that the existing common core of legal education needed to be expanded and its basic components more closely tied together, organized by an overarching aim of educating students for the full range of legal competence, including the skills of practice as well as legal analysis, and commitment to the defining values of the profession. Concretely, students needed to be given substantial experience with practice as well as opportunities to explore issues of professionalism in ways that encouraged serious reflection and engagement. The teaching of legal doctrine and analysis was to be fully integrated into the overall curriculum and student experience, including learning to “think like a lawyer” in simulated and real practice settings while also probing the dimensions, demands, and aspirations of the profession. Noting the experience of medical education, the Carnegie Report stressed that the aim of professional formation could be most effectively achieved when ideas were explored in relation to students’ experience of taking on the responsibilities inherent in the profession’s various roles. These integrative efforts were likely to be most effective when faculty with different strengths, such as clinical and doctrinal faculty, as well as legal writing and other staff, developed on-going, complementary relationships as legal educators.<sup>9</sup>

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9. The foregoing is a summary of the conclusion of *EDUCATING LAWYERS*, *supra* note 1, at 185–203.

### B. Reception and Impact

The Carnegie Report garnered an immediate response. In both 2007 and 2008, the authors presented on the book at the AALS annual meeting. Additional sessions, some critical of the Carnegie Report, also took place at the AALS and in a variety of other settings in legal education. The following years brought considerable volume of analysis and critique in law review journals and other legal publications. The authors were invited to participate in a significant number of symposia and conferences in which legal education reform was discussed. In some cases, the Carnegie Report's cross-professional perspective was complemented by similar interchange among educators from several professional fields outside the law, including an earlier law review symposium at the University of St. Thomas School of Law.<sup>10</sup>

The most significant impact, however, was in the area of actual reform or change in law school curricula. The most comprehensive assessment of such impact derives from a survey of all ABA-accredited law schools conducted in 2011 by the Educating Tomorrow's Lawyers project of the Institute for the Advancement of the American Legal System. This survey explicitly asked the responding schools to list and describe changes they had made in curriculum, along with their activities to promote attention to teaching and learning among faculty, including any changes they had instituted to tenure and reward procedures as a result. With a high response rate of sixty percent, or 118 law schools, the survey revealed that there had been considerable experimentation in all areas of the curriculum. This turned out to be especially so in the areas corresponding to the three apprenticeships of the Carnegie Report: doctrinal teaching, practice opportunities, and explicit initiatives concerning professionalism. The survey showed these efforts, especially the focus on more integrated curricula and student experience, were most likely in schools where there had been prior or simultaneous promotion of faculty development around teaching and learning, including greater valuing of these activities as reflected in the schools' reward practices.

Two important results of the survey also deserve mention. First, while the level of innovative activity rose in the years after the publication of the Carnegie Report—which also corresponded to the Great Recession and its heavy impact on the legal profession—the overall trend line showed a rising curve of curricular innovation and attention to faculty development around teaching and learning over the entire previous decade. Hence, some of the impact of the Carnegie Report was likely due to its coincidence with this longer-running trend. In other words, reform was already in the air, though it seems likely that *Educating Lawyers*, along with *Best Practices* and other similar publications in the latter half of the decade, played a cata-

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10. Symposium, *What Legal Employers and Clients Want: The Competency-Model Approach to Legal Success*, 11 U. ST. THOMAS L.J. 1 (2013).

lyzing role. Arguably, too, the Carnegie Report provided a new language for describing legal education that stimulated new scrutiny and ferment in the field.

Second, and very importantly, the survey found that the propensity to innovate was not a function of any particular type of law school or a school's place in the *U.S. News and World Report* rankings. Rather, the key variable was, in social-science jargon, highly contingent. The new developments in legal education after the Carnegie Report were due to a convergence of the "window of opportunity" opened by external events such as the Great Recession and the leadership of "policy entrepreneurs" within the schools. In other words, it was human decisions and the willingness of schools to experiment beyond the accepted patterns of legal education that were chiefly responsible for the dramatic change in atmosphere in legal education after 2007. But that also implied that future progress—or stasis—would be determined by the deliberations and decisions of legal educators rather than by external forces.<sup>11</sup>

## II. AFTER THE REPORT: STRATEGIES FOR DIFFUSION OF INNOVATION

The nearly simultaneous appearance of the Carnegie Report and *Best Practices*, and the widespread debate they set in motion, spurred efforts to continue the experiments with reshaping law school curricula and pedagogy that have already been noted. Leaders in legal education who were sympathetic to the Carnegie Report's critique and its proposals for reform began meeting to design strategies for diffusing these ideas. Their underlying strategy was to form networks of law schools that were either already implementing such practices or were seriously committed to doing so. In 2008, for example, a conference at Stanford University established an organization called the Legal Education Analysis and Reform Network (LEARN). Lack of stable funding and organizational difficulties prevented this effort from continuing, but, by 2011, another organization succeeded in creating a consortium of schools committed to working toward implementing the reform program outlined in the Carnegie Report. This was Educating Tomorrow's Lawyers (ETL), under the auspices of the Institute for the Advancement of the American Legal System, headquartered at the University of Denver.

ETL defined its purpose as promoting the development of better lawyers, enhancing lawyer competence and professional identity through innovative legal education infused with the values of legal professionalism. The first noteworthy outcome was the development of a network of law schools, which formed a consortium for purposes of learning and working together to improve legal education. It developed a widely used website that docu-

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11. Stephen Daniels et al., *Analyzing Carnegie's Reach: The Contingent Nature of Innovation*, 63 J. LEGAL EDUC. 585, 585–610 (2014).



mented and publicized exemplary innovations, and it conducted the 2011 survey of law schools to measure trends in curricular and organizational innovation among law schools. Starting in 2012, ETL began convening annual meetings that brought educators, researchers, employers, regulators, and members of the practice bar and judiciary together with participants from its consortium of schools for dialogue and communication.

While carrying forward the Carnegie Report's overall viewpoint, ETL has also produced several reports that bear significantly on present and future directions of legal education. For example, the organization conducted an evaluation of the unique Daniel Webster Scholar program at the University of New Hampshire Law School that integrates preparation for practice in simulated and actual settings with state bar examiners embedded in the program, making it possible for students to achieve admission to the bar while earning the JD. The 2015 report on the program, entitled *Ahead of the Curve*, described the Webster Scholar program as demonstrating that it is possible to "accelerate the achievement of competence" through a carefully structured, practice-based curriculum that employs a variety of assessment tools.<sup>12</sup> A 2016 ETL report presented the outcome of a national survey of 24,000 lawyers regarding the skills and qualities most sought by the range of legal employers. This project was intended to encourage mutual learning between the legal academy and the practice bar, with the purpose of influencing law schools toward aligning their desired learning goals with the competencies employers seek.

The project's larger aim was greater cooperation between law schools and legal services organizations in order to enable lawyers to better serve clients and the legal system. The result of this research project, *Foundations for Practice*, covered new ground in delineating the skills and professional dispositions sought by the range of legal employers.<sup>13</sup> These are among the many developments that suggest that the past decade has witnessed a developing convergence among efforts to rethink legal education along lines broadly congruent with the integrative, professional identity-focused recommendations of *Educating Lawyers*.

### III. WHAT AN "UPDATED" REPORT WOULD NEED TO ADDRESS

These research findings support the direction of legal education reform promoted by the Carnegie Report. They also confirmed the importance of the MacCrate Report's urging to make professional formation more effective throughout the "law school and professional development continuum." However, since the publication of the Carnegie Report, it has become clear

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12. ALLI GERKMAN & ELENA HARMON, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *AHEAD OF THE CURVE: TURNING LAW STUDENTS INTO LAWYERS* (2015).

13. ALLI GERKMAN & LOGAN CORNETT, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT* (2016).

the American legal profession itself is undergoing significant changes bearing directly on the education of future lawyers. These changes have especially affected the way legal services are provided, and the organizations providing them—especially law firms. While the Carnegie Report premised its analysis upon and directed its recommendations for change toward the continuation of a “largely successful and comfortable academic enterprise,” in a remarkably short time, that premise has been threatened by changes in the legal world that, since the Great Recession of 2008, have continued to roil legal education.<sup>14</sup>

Like other sectors of the contemporary economy, legal services have come under intense pressures to lower costs in order to maintain profitability in increasingly competitive, less-regulated markets. The once-predictable career paths of lawyers, especially careers that, since the Reed Report, have defined the heights of the profession—from selective law schools to clerkships, to law firms, the judiciary, or the academy—have become less secure and more arduous.<sup>15</sup> In law, as elsewhere, the enhanced attention to costs has produced a new focus on metrics for measuring performance. This new scrutiny of legal practice has given impetus to better measurement of professional competence, since such competence provides the basis for competitive advantage in the legal services market. Studying and enhancing the development of legal competence is still in its early stages, but as noted above, it is already providing welcome common ground between legal employers and law schools.

Recent research reveals a practice world in considerable flux. The driving imperative is to increase productivity and maximize return on investment, including the developing lawyer’s considerable investment in education. The mounting evidence is striking: these trends are significantly altering inherited expectations about legal careers, compensation, and the organization of legal services itself.<sup>16</sup> In addition, these economic pressures on the profession are bound up with the larger phenomenon of technological developments that are affecting all forms of expert services. The implications of this trend have been a subject of increasing debate since the appearance of Richard Susskind’s *The End of Lawyers?* in 2005. Susskind proposed a scenario of how the increased application of digital technology

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14. EDUCATING LAWYERS, *supra* note 1, at 202.

15. The outlines of the older pattern have been traced in empirical detail by John P. Heinz, Rebecca L. Sandefur, and Edward O. Laumann. See JOHN P. HEINZ ET AL., *URBAN LAWYERS* (2005).

16. For example, the work of *LawyerMetrics*, founded by William Henderson and Christopher Zorn, has provided analyses of changing markets for legal professionals that have also rendered important information for law schools seeking to enhance their efforts to advantage their graduates in the contemporary context. See *Publications*, LAWYERMATRIX, <https://www.lawyermetrix.net/publications> (last visited Feb. 14, 2018).

was likely to disrupt inherited models of practice.<sup>17</sup> These disruptions are likely to go well beyond simply supplementing legal expertise with digital tools. They open the prospect of various degrees of “deskilling” of legal practice attendant upon the steady improvement in digital tools and sophisticated systems capable of speeding up routine legal functions such as legal research and providing lower cost versions of even more advanced activities.

A full-scale discussion of the implications of these changes to the world of legal practice is beyond the scope of this paper. However, these trends do suggest ways in which the analysis of the Carnegie Report needs to be supplemented and extended. Academic preparation for future legal careers, precisely because they will be played out in a less stable and more complicated field of evolving, sometimes radically altered, practice settings will place a greater premium on educating professionals who can demonstrate the ability to think in flexible and innovative ways. That, in turn, portends a shift from law school’s inherited disconnection between legal analysis and learning to think—and act—as a professional, even though the precise content of lawyers’ future roles is only partially visible.

Here, the results of modern learning science on which the Carnegie Report drew extensively in its discussions of active learning in role and assessment, along with comparable trends in other professions, can help fill in the outlines of what needs further investigation. In both business management and medicine, learning how to integrate digital tools and IT systems into more effective routines of practice has become more important in professional preparation. However, beyond the integration of new technology, the rapid change in environment that has been coincident with the development of the new technologies has begun to shift attention to what in medicine is now called professional identity formation.

#### IV. PROFESSIONAL IDENTITY FORMATION AS A FRAMING OF PROFESSIONAL LEARNING

In medicine, much as in law, movements to reclaim professionalism have gained increasing traction in recent decades. As an outgrowth of these trends, greater attention to the social and psychological, as well as cognitive dimensions of education, has fostered a convergence on the understanding of learning as a social process. The core idea is that learning to be a physician is a gradual movement from the role of outsider, an observer of professional activity, through stages of growth in knowledge and skill toward the center of the action engaged in by the professional community.

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17. RICHARD SUSSKIND, *THE END OF LAWYERS?: RETHINKING THE NATURE OF LEGAL SERVICES* (2008); *see also* RICHARD SUSSKIND & DANIEL SUSSKIND, *THE FUTURE OF THE PROFESSIONS: HOW TECHNOLOGY WILL TRANSFORM THE WORK OF HUMAN EXPERTS* (2015).

Framing this process as professional identity formation highlights at once two dimensions of this process of acquiring professional competence. On the one hand, the individual's sense of self is transformed in the process of acquiring new competences. This requires initiative and perseverance on the part of the learner. On the other hand, this process takes place through intense interaction with others, within a structured learning environment. The others with whom the learner is interacting occupy specific roles in relation to the learner such as mentors and peers, and they all relate through shared practices and protocols. Moreover, these learning environments are shaped by particular organizational cultures that embody, to notably different degrees, the norms of the profession. These environments, both academic and clinical, can either support or undermine the efforts to make professionalism prevail as the overarching value in the developing physician's professional identity.

The key insight that the identity formation framing highlights, then, is that learning to practice medicine is always, implicitly or explicitly, also a process of learning to *be* a physician. Before the professionalism movement called attention to this fact, medical education typically carried out much of its formative work tacitly. This made the whole process easily vulnerable to disruption. The metaphor of learning as participation spans the psychological and the social while emphasizing the agency of both the learner and the community of educators. It calls explicit attention to keeping the focus on designing learning that clearly makes identity formation the guiding thread of professional development.

The literature on learning shows that active sense-making is a key contributor to identity development, and that this process can be analyzed and its components intentionally strengthened through pedagogical interventions. But it is equally clear that students' sense of agency is best engaged toward positive identification with professional values when educators and learners both become more aware of the often-unseen power of organizational cultures. As educators themselves become more aware of these influences they become better able to intentionally foster a more reflective and proactive stance on the part of learners toward their own development.<sup>18</sup>

In education for business management, which has always been closely connected to the changing business environment, a shift in perspective is underway that resembles in some respects the shift toward formation in medical preparation. These developments seem especially important as much of legal practice becomes more intertwined with business thinking and organizational forms. It also provides an interesting analogy for thinking about how digital technology and data management may affect legal practice. As management has become ever more reliant on IT-based data

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18. For further development, see *TEACHING MEDICAL PROFESSIONALISM: SUPPORTING THE DEVELOPMENT OF A PROFESSIONAL IDENTITY* (Richard L. Cruess et al. eds., 2d ed. 2016).

analysis, problem-solving, and market strategizing—well in advance of such changes in the legal marketplace—the key tasks of management have come to center on leadership as much as or more than the application of technical disciplines. In other words, what were traditionally called moral and political practices are making a return to management practice and theory, especially in the most advanced technology sectors that employ large numbers of “knowledge workers.”

The key tasks that make or break competitive success in today’s highly fluid, often precarious business organizations turn out to be the practices of defining purposes, reconciling divergent interests within organizations or among stakeholders, and nurturing trusting relationships without which businesses cannot prosper. Another way of putting this point is that the age of the “organization man” is long past. Increasingly, managers must develop the skills of leaders and coaches as well as those of administrators and strategists. Especially in today’s advanced-technology industries, where knowledge is the essential resource, it is the management of personnel that has emerged as the critical discipline. Therefore, organizations gain competitive advantage when they promote creativity and collectively learn from their experience. This requires effective team-work and leadership.

Innovation, so crucial in product design and organizational form, depends heavily upon the human capital of the workforce involved. This means that such enterprises demand subtle management of these networks of mutual trust. In today’s most innovative companies, it has become impossible to disentangle the traditional managerial techniques of rewards and punishment from the moral relationships of trust, fairness, and honesty in which they are embedded and on which they depend for their effectiveness. Business as a whole is, of course, a much more mixed picture. But in the areas adding the most value to investment, success depends upon managers who know how to enhance their teams’ trust and commitment to common purposes.<sup>19</sup> Therefore, business education for managers able to guide such innovation must focus on shaping aspirations toward a professional identity built around prowess in practical moral judgment as well as technical competence.

This is not to say that law as a profession should become more like business. Rather, the point is that both law and business need to become more reflective about the implications of the new technologies for their inherited organization of practice. What, then, might legal educators learn from these emerging tendencies in business and medical education? At the least, it is clear that new kinds of technical competence, centered on IT, will be demanded of lawyers in the near future. Tomorrow’s lawyers will be using such skills to guide their clients, to shape organizations of legal ser-

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19. There is a large amount of literature on these themes. For some guidance, see JOHN HENDRY, *MANAGEMENT: A VERY SHORT INTRODUCTION* 107–121 (2013).

vice providers, and to work with business and technical professionals. But this new practice environment will demand even more of the moral and practical competencies now sought by managers in innovative business sectors and traditionally embodied in legal professionalism. Achieving the kind of enhanced competence needed for navigating the challenge posed by the more complex practice worlds now emerging will require pedagogies of professional identity formation of comparable vigor and creativity.

Developing pedagogical approaches, along with the faculty expertise necessary to successful implementation, has been a major focus of The Holloran Center for Ethical Leadership in the Professions at the University of St. Thomas School of Law. Between 2014 and 2016, the Holloran Center's personnel mounted a series of summer workshops to enable faculty from interested law schools to explore the available research and to experiment with approaches to integrating professional formation more fully into the curriculum, classrooms, and clinics. To date, the workshops have involved over twenty schools and around 100 faculty and staff. Following positive responses, the Center plans to continue the workshops for two more summers. The plan is to foster the growth of a group of thirty or more law schools, each of which housing four full-time faculty or staff, to disseminate the workshop's emphasis upon professional identity formation throughout the schools' curriculum, culture, and teaching strategies. As part of these efforts, the Holloran Center has pioneered a model formation curriculum, called *The Roadmap*, which won the ABA's Gambrell Professionalism Award in 2015.<sup>20</sup>

#### V. CONCLUSION: IS A SOCIAL MOVEMENT FOR PROFESSIONAL IDENTITY FORMATION AFOOT?

The history of systematic innovation in higher education, as exemplified by the paradigmatic change in medical education initiated by the Flexner Report of 1910, or the development of the modern business school curriculum in the 1960s, suggests any effort to recast legal education must achieve three goals. A movement for reform must propagate a reframing of educational needs and goals. It must be able to formulate the meaning of this new model of curriculum and pedagogy. And it also needs to coalesce around some institutional sites that concretely exemplify the new vision and function as exemplary centers that train and inspire reform by core groups of innovators elsewhere in the field.<sup>21</sup>

First, then, successful change requires the wide dispersion of a new, catalytic reframing of the goals of professional preparation, including an

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20. NEIL W. HAMILTON, *THE ROADMAP: THE LAW STUDENT'S GUIDE TO PREPARING AND IMPLEMENTING A SUCCESSFUL PLAN FOR MEANINGFUL EMPLOYMENT* (2015).

21. The following is adapted from the author's article William M. Sullivan, *Professionalism as a Social Movement*, 23 *PROF. LAW.* 26 (2015).

articulation of overarching goals. This reframing of the educational situation has to gain broad adherence within the field. The Flexner Report did this by arguing that rapidly advancing scientific knowledge demanded a new approach to medical practice which, in turn, required uniform, higher standards of medical training. Second, this reframing of purpose and articulation of goals must be concretely formulated models of organization and practice. These models, moreover, must be perceived as practically realizable by a significant and active cross-section of educators in the profession. For Flexner, the key innovation demanded by the new medicine was an extended and more integrated form of training that would enable future physicians to both master burgeoning scientific knowledge and learn to utilize this knowledge through supervised clinical experience.

Most crucially, these educational models, however attractive and imaginative in principle, become persuasive only as they receive expression in exemplary centers of educational reform. Thus, the approach to medical education proposed by the Flexner Report derived much of its persuasive power from the curriculum and staff at the then-new teaching hospital of the Johns Hopkins University. This is what demonstrated the capacity of the new model to produce better-prepared physicians. At moments of change, such exemplary centers provide rallying points and demonstration sites for the new vision. And this vision must be carried beyond the exemplary center by core groups of faculty, dispersed over a range of institutions, who form a constituency for innovation. These core groups, inspired by the new framing, its models, and their exemplification in specific centers of innovation, carry the impetus for reform into the various sectors of the field.

Is legal education at a take-off point for systematic innovation? Has the new thinking and experiments with reform of the past decade developed into an educational movement, which like the great social movements in American society, is able to convincingly reframe particular difficulties—those of uncertain students, frustrated faculty, disappointed legal employers, and visionary deans—as shared problems that can be solved by concerted action? Will the current ferment, like a catalytic agent, generate new bonding among formerly unaffiliated groups to propel a successful movement with common goals and hopes for the legal profession? These are not, properly speaking, empirical questions. They are practical challenges. They can be answered only by what legal educators and their allies will do, now and in the future.