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EYEING THE CIRCLE: FINDING A PLACE FOR SPIRITUALITY IN A LAW SCHOOL CLINIC

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PROLOGUE

Several semesters ago, I assigned two students to assist a man with simple estate planning documents. Because he had an aggressive form of cancer, his doctors projected death within weeks. From the beginning, we knew that this was no ordinary fellow. He was a boxing coach who worked with boys in a community known for its string of amateur (and even a few professional) boxing champions. Many of these titlists got their start with this man. He was known as tough but caring, and commanded the respect of his pupils. Not surprisingly, many simply called him "Coach," and soon we found ourselves doing the

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same.

Coach's illness was advancing quickly, and we knew that we had to act without delay. Within a day, the students made their first visit to Coach's home. As expected, he wanted us to draft simple estate planning documents. However, Coach also added a surprising request: he wanted to adopt his eight-year-old granddaughter.

The students learned that Coach was surrounded by a close, intact family that included his daughter and her husband, the child's natural parents, both of whom were financially and personally stable. Coach's wife, a remarkably strong woman herself, was his primary caregiver. The entire family endorsed the adoption idea and, at times, seemed amused by our reaction.

Fortunately, Coach had moments of comfort and lucidity during which he explained his decision to seek adoption. As is customary in many Hawaiian families, Coach and his wife had taken in their granddaughter and raised her as their own, while maintaining and encouraging the child's knowledge of, and love for, her biological parents. The relationship grew strong through the years, and Coach wanted the child to understand that even after his death, he and his wife still would be responsible for her welfare. While it was clear that the child's biological parents loved and could support her, Coach wanted to assume a clear legal obligation that extended beyond his life. Sensing our skepticism, the family explained that this was a gift to the girl, one that would stay with her in ways she already understood.

As we hurriedly worked with Coach and his family to complete his estate planning documents and to get the adoption action filed and calendared, we became privy to things that occurred as he approached death. In one incident, Coach's son was scheduled to fly east to finish his last semester in college. Devoted to his father, the young man decided not to leave while his father was alive. This invoked a strong response from Coach: From his bed, he ordered his son to return to campus. Then, he took his timepiece from the nightstand and closed his reluctant son's hand around it. It was a powerful gift of connectedness and remembrance.

A few weeks before the adoption hearing, Coach was honored in a ceremony during a boxing tournament. His many achievements were listed for the crowd. Despite his pain and ebbing stamina, he was proud. He knew that the ceremony took

place because he was dying, but it did not matter. He was grateful for the chance to see many of his former students, some of whom were now fathers and coaches themselves. He was fulfilled in knowing that a part of him was alive in them.

In time, my students fulfilled their tasks and the adoption was granted. After the hearing, Coach's wife announced to Coach, "Well, I guess we're parents again," knowing fully that she and her husband had never stopped being parents. By this time, Coach was deteriorating quickly and his death was near. One student said that his death would come more quickly now that the major items of "business" were complete—she was correct. Coach died a few weeks after the adoption hearing. Each of my students who had worked with Coach called on the family in his or her own way to express condolences.

The students and I later discussed the case. They described how their legal work seemed dwarfed by something bigger, and how Coach and his family were real people who refused to be objectified. They recognized their place in this man's final days, and understood how their legal skills had been used to implement a vision that enlarged and gave meaning to a dying man's life. In the process, the students sensed that they had been given something and quietly received it without knowing exactly what it was. It touched something deep inside them and caused them to consider matters not typically discussed in law school classrooms. I wanted to help them articulate, and better savor, what they had experienced. I wanted to give them words to express the "largeness" they sensed, and to encourage them to keep looking for it in all their work. I struggled to find the appropriate words to use, a moment lapsed, and the conversation turned to our next case.

I. INTRODUCTION

Spirituality. We all use the term, or some form of it. It is part of our everyday vocabulary. We believe that we know what it means; or at least, we "feel" its meaning. We often include it when we list the different dimensions of human existence: physical, mental, emotional, and spiritual. The fact that it frequently ends up last on the list signifies a "lacking" in the term: lack of tangibility, lack of understanding, maybe even lack of importance. We write laws that speak of it. For example, in statutes

that list factors for deciding child custody cases, we are instructed to consider, among other things, which party is able to best provide for a child's spiritual needs.¹

Unless the appropriate context exists, people are uncomfortable talking about it in general conversation. The risk of sounding unctuous, irrelevant, "squishy," or threatening may lurk for one who injects spirituality into conversation. There is even more discomfort when the subject arises in a law school. One often wonders whether spirituality and the teaching of law students are mutually exclusive.

This Article proposes that such an intersection is more than just a possibility and that we must strive to find the intersections of law and spirituality. This search already has begun in other professional schools. Many medical schools, buoyed by studies supporting a relationship between patients' healing and spirituality, no longer ask whether there is a place for spirituality, turning instead to the question of *how* to make a place for it.² Law schools should at least address whether there is a place for spirituality in legal education because failing to do so leaves unturned what may be the default response: there is simply no place for spirituality in the public culture of legal education.

The time is right for the question to be considered. Spirituality has enjoyed a resurgence in American society³ and has begun to emerge within the legal profession and in legal academic circles.⁴ In 1997, Fordham University School of Law hosted a

1. See, e.g., HAW. REV. STAT. ANN. § 571-46(5) (Michie 1997).

The court may hear testimony of any person or expert produced by any party or upon the court's own motion, whose skill, insight, knowledge, or experience is such that the person's or expert's testimony is relevant to a just and reasonable determination of what is for the best physical, mental, moral, and *spiritual* well-being of the child whose custody is at issue. . . .

Id. (emphasis added).

Similar examples are found in OKLA. STAT. ANN. tit. 10, § 7001-1.2 (West 1998); MINN. STAT. ANN. § 260.011(a) (West 1998); LA. CIV. CODE ANN. art. 134(2) (West Supp. 1999); TEX. HUM. RES. CODE ANN. § 61.045 (West 1990) (spirituality considered when youth was in custody of state correctional facility); MONT. REV. CODE ANN. § 40-4-234(1)(b) (Smith 1997); W. VA. CODE § 49-6D-2(a)(1) (1966).

2. See Christine Kilgore, *Some Medical Schools Push for Spirituality Training*, INTERNAL MED. NEWS, June 15, 1997, at 1, 5.

3. See Barbara Kantrowitz, *In Search of the Sacred*, NEWSWEEK, Nov. 28, 1994, at 52, 53-55.

4. See Russell G. Pearce, *Foreword: The Religious Lawyering Movement: An Emerging Force in Legal Ethics and Professionalism*, 66 FORDHAM L. REV. 1075, 1075-

conference entitled, "The Relevance of Religion to a Lawyer's Work: An Interfaith Conference." The conference convened law practitioners, academics, theologians, and religious leaders to discuss the place for religion in the work of lawyering and included an agenda for future discussions.⁵ This conference drew in part from a 1996 symposium issue by the *Texas Tech Law Review*, which collected over forty essays from individuals who were asked to reconcile their professional lives with their faith.⁶ Two years earlier, Marquette University Law School hosted an inaugural conference of religiously affiliated law schools, which also resulted in a law review collection of papers presented at the conference.⁷ Although the Marquette conference was not necessarily focused on the marriage of law and personal faith, it compelled—by virtue of its rigorous discussion of the identity, mission, and viability of religiously affiliated law schools—an examination of the religious values on which these schools were founded and how these values should continue to shape the training and socialization of their law students.⁸

These conferences and papers used the term "religion." To clarify, "spirituality," as used here, carries a meaning distinct from religion. As discussed later, religion is a man-made instrument that is often organized and institutionalized for the ostensible purpose of nurturing the spiritual lives of its believers. But religion is not spirituality. In fact, religion can be dispiriting, and history is replete with stories of great evil done in the name of religion. While religion waxes and wanes, spirituality remains constant, always with us even if we choose not to give it attention. Spirituality may form the heart of a religion, guiding its

77 (1998).

5. Symposium, *The Relevance of Religion to a Lawyer's Work: An Interfaith Conference*, 66 FORDHAM L. REV. 1075 (1998).

6. See Symposium, *Faith and the Law Symposium*, 27 TEX. TECH L. REV. 911 (1996).

7. See Symposium, *Symposium on Religiously Affiliated Schools*, 78 MARQ. L. REV. 247 (1995).

8. See *id.* The Marquette Law Review revisited the role of religion and the law in its Winter 1998 issue. See Symposium, *Religion and the Judicial Process: Legal, Ethical, and Empirical Dimensions*, 81 MARQ. L. REV. 177 (1998). The issue collected articles and responses presented at a 1997 Marquette University conference entitled "Religion and Judicial Process: Legal, Ethical, and Empirical Dimensions." As the title suggests, participants looked at the different intersections between religion and secular judiciaries, including the place of religious values in judicial decisionmaking. See *id.*

adherents; but, as defined in this Article, it is not religion.

In 1997, Professors Cheryl Connor and Lucia Ann Silecchia presented a talk entitled *Integrating Spiritual Perspectives with Law Practice through Clinical Education*. This presentation took place at a teaching conference at Catholic University of America Columbus School of Law in Washington, D.C. Its focus was on the spirit (not on religion as a vehicle), and its place in a mainstream clinical conference signaled a certain readiness to seriously consider things spiritual in our work and lives.

Yet, the discomfort of launching into a discourse about spirituality in legal education is daunting because it cuts against the “ordinary religion”⁹ of the legal academic culture in raw and unsparing ways. This Article frames the discussion within my area of teaching—clinical legal education—to deal, in part, with my unease. The trenches where clinical teaching occurs should be a place where law students can feel comfortable and open in their struggle to reconcile their spiritual lives with their work, or at least to explore the tension between their growing sense of what constitutes traditional lawyering, and their need for personal or internal fulfillment apart from the material rewards of the profession. The vagaries of real life and real people have a way of invading zones of safety and tipping carts of idealized expectations, while providing opportunities for growth and exploration. As students meander through the heights and depths of active experiential learning, some will sense, if not articulate, internal stirrings, as often happens when human beings undergo change. The clinically-induced transformation of law student into lawyer is a major change that should give students cause to think about who they are, what they are doing, and whether the path they are taking is consistent with what they perceive to be their calling. While some students emerge from the clinical experience with a renewal of spirit and purpose for their law edu-

9. See Roger Cramton, *Beyond the Ordinary Religion*, 37 J. LEGAL EDUC. 509 (1987), in which Cramton exhorted his audience to go beyond the ordinary religion of the American law school classroom. He describes this as including the nurturing of a “skeptical attitude toward generalizations,” providing an instrumental approach to law and lawyering, cultivating a “tough minded” and analytical attitude toward legal tasks and professional roles, and encouraging a faith that reason and democratic processes would better the world. *Id.* at 511. For Cramton, exceeding ordinary religion meant being able to help law students address the “fundamental questions of professional identity, purpose and meaning.”

cation and choice of profession,¹⁰ others undergo a crisis in spirit as they wind their way through tasks, people, institutions, and decisions that test their souls.¹¹

10. Every clinical teacher at our school has heard the comment that our clinics restore students' sense of purpose by providing them with an experience that supports the reason they believed they came to law school. These comments have come from students whose clinical work fulfilled their higher ideals of service, and from students who simply found rejuvenation in the "hand-dirtying" work of student law practice. I am certain that these comments are universal.

11. For a discussion of such an experience, see a wildly funny and sad essay, *The Case of the Benevolent Fiduciary: A Primer for the Unwary*, 2 CLINICAL L. REV. 523 (1996) (a case about a 72-year-old woman named Hattie who had improperly benefited from her position as a fiduciary to her institutionalized brother). The essay effectively invoked in the reader the emotions of fear, loathing, despair, irritation, and frustration that Levitt and her students felt in dealing with the mad and maddening Hattie. As Levitt reflected on her "Hattie" experience, she concluded that "[t]here was something very distasteful about the whole ordeal, particularly to my sense of myself and of the clinic as a poverty law center." *Id.* at 541. While "successful" in prosecuting the case against Hattie and secure in the thought of having benefited Hattie's brother and his financial interests, Levitt and her students were forced to grapple with the reality that their accomplishments would bring harm to this already vulnerable woman who, on another day and in another case, could well have been their client. *Id.*

Although Hattie may have deserved her fate, neither Levitt nor her students were entirely comfortable about what they were doing to this elderly person and found themselves objectifying Hattie as a way to shield themselves from what they were doing and feeling. Levitt also sought refuge in the rules of the lawyering game: Hattie was not her client and therefore was not entitled to the considerations that Levitt may have wanted, on a personal level, to extend to her. *Id.*

As "Hattie-the-real-person" was allowed to fade and "Hattie-the-character" was allowed to become the operational Hattie in the case, Levitt and her students could proceed as the advocates that the rules of the profession allowed them to be. Yet, they knew they lost something in the exchange. Levitt's essay was an attempt to evaluate the significance of the loss. She implied that this kind of exchange was common in the clinical experience and in our work as lawyers. She wrote, "The story of Hattie—or at least the story of 'Hattie'—has, then become, in a very fundamental way, a clinic story to its core." *Id.* at 543.

Although she never referred to it as such, Levitt's lamentation, to the extent her essay was one, could be characterized as one of the spirit. The tension she felt arose from a deeper abiding sense of a higher good (i.e., treating all persons, including Hattie, decently) and her natural orientation toward it. She obviously made sufficient peace with the road she took, but her story illustrated that even adherence to "good" lawyering and the rules of the profession leaves a certain stain that endures and should be dealt with in ways that traditional legal education has remained unequipped to do.

Another clinical narrative by student Angela Stamm and her supervising attorney Marla Mitchell of Thomas Cooley Law School illustrated the kind of spiritual crisis that students and lawyers typically face. Angela Stamm & Marla Mitchell, *Teaching the Law Student to Become a Lawyer: How Personal Perceptions Form Realities and Impact Our Role as Lawyers*, 2 T.M. COOLEY J. PRAC. & CLINICAL L. 135, 138 (1998). Stamm's struggle to make sense and peace with her perception of her client as a greedy manipulative and needy woman plunged her into "overwhelming feelings of frustra-

I agree with others who say that the profession, at its core, faces a spiritual crisis that at least partly explains the unhappiness that marks a significant part of the profession.¹² As law students approach their entry into the profession, they should become aware not only of this crisis but receive guidance on how to survive it, and even how to assist in its dissipation. Although I am neither prepared to insist that all clinical programs have a clearly articulated "spiritual" component, nor to compel my colleagues to do anything that would push them beyond their discretion, I argue that those who are inclined to bring spiritual matters and perspectives into their clinical classrooms be encouraged to do so,¹³ and that law schools publicly sanction a

tion, helplessness and anger." *Id.* This kind of crisis caused her to question what it meant to be a lawyer and whether she could bridge the gap between core personal values and her growing sense of what lawyers must do. With the support and wisdom of her supervisor, Stamm ultimately was able to reach some reconciliation on an intellectual and even emotional level. *Id.* However, I was left wondering if her profound despair, her injury to spirit, was ever addressed.

12. Professor Joseph Allegretti wrote: "Let me be clear: At its core the legal profession faces not so much a crisis of ethics, or commercialization, or public relations, but a spiritual crisis. Lawyers and the profession have lost their way." JOSEPH G. ALLEGRETTI, *THE LAWYER'S CALLING: CHRISTIAN FAITH AND LEGAL PRACTICE* 3 (1996).

Allegretti attributed a similar position to Anthony Kronman who wrote:

This crisis is, in essence, a crisis of morale. It is the product of growing doubts about the capacity of a lawyer's life to offer fulfillment to the person who takes it up. Disguised by the material well-being of lawyers, it is a spiritual crisis that strikes at the heart of their professional pride.

ANTHONY KRONMAN, *THE LOST LAWYER* 2 (1993).

Left unchecked, this crisis spills into the individual lives of attorneys and judges. Peter A. Donahoe, who directs the Attorneys and Judges Assistance Program for the Hawai'i State Bar Association, described a common theme in the multifarious problems faced by the attorneys and judges he counsels: "People come to me with all kinds of problems. As different as they are, there's one common denominator, one gap in their lives. It's a lack of spirituality." Les Peetz, *Spirits Rising*, HONOLULU MAG., Sept. 1998, at 87.

13. My colleague, Professor Casey Jarman, recently told me about a course she is teaching for the first time this semester. It is called "Sovereignty and Environmental Law," in which Casey works with her students to contemplate how a sovereign Hawaiian nation might consider environmental issues and what plans might be developed to ensure a concern for the environment that would be consistent with a sovereign Hawaiian consciousness. One of Casey's assumptions is that students must somehow draw upon an understanding of a Native Hawaiian's mind and spirit to develop their methodology accurately. Casey has taught her students a Hawaiian chant to invoke the wisdom of sources outside themselves. In doing so, Casey reminds her students that their work has a sacred purpose; that its production must reflect interconnections with others; that their approach must be imbued with a certain humility; and that while their

place for this to happen. This would begin to reverse the "culture of disbelief,"¹⁴ and eradicate the brackets we use to cloak the spiritual parts of ourselves while in the "public" sphere.¹⁵ This is a tall order; but the burgeoning of clinical legal education was itself a striking departure from the traditional Langdellian model of scientific inquiry and analysis. Hopefully, the progressive heritage and personality of clinical legal education provides the open door for this exploration.

First, what is spirituality? This is where I begin. My disclaimer is that I have neither formal training nor special insight on spiritual matters. At best, I am a lay believer who would not dare to attempt an all-encompassing definition.¹⁶ But others

intellect is being developed and challenged, so too must their awareness of the spiritual be acknowledged and drawn upon. Interview with Casey Jarman, Professor of Law, University of Hawai'i School of Law, in Honolulu, Haw. (January 1999).

14. STEPHEN L. CARTER, *THE CULTURE OF DISBELIEF: HOW AMERICAN LAW AND POLITICS TRIVIALIZE RELIGIOUS DEVOTION* 3-11 (1993) (arguing against our tendency to omit religion from our public debates. While cognizant of the importance of the separation between church and state, Carter argues that religions have an important place in the proper function of the republic, and calls for resistance against our cultural practice of trivializing religion and religious persons).

15. *Id.* at 56. Carter agrees with legal theorist Michael Perry who urged resistance against recasting religious arguments into secular moral ones. Failing to resist would "bracket" religious convictions from the rest of one's person, splitting off an essential part of oneself.

16. The possibility also lurks that if such a definition exists, it would defy the understanding of readers who either prefer to or are prepared to converse only in non-spiritual or nonreligious language. James White wrote:

I do not mean that this is anyone's fault, but I do think that there is now a deep disjunction between religious experience and public language of a kind that makes it most difficult to talk sensibly about religion in our common discourse.

...

That there should be such a gap between religious and other ways of talking should not be surprising, since there is much about religion, at least in the forms I know it, that is inherently ineffable or transcendent or mysterious. Think of what moves a people to build a cathedral, for example, or to make religious painting or music: a need to do something, say something, that cannot be done in words. If you could do it in words, you would, and save all that trouble.

Religion is not only a system of ideas or propositions, that is, but a mode of life; one of its functions seems to be to carry us to the edge of the circle of ordinary understanding and beyond it. It is not surprising that we have a hard time talking about religion in the language of our common intellectual culture, then, for religious experience is difficult to talk about in any language at all.

James Boyd White, *Talking About Religion in the Language of the Law: Impossible but*

have said things that resonate for me, and it is these thoughts that I rely on to develop a working definition for the purpose of this Article. I borrow liberally from the writings of medical scholars who for years have contemplated a unification between spiritual matters and their work.

On arriving at a working definition, or at least identifying the main components of one, I attempt an argument on why we—who are inclined to integrate the spiritual directly into our work as teachers—should do so. In summary, I mention three things: (1) the work of lawyering and maintaining our personhood is inevitably difficult; and if we have any hope of equipping our students to deal with this tension, we should consider how to develop spiritual muscle; (2) if we intend to improve the image of our profession and our work, we need to become pilgrims on a higher journey, finding firm ground by reaching upward; and (3) we deprive ourselves of an essential component of our beings by ignoring our spiritual dimension; and teaching and practicing law as a human enterprise loses something important when we shun the spiritual.

This Article concludes by suggesting that we incorporate spirituality into the vocabulary of our professional and teaching lives—saying it without flinching would be a start. This Article also suggests a modest step—“quest” journaling—to introduce spirituality into the legal education culture. My experience as a teacher in our elder law clinic has informed my thinking, and I therefore use our work with older adults to frame parts of my discussion.

II. TOWARD A WORKING DEFINITION

In recent years, disciplines within the health professions have embraced the role of spirituality in their work. An article in the *Internal Medicine News* announced that at least twenty American medical schools now have programs that incorporate spirituality training for medical students.¹⁷ While impressive, the current push among physicians-in-training actually lags behind the efforts of other allied health professionals who earlier recognized and accepted the role of spirituality in their healing work.¹⁸

Necessary, 81 MARQ. L. REV. 177, 181-83 (1998).

17. See Kilgore, *supra* note 2, at 1.

18. See generally ANN BRADSHAW, LIGHTING THE LAMP: THE SPIRITUAL DI-

Viewing the medical profession's efforts to operationalize a definition of spirituality for its scholars and practitioners is helpful in formulating a definition. The language is understandable, practical, and appealing to common sensibilities. It distills from the writings of philosophers¹⁹ and theologians ideas that have

MENTION OF NURSING CARE (1994); VERNA BENNER CARSON, *SPIRITUAL DIMENSIONS OF NURSING PRACTICE* (1989); Julia D. Emblen, *Religion and Spirituality Defined According to Current Use in Nursing Literature*, 8 J. PROF. NURSING 41 (1992); Diane Heliker, *Reevaluation of a Nursing Diagnosis: Spiritual Distress*, 27 NURSING F. 15 (1992); Thom J. Mansen, *The Spiritual Dimension of Individuals: Conceptual Development*, 4 NURSING DIAGNOSIS 140 (1993); Pamela G. Reed, *An Emerging Paradigm for the Investigation of Spirituality in Nursing*, 15 RESEARCH IN NURSING & HEALTH 349 (1992). Likewise, articles have appeared for other health professionals such as occupational therapists. See, e.g., Douglas E. Engquist, et al., *Occupational Therapists' Beliefs and Practices with Regard to Spirituality and Therapy*, 51 AM. J. OCCUPATIONAL THERAPY 173 (1997); Brenda S. Howard & Jay R. Howard, *Occupation as Spiritual Activity*, 51 AM. J. OCCUPATIONAL THERAPY 181 (1997). Commentators also stress spirituality for hospice workers. See, e.g., Martin Millison & James R. Dudley, *Providing Spiritual Support: A Job for All Hospice Professionals*, 8 HOSPICE J. 49 (1992). And journals for mental health professionals address the issue. See, e.g., Michael J. Lewis & Jenny Hughes, *A Comparison of the Effects of Sacred and Secular Music on Elderly People*, 131 J. PSYCHOL. 45 (1997).

19. Philosophers also have debated the subject of spirituality: whether it actually exists, and if so, defining its place in our lives. The debate has gone on for centuries. The evolution of thought among ancient Greek philosophers is one example.

In reasoning out the essence of man and reality, the great Greek philosophers deduced the existence of a spiritual state. Socrates discerned a timeless and transcending spiritual reality that was fundamental and all-comprehensive for which death served as a gateway. RICHARD TARNAS, *THE PASSION OF THE WESTERN MIND* 37-38 (1991). Socrates concluded that one function of the intellect was to give each of us the capacity to reason our way to the realization of the spiritual dimension in each of us. *Id.* at 38. For Socrates, thought was an indispensable tool of the spirit by which man could discover the essence of his soul and the meaning of the world around him. *Id.*

Plato, who studied under Socrates and to whom the recordation and explanation of Socratic thought has been attributed, observed the celestial bodies, and in noting their mathematical order and seemingly eternal regularity, saw them as visible images of "immortal deities whose perfectly regulated movements were paradigms of the transcendent order." *Id.* at 35-36, 50. In recommending astronomy as important to the attainment of philosophical wisdom, Plato thought that understanding the harmonious symmetry of celestial revolutions gave man access to understanding spiritual perfection. *Id.* at 48-50. Plato thought that the manifest intelligence underlying the timeless perfection of the heavens could inform the philosopher's life and awaken wisdom in his soul. *Id.* at 51.

The most characteristic elements of Plato's philosophy are described as including: (1) the search for and belief in the absolute and unitary over the relative and diverse, (2) the divination of order, (3) the tension between empirical observation and ideal forms, (4) the ambivalent attitude toward empiricism as something to be used only to be ultimately overcome, (5) the juxtaposition of primordial mythical deities with the mathematical and rational forms, (6) the religious significance of scientific research, (7) the complex consequences which Plato's thought would hold for later developments

ready application to the healing and caring for people. The language also embodies the efforts of medical professionals to go beyond, and thus enrich, their normative scientific approach to patients. In doing so, it provides a model for the community of legal practitioners and scholars whose work now favors a super-rational approach to very human clients and messy human conundra. Thus, some of what follows draws from the example and writings of the medical academy.²⁰

I favor the definition of spirituality as a universal human dimension.²¹ It is in all persons, just as there are biophysical and

in western culture, and (8) the further juxtaposition of the gods (celestial deities) with the single God. *Id.* at 53. Plato believed that an active, intuitive mind could extract truth or the primary essence of things that transcended the external and the concrete. *Id.* This transcending, immaterial essence, which might have encompassed some free-standing quality like "goodness," applied in humans as well.

Plato's most brilliant pupil, Aristotle, challenged his master's premise and held that true reality was in the perceptible world of concrete objects. *Id.* at 56. For Aristotle, a quality such as goodness could not exist independently from some concrete, empirically provable entity such as a person. *Id.* at 56-57. But while favoring the empirically provable, Aristotle also deduced out of logical necessity that some kind of supreme form set the universe in motion. *Id.* at 63. He believed that every individual being in the universe strove to imitate the perfection of this supreme being—man—in a conscious way, and to imitate other creatures on a less conscious level. *Id.*

While Plato had conceptualized an absolute universal good on which moral and ethical behavior could be founded, Aristotle believed that man, at best, could develop empirical rules for good conduct that met the complexities of human existence. *Id.* at 67.

20. The health professional literature presents a range of thoughts and perspectives on the nature of spirituality. Some argue passionately against reducing the spirit and spirituality to the mundane and commonplace, arguing that the vexing difficulties encountered in defining spirituality reflects the character of spirituality. See generally P.J. Dawson, *A Reply to Goddard's "Spirituality as Integrative Energy,"* 25 J. ADVANCED NURSING 282 (1997). Invisible, elusive spirituality defies finite definition and analytical reasoning, and is part of human existence that remains mysterious, a part of an older "truth." *Id.* at 286. Although spirituality cannot be totally captured in words, it needs to be acknowledged and discussed even if we can do so only in a limited way. Doing otherwise would leave us with a wider void.

21. See Nancy C. Goddard, *"Spirituality as Integrative Energy": A Philosophical Analysis as Requisite Precursor to Holistic Nursing Practice,* 22 J. ADVANCED NURSING 808, 809 (1995) (proposing that spirituality is a universal human dimension that inheres in every individual). Huston Smith, *Introduction to SPIRIT MATTERS: THE WORLDWIDE IMPACT OF RELIGION ON CONTEMPORARY SOCIETY* ix, xi (Richard L. Rubenstein ed., 1987). Theologian Huston Smith referred to something he called "personal religion." I find his description of the adjective "personal" akin to my reference to spirituality as a human dimension. Smith wrote:

[W]e are not concerned with institutional affiliation—whether the individual in question belongs to a church or engages in collective rites and observances. Our eye is on the unique and radically private dimension of his existence. To

psychological dimensions to each human being.²² One may choose to nurse it, giving it a central place in one's life, or ignore it, leaving it dormant and undeveloped.²³ Professor Margaret Burkhardt, who has written extensively about spirituality in nursing, formed a working definition that adds substance to this definition. She referred to "[t]he unfolding of mystery through harmonious interconnectedness that springs from inner strength."²⁴ Burkhardt's definition offers insights to the ele-

help us get a grip on that dimension we might imagine him in moments when he is most alone. Perhaps he is involved in a period of soul-searching and has driven off for a day by himself. Or he may be lying on his deathbed, engaged in his final withdrawal from his social identity. What goes on in the deepest interior of a self at such moments—moments when, as it were, an individual steps into life's voting booth, closes the curtains behind him, and casts his ballot: for his egoistic interests only or for those of others as well; for resentment or gratitude as his response to life; for hope or despair as his stance towards future? I shall not answer that question. All I need say is what does go on is what I mean by "personal" in the phrase "personal religion."

Id.

Others have referred to spirituality or spirit as "energy." Goddard, *supra* note 21, at 813 (referring to spirituality as "integrative energy"); Eileen Stuart et al., *Spirituality in Health and Healing: A Clinical Program*, 3 *HOLISTIC NURSING PRACTICE* 35, 36 (1989) (defining the spirit as "transcendent energy, which can elevate us from the humdrum of daily life and help to give meaning and direction"). Although spirituality is certainly energizing, life-giving, and empowering, to define it by what it objectively does is limiting.

I agree with Dawson, who chastised those who would reduce spirituality to mere energy. Dawson, *supra* note 20. Dawson argued for a broader definition without articulating its particulars. However, she suggested her view of spirituality by recommending that one interested in spiritual issues should read the works of those "for whom spirituality was, and is, an immanent and vivifying feature of existence." *Id.* at 289.

22. Harvard's Edward O. Wilson recently argued that morality had a biological basis. See Edward O. Wilson, *The Biological Basis of Morality*, ATL. MO. April 1998, at 53. His argument implied that we are preprogrammed to be aware of something higher and grander than the material and to have a yearning to know it. He wrote:

If the religious mythos did not exist in a culture, it would quickly be invented, and in fact it has been invented everywhere, thousands of times through history. Such inevitability is the mark of instinctual behavior in any species, which is guided toward certain states by emotion-driven rules of mental development. *To call religion instinctive is not to suppose that any particular part of its mythos is untrue—only that its sources run deeper than ordinary habit and are in fact hereditary, urged into existence through biases in mental development that are encoded in the genes.*

Id. at 65 (emphasis added).

23. *Id.*

24. Margaret A. Burkhardt, *Spirituality: An Analysis of the Concept*, 3 *HOLISTIC NURSING PRAC.* 69, 72 (1989). Professor Burkhardt noted how various others have

ments of spirituality. When she refers to the “unfolding mystery,” she is talking about the revelations that each person experiences regarding the meaning of his life and experiences. These revelations occur through “harmonious interconnectedness,” and one answers his “why am I here and what am I doing here?” questions by arriving at some connection with or acceptance of himself, others, and some form of higher power or values. The more one has accomplished these connections, the closer one comes to understanding and accepting his station in life. The idea that one’s connectedness springs from “inner strength” reminds us that our search for meaning originates from somewhere within, and that we all have something inside us, whether it is consciousness, courage, determination, receptiveness, humility, or some other human resource that forges or facilitates the connections.

Burkhardt’s working definition captures the essential features of a spiritual journey (i.e., search, discovery, conciliation), rather than defining spirituality itself. Her “definition” is an apt description of what our spiritual dimension compels us to do. It sets us exploring for purpose and meaning in the hope of finding wholeness—and, for some, the transcendent and divine.

As stated in my introduction, spirituality is not religion or religiosity.²⁵ Unlike spirituality, which inheres in each person, religion is a framework or system of values and beliefs, often organized and institutionalized, that serves as a *vehicle* for spiritual expression and development.²⁶ While religion awaits adoption as

thought of spirituality as

a process and sacred journey, the essence or life principle of a person, the experience of the radical truth of things, a belief that relates a person to the world, giving meaning to existence, any personal transcendence beyond the present context of reality, a personal quest to find meaning and purpose in life, and a relationship or sense of connection with Mystery, Higher Power, God, or Universe.

Id. at 70.

25. See discussion *supra* Part I; Burkhardt, *supra* note 24, at 71.

26. Burkhardt, *supra* note 24, at 71.

Edward Wilson spoke of religion as an organism with a life cycle, created by men, then allowed, in time, to die. “Religions are analogous to organisms. They have a life cycle. They are born, they grow, they compete, they reproduce, and, in the fullness of time, most die. In each of these phases religions reflect the human organisms that nourish them.” Wilson, *supra* note 22, at 64.

The creating of religions, wrote Wilson, draws from “hunger for a permanent existence.” *Id.* at 65. Theorizing that this hunger ultimately may be tied to “brain circuitry

a matter of personal choice,²⁷ spirituality awaits acknowledgement by each person imbued with it.²⁸ Spirituality is often the heart of a particular religious tradition,²⁹ or spiritual ideas may need a religious institution to give them form and traction.³⁰ This relationship explains the intertwining and occasional interchanging of the terms.³¹ However, they are not synonymous.

Spirituality can be existential or metaphysical.³² Existential spirituality focuses on humanistic values, beliefs, or principles that guide and direct one's life. Metaphysical spirituality is generally centered on God, a deity, or simply some higher power.³³ While some might argue that one is closer to the truth than the other, for this Article, there is a wide berth for both.³⁴

and deep genetic history," Wilson observes, for now, that "[t]he idea of mystical union is an authentic part of the human spirit . . . [which] has occupied humanity for millennia, and . . . raises questions of utmost seriousness for transcendentalists and scientists alike." *Id.* at 68.

27. Even nonreligion can be construed as a form of religion because it reflects an adoption of a belief system that helps form an individual's framework of values, code of conduct, and even rituals. Thom J. Mansen, *The Spiritual Dimension of Individuals: Conceptual Development*, 4 NURSING DIAGNOSIS 140, 141 (1993).

28. Even those who do not consciously embrace religion or think of themselves as religious yearn for a unifying force that facilitates the development and stability of one's reality in daily living and provides an individual with meaning and purpose for existence. *Id.* It is one's spiritual dimension that moves one to seek and identify this force. This force can come by way of formal religion or not.

29. Ursula King, *Spirituality*, in A NEW HANDBOOK OF LIVING RELIGIONS 667, 669 (John R. Hinnells ed., 1997) (quoting EVELYN UNDERHILL, THE SPIRITUAL LIFE: GREAT SPIRITUAL TRUTHS FOR EVERYDAY LIFE 8 (1993)).

30. Kathy Juline, *The Lessons of Peace, An Interview with Huston Smith, Ph.D.*, SCIENCE OF MIND Dec. 1998, at 43, 46. See also Mansen, *supra* note 27, at 141.

31. Thom Mansen offers another reason for the confusion. Mansen noted that religion has as its base root the Latin term "*religare*," which means "to hold back, bind fast, or tie together." Mansen, *supra* note 27, at 141. In this sense, religion encompasses the idea of a "unifying force that provides a framework for values, codes of conduct, and rituals." *Id.* (citing S. Granstrom, *Spiritual Nursing Care for Oncology Patients*, TOPICS IN CLINICAL NURSING 7, 39-43 (1985)) (emphasis added). He also noted that religion carries a second component, "*religere*," within which individuals are concerned with their relationship with a higher being and the religious doctrines and practices that may influence that relationship. *Id.* (citing M. O'Brien, *The Need for Spiritual Integrity, Human Needs and the Nursing Process* (H. Yura & M. Walsh eds., 1982)). For Mansen, *religare*, a person's unifying force, is akin to spirituality, while *religere* is more closely tied with religion and its institutional meaning. To the extent that people think of religion in its *religare* sense, it does indeed become equivalent to the spiritual, the unifying force.

32. Mansen, *supra* note 27, at 141.

33. *Id.*

34. Some who reviewed the earlier drafts of this Article preferred narrowing spiri-

Some commentators have assigned vertical and horizontal dimensions to spirituality. For example, Professor Ruth Stoll, a pioneer in nursing theory and spiritual care,³⁵ described the vertical dimension as “the person’s transcendent (beyond and/or outside self) relationship, [and] the possibility of person-relatedness to a higher being”³⁶ For Stoll, the horizontal dimension “reflects and ‘fleshes out’ [one’s] supreme value experiences with [a higher being or value]” and materializes as “one’s beliefs, values, life-style, quality of life, and interactions with self, others, and nature.”³⁷ In either case, our spirituality helps us to “tie rocks to clouds,”³⁸ connecting the sacred to the material and the obvious.

Spirituality has been defined as having to do with the spirit or the soul, what some might consider the “better” or “higher”

tuality to its metaphysical meaning. While I understood their position, I chose not to follow it. In deciding to incorporate both existential and metaphysical forms of spirituality, I wish to acknowledge those who do not believe in a specific deity or, at best, are only vaguely aware of some higher reality, but whose lives are governed by and devoted to noble, unselfish, and humane values. If this is how they manifest their spirituality and give meaning to their lives, I cannot deny them.

35. Editor Verna Benner Carson notes that Stoll authored “the classic article” on the assessment of spiritual needs, which appeared in a 1977 issue of the *American Journal of Nursing* in her book *Spiritual Dimensions of Nursing Practice*. See Ruth I. Stoll, *The Essence of Spirituality*, in *SPIRITUAL DIMENSIONS OF NURSING PRACTICE* 4, 4 (Verna Benner Carson ed., 1989).

36. Stoll, *supra* note 35, at 7. Stoll discussed how the vertical dimension would work from a humanistic framework as opposed to one that involved a deity. For such an individual, values will be chosen to become the supreme focus, the organizing principle of life. *Id.* (emphasis added). Stoll quoted A.R. Maslow, a humanist, who wrote:

The human being needs a framework of values, a philosophy of life, a religion or religion-surrogate to live by, and understand by, in about the same sense that he needs sunlight, calcium, or love We need a validated, usable system of human values that we can believe in and devote ourselves to (be willing to die for).

Id. (quoting A.R. MASLOW, *TOWARD A PSYCHOLOGY OF BEING* 206 (1968)).

37. *Id.* Presumably, the god she refers to could be a higher being or power.

38. See WILLIAM ELLIOT, *TYING ROCKS TO CLOUDS* (1995). Elliott interviewed individuals he considered wise and spiritual. The book contains excerpts from his interviews and descriptions of his own spiritual journey. The title of the book comes from a poem he ostensibly wrote. While I initially thought the title (and the poem) to be odd, it ultimately came to me that what Elliott was referring to was the transcending quality of one’s spiritual quest: that the growth of one’s spiritual dimension moves one beyond the material and the obvious to a “higher” place thereby creating connections between the mundane (rocks) and something more special (clouds). In Elliott’s poem, he asks “To tie a rock to a cloud—is this possible? And if it is, does the cloud descend to meet the rock or does the rock rise to meet the cloud?” WILLIAM ELLIOT, *TYING ROCKS TO CLOUDS* 267 (1995).

part of us.³⁹ It is the part of us that: (1) sets us searching for meaning and purpose of life; (2) strives for transcending values, meaning, and experiences; and (3) motivates the pursuit of virtues such as love, truth, and wisdom.⁴⁰ Andrew Weil, a Harvard-educated physician who has written extensively on holistic approaches to healing, provided a tangible description of spirituality by recounting the origins and character of brandy, the first distilled liquor, which was formerly called "spirits of wine."⁴¹ He wrote:

In brandy, the alcoholic essence that gives fermented grape juice its intoxicating power has been concentrated, resulting in a much stronger drink. The original idea of Dutch distillers was to reduce the volume of wine to make it more easily transportable to colonies on other continents: you could seal brandy in barrels, then dilute it with water at the end of the ocean voyage to reexpand its volume. Of course, when people tasted the contents of the barrels, few bothered to add water, and a new, more powerful form of alcohol flooded the world. In the old name for this product and in the persistent use of the term "spirits" to describe all strong liquors is a clue to the nature of spiritual reality and its relationship to matter.

What is concentrated in brandy is the vital essence of wine, that which gives it power to alter consciousness. If you

39. Denise D. McKee & John N. Chappel, *Spirituality and Medical Practice*, 35 J. FAM. PRAC. 201, 201 (1992).

A more concrete description comes from Mihaly Csikszentmihalyi, who wrote:

Inside each person there is a wonderful capacity to reflect on the information that the various sense organs register, and to direct and control these experiences. We take this ability so much for granted that we seldom wonder about what it is, and yet, as far as we know, it is a recent accomplishment of evolution that only the human brain has achieved. If we even think about it, we give it such names as awareness, consciousness, self, or soul. . . .

The picture of the self we usually have is that of a homunculus, a tiny person sitting somewhere inside the brain who monitors what comes through the eyes, the ears, and the other senses, evaluates this information, and then pulls some lever that make us act in certain ways. We think of this miniature being as someone very sensitive and intelligent, the master of the machinery of the body. Those who conceive of it as the "soul" believe it is the breath of God that transformed our common clay into a mortal envelope for the divine spark.

MIHALY CSIKSZENTMIHALYI, *THE EVOLVING SELF—A PSYCHOLOGY FOR THE THIRD MILLENNIUM* 22 (1993).

40. McKee & Chappel, *supra* note 39, at 24.

41. ANDREW WEIL, *SPONTANEOUS HEALING* 202, 203 (1995).

warm a snifter of brandy and hold it in your hand, you can inhale (and sometimes feel the effects of) the volatile fumes that rise from the glass. In this concentrated form the essence of wine behaves like a gas as well as a liquid; that is, it is less dense and more active than it was in the form of wine, as well as more powerful. *Spirit is the source of life and power, without which material forms are nonliving husks.* It interpenetrates matter but is itself nonmaterial.⁴²

So depicted, the spirit is invisible and nonmaterial, yet empowering and even life-giving. Health professionals such as Weil believe that spirituality holds a key to healing⁴³ and that physicians should be attentive to its power and place in securing the well-being of patients.

Growth in spirituality is an ongoing dynamic process that engenders increasing awareness of one's meaning, purpose, and values in life.⁴⁴ Harold Koenig, a physician who works with patients in mid-life and later, described spirituality in terms of "spiritual needs" that intersect the physical and psychological needs that medical professionals address.⁴⁵ For Koenig, spiritual needs are conscious or unconscious strivings that arise from the influence of the human spirit on the biopsychosocial natures.⁴⁶ These needs include the following: (1) need for meaning, purpose, and hope; (2) need to transcend circumstances; (3) need for support in dealing with loss; (4) need for continuity; (5) need for personal dignity and worthiness; (6) need for unconditional love; (7) need to express anger and doubt; (8) need to feel that God is on their side; (9) need to love and serve others; (10) need to be thankful; (11) need to forgive and be forgiven; (12) need to prepare for death and dying; and (13) need to engage in and be supported in religious behaviors.⁴⁷

42. *Id.* at 203 (emphasis added).

43. *Id.* at 207. See also Charles Marwick, *Should Physicians Prescribe Prayer for Health? Spiritual Aspects of Well-being Considered*, 273 JAMA 1561, 1561-62 (1995) (describing the first physician conference on the Spiritual Dimensions In Clinical Research, sponsored by the National Institute of Healthcare Research); McKee and Chappel, *supra* note 39, at 201-08.

44. Verna Benner Carson, *Spiritual Development Across the Life Span, in SPIRITUAL DIMENSIONS OF NURSING PRAC.*, 24, 26 (Verna Benner Carson ed., 1989).

45. HAROLD G. KOENIG, *AGING AND GOD: SPIRITUAL PATHWAYS TO MENTAL HEALTH IN MIDLIFE AND LATER YEARS*, 283-84 (1994).

46. *Id.*

47. *Id.* at 284-94.

For Koenig, these needs reflect the human impulse to connect with other human beings, a higher reality, and, for some, a deity.⁴⁸ These needs drive us to find a purpose that fills and validates our lives and activities. For some, these needs are satisfied through a particular religious framework.⁴⁹ Spiritual expression is not limited to this structure, can and often occurs through creativity and sensuous experiences as well. Possibilities for peak experiences and self-transcendence may be found in art, humor, sharing of legacies, music, and even a meal.⁵⁰

Failure to fulfill these needs may lead to a recognized diagnosis in nursing practice called "spiritual distress."⁵¹ Spiritual distress results when a disruption occurs in the "life principle which pervades a person's entire being and which integrates and transcends one's biological and psychosocial nature."⁵² Nurses are directed to look for defining characteristics that include such behaviors as: (1) showing concern with the meaning of life/death or any belief system; (2) showing anger at God; (3) questioning the meaning of suffering; (4) verbalizing inner conflicts about beliefs; (5) having an inability to participate in usual religious practices; (6) seeking spiritual assistance; (7) having nightmares or sleep disturbance; (8) displacing anger toward religious representatives; and (9) demonstrating gallows humor.⁵³

These behaviors indicate either a disruption in pre-existing spiritual well-being or an unaddressed void that the patient, stressed by the effects of his illness, now seeks to fill. Currently, medical professionals are trained to consider the possibility of spiritual want or injury that these behaviors reflect, and to deal with it appropriately within the parameters of their profession.

In summary, our spirituality is the animating dimension of our humanity; healing human beings requires attention to this part of us. It points us toward something higher,⁵⁴ orienting us

48. *Id.* at 283.

49. Stoll, *supra* note 35, at 11.

50. *Id.* at 11 (citing V. FRANKL, *THE DOCTOR AND THE SOUL* (1952)); B. Brown, *An Innovative Approach to Health Care for the Elderly: An Approach of Hope* (paper presented at a nursing workshop, Lexington, KY, 1977)).

51. *Id.* at 13 (citing M.J. KIM ET AL., *POCKET GUIDE TO NURSING DIAGNOSES* (2d ed. 1985)).

52. *Id.*

53. *Id.* at 13-14.

54. Joseph G. Allegritti wrote that spirituality could be "characterized broadly as

toward virtue and the search for transcendent meaning and purpose. It moves us toward connections with others and, for many, with a deity.⁵⁵ We use religion or what some might call “spiritual traditions”⁵⁶ as vehicles for developing this dimension and responding to its urgings.

As lawyers, we frequently refer to the “spirit of the law”; I suspect this is the most common use of the term “spirit” in our profession. We use the phrase to conjure the essence of a law, to speak of its purpose, its intended force and direction. When a law is applied in a way that grossly violates its “spirit,” the law, we would argue, stops being itself. When the spirit of the law is simply forgotten, the law becomes like dry leaves in the wind, twisting to the whims of those who manipulate them. It loses its seminal meaning and life force.⁵⁷ Likewise, when I speak of our spirituality, I am speaking of that part of us that defines us, animates us, makes us “more.”⁵⁸ Without it, we become less whole, less colored, less us.

III. WHY EMBRACE SPIRITUALITY IN CLINICAL LEGAL EDUCATION?

The legal profession would benefit if lawyers could find a

a person's orientation toward the divine.” Joseph Allegretti, *Neither Curse Nor Idol: Towards a Spirituality of Work for Lawyers*, 27 TEX. TECH L. REV. 963, 964 n.1 (1996).

55. Quoting Francine du Plessix Gray, Michael M. Burns noted that spirituality helps us to discern “the connective tissue beneath the show-skin of reality’s surface.” Michael M. Burns, *Lessons from the Third World: Spirituality as the Source of Commitment to Affirmative Action*, 14 VT. L. REV. 401, 438 (1990) (quoting Francine du Plessix Gray, *Making the Spiritual Connection*, LEARS, Dec. 1989, at 71).

56. *See id.*

57. Professor Emily Fowler Hartigan spoke of the alienating of the spiritual from the law. *See* Emily Fowler Hartigan, *Law’s Alienation: Furies and Nomoi and Bears (and Nuns)*, 81 MARQ. L. REV. 473, 485 (1998). She wrote, “To drive spirit from the law is to alienate law from its indefinable, dynamic source of animation.” *Id.*

58. Professor Emeritus Mitsuo Aoki, retired chair of University of Hawai’i’s Department of Religion, talked of one’s spirituality as the human dimension of “moreness.” Interview with Mitsuo Aoki, Professor Emeritus, University of Hawai’i at Manoa, in Honolulu, Haw. (Apr. 14, 1998). Professor Aoki theorized that a person’s spirituality has the unique capacity of integrating and enhancing all other human dimensions—physical, mental, emotional—and making them “more.” *Id.* It is also the dimension that endures. Professor Aoki described his work with the dying and explained how he often focused his efforts on enriching his patient’s spiritual dimension: “When a person is dying, everything shuts down. The body and even the mind deteriorate; they just don’t work so well anymore. But the spirit is still there, able to be developed, to grow. It’s something I can work with.” *Id.*

place for spirituality within their work. I am not speaking of the private, individual ways that lawyers already seek spiritual growth and expression.⁵⁹ Instead I speak of legitimizing a place for spirituality in the public professional sphere. One port of entry is the law school clinic, which serves real clients and assumes the mission of assisting the poor by creating access, although limited, to legal services. Law school is a socializing⁶⁰ agent for law students becoming lawyers. Clinics that bring students into communities to learn *and* serve provide a particularly good place to begin normalizing spirituality and spiritual perspectives in our work.⁶¹

I have supervised an elder law clinic⁶² for the past four years

59. It is not unusual to page through publications for lawyers and see articles on how lawyers meet their individual spiritual needs. Pointedly, however, the articles, like the one that ran in a recent issue of the AMERICAN BAR ASSOCIATION JOURNAL, tend to describe lawyer's activity as occurring outside the profession and the office. See Jill Schachner Chanen, Just Say 'Om'—Harried Lawyers Still Their Minds with Yoga and Meditation, 84 A.B.A. J. 78 (1998) (appearing in a section of the journal entitled Out of the Office).

Unfortunately some lawyers begin to seek it seriously only after a personal and professional collapse. Peter Donohoe, who directs the Hawai'i State Judiciary Attorneys and Judges Assistance Program that works with members of the Hawai'i bar on a variety of personal and professional problems (many of them alcohol- or drug-related), reported that most program participants quickly and clearly recognize a spiritual void in their lives and move to address it as part of their recovery. Telephone Interview with Peter Donahoe, Director of Hawai'i State Judiciary Attorney and Judges Assistance Program (Dec. 29, 1997).

60. Socialization refers to the acquisition of a society's values and norms by its members. ELLEN S. COHN & SUSAN O. WHITE, LEGAL SOCIALIZATION, A STUDY OF NORMS AND RULES 10 (1990). Socialization explains how an individual becomes attached to a culture and how the culture and institutions of a society are maintained over time. *Id.* A process of generational transference is assumed to occur whereby younger members learn from older ones the attitudes and modes of behavior that conform to values and traditions of a particular society. *Id.*

61. This is one of Joseph Allegretti's theses in his article, *Neither Curse Nor Idol: Towards a Spirituality of Work for Lawyers*. See *supra* note 54. Professor Allegretti began the article by describing a ruthlessly busy week at work and the ease with which spiritual matters disappeared amid the seemingly ceaseless demands of the office. On reflection, Allegretti, a devout Christian, was reminded that God "is never far" from the lawyer and "our challenge is to cultivate an awareness of the moments of grace that can occur at any time or place." *Id.* at 968.

62. The Elder Law Clinic is one of several live-client clinics at the William S. Richardson School of Law, University of Hawai'i. It was originally conceived and designed by Jim Pietsch, a nationally recognized elder law practitioner who directs the University of Hawai'i Elder Law Program. The Clinic targets individuals age 55 and older who demonstrate a financial or social disadvantage. Most clients have annual incomes below the poverty level (about \$750/month for one person) for Hawai'i. Six

and concede that I run it often without much thought to spiritual matters. But I do espouse the mission of service as fundamental to the work of the clinic and repeat *ad nauseam* my expectation of a client-centered mind set. Students know that the clinic is a place that should run on good work, healthy respect for client dignity, and other altruistic impulses.

When we do turn to the sacred, it is often in response to our clients' acts, decisions, and lives. Our elderly clients have done things that gave us cause to think beyond the obvious, moving us to reflect on the humanness of our clients, our adversaries, and ourselves, and on the things we seek to become whole. In those reflections, we stumble on opportunities to at least consider the spiritual dimension of what we do.

* * * * *

Mrs. Q. was an 85-year-old Asian immigrant who lived in public housing. The state housing authority sought to evict her on what we thought were immaterial violations of house rules. The authority agreed that Mrs. Q. was not likely to be a repeat offender and conceded that it had not been significantly prejudiced by the violation. Yet, it refused to withdraw its eviction notice. Our first letter to the authority expressed our dismay, explained why we thought the eviction action was inappropriate, and indicated our preparedness to litigate if the notice was not rescinded. The authority's response was simple: "We'll see you at the hearing."

We were surprised by the authority's hard stance, particularly in view of Mrs. Q.'s age and otherwise spotless record as a tenant. We had seen leniency in far worse cases. In addition to being puzzled by the authority, we were also taken by the client's mood as the case wore on. She was often angry and discouraged. Despite the merits of the case, she did not want to go to the hearing and grew increasingly impatient with us as we tried to work with

students enroll per semester and work in substantive areas determined by the problems the clients present. Within the last year, students have worked with clients in cases dealing with evictions, public assistance reductions or denials, divorces, guardianships, adoptions, simple estate planning, debt collection, and medical advance directives. Much of the work is done "on the road," with students meeting clients in their homes or at other sites suggested by the clients. Students also do group presentations in the community and work with clients at the HIV Legal Clinic, which is a nonlaw-school legal clinic operated by the Legal Aid Society of Hawai'i and the Life Foundation; the latter is an advocacy and service group for individuals with HIV or AIDS.

her through a translator to assemble her account of what happened. In time, we pieced together the source of her feelings. We noticed how difficult it was to obtain the help of her adult children whose corroborating testimony was needed. The children were unwilling to do much, claiming they were too busy to do more than the minimum. This reluctance greatly disappointed Mrs. Q., who had come to Hawaii with her children to escape a repressive government in her homeland. While disappointed, she excused her children's behavior as the price of Americanization.

The lead student on the case was a bright, sensitive woman whose family had also immigrated from Asia. She understood the position of elders and the Confucian norm of filial piety in traditional Asian families, and was saddened by the children's reluctance. She explained the shame Mrs. Q. must have felt, as well as the disappointment of failed expectations. She worked tirelessly to bring the children into the fold and was constantly surprised by their unexplained slowness in coming to their mother's aid.

Without the children's wholehearted support, our narrative at the hearing would be less rich, less integrated, and wholly dependent on Mrs. Q's halting translated story. Given this and her growing disenchantment with the hearing, we had to think seriously about negotiating a nonhearing solution. We talked long and hard about what we might say to the housing authority to persuade it to back off. Then, a simple thought came: why not change our approach toward the authority's attorney who had come to embody the state's hardened stance? We thought that if we "got our backs down," perhaps he would too. We decided to go with our hunch that he was a decent man and approach him as such.

Remarkably, after one meeting at his office and a phone call, the authority's attorney gave us what we asked for. The eviction was canceled, as was the hearing. All it took was looking at the attorney through different eyes. Paraphrasing a student's remark, we got the better in him, not the better of him. And it began by us giving him our better selves.

But Mrs. Q.'s story had not ended. While the hearing was canceled and her housing secured, she still had to deal with her disappointment with her children. We closed the case at that point, leaving her with a community worker who assisted members of the Asian immigrant community. We were thankful for the legal result and amazed at what turned the case around. But

we were also taken by how small our result seemed when contrasted with what surfaced from the case. We wondered what it was like for Mrs. Q. to approach the end of her life, burdened with disappointment and unable to come to peace with it. The shelves of her living room displayed framed diplomas and certificates of her children's academic achievement, testimony to the success they had achieved. But the price of Americanization . . .

At the close of the case, my student posed an intriguing question. She wanted to know if she could send a box of cookies to the state's attorney. My immediate answer was quick: no, it was not necessary and would seem unprofessional. But then, she pointed out how, in the normal course of human activity, people regularly extended small gestures of conciliation and thanks after passing through a period of dispute and disruption. While we never delivered the cookies, her offer challenged me to think about what it was about the lawyering culture that made a box of cookies seem inappropriate.

Perhaps it was just my student's East-Asian world view, but her thoughts and reactions to this elderly woman's plight kept moving us to look beyond the black-letter law and see more. We quit demonizing opposing counsel and instead recognized the humanness that connected him to us. Thus, we stopped expecting the law's black letter to provide a solution, and instead, began talking about justice in ways that enabled the parties to commonly experience it.⁶³ Thus, we stopped being vexed with Mrs. Q's depression by understanding that the potential loss of her apartment paled against the unfulfilled expectation of filial commitment. Thus, we were perplexed by my unwillingness to approve a simple gift of cookies. Each instance made us acknowledge the deeper, truer cries for meaning in our work as it touched us, our clients, and our adversaries.

* * * * *

Working with any group of clients should yield similar opportunities, but when one's focus is on a cohort of older adults, the opportunities are particularly visible. Religion and spiritual-

63. The idea that justice is "experienced" comes from my colleague, Professor Eric Yamamoto. In his recently published book, *INTERRACIAL JUSTICE, CONFLICT AND RECONCILIATION IN POST-CIVIL RIGHTS AMERICA*, Eric explores the idea in the context of healing communities divided by race and culture. See ERIC YAMAMOTO, *INTERRACIAL JUSTICE, CONFLICT AND RECONCILIATION IN POST-CIVIL RIGHTS AMERICA* (1998).

ity often grow in importance as individuals approach the later years of their lives.⁶⁴ Some cultures encourage and expect this growth with aging.⁶⁵ Seeking and finding transcending meaning and purpose occurs throughout life, helping individuals to understand, accept, and even thrive in the challenges to human existence.⁶⁶ This can be particularly true for older adults whose de-

64. Dan Blazer, *Spirituality and Aging Well*, 15 GENERATIONS 61 (1991). Religious practices occur in different ways. Gay Young and Winifred Dowling studied types of religious participation among older adults in Texas and found that "more active" elders participated more in organized religion, while less active elders who were perhaps less able to engage in public forms of religious activity turned to more private forms of religious expression. Gay Young & Winifred Dowling, *Dimensions of Religiosity in Old Age: Accounting for Variation in Types of Participation*, 42 J. GERONTOLOGY 376, 379 (1987); see also BARRY D. MCPHERSON, AGING AS A SOCIAL PROCESS 443 (2d ed. 1990). The motivating factors for engagement also vary. Jeffrey Levin suggests that because religion is both a social institution, as well as, a source of existential meaning, some view it as primarily a source of services and fellowship, and by others as a place for intrapsychic coping and adaptation with issues of daily living, change, loss, and death. Jeffrey S. Levin, *Investigating the Epidemiologic Effects of Religious Experience*, in RELIGION IN AGING AND HEALTH 3, 6 (Jeffrey S. Levin ed., 1994).

Because of deficiencies in research and the difficulty in defining the concept of religion, we are cautioned against making blanket generalizations about the correlation between religion and aging. Barbara Pittard Payne, *Religious Life of the Elderly: Myth or Reality?*, in AGING AND THE HUMAN SPIRIT 143, 145 (Carol LeFevre & Perry LeFevre eds., 2d ed. 1985). We are reminded that there are older adults who lack self-knowledge and spiritual discernment. Richard B. Griffin, *From Sacred to Secular: Memoir of a Midlife Transition toward Spiritual Freedom*, in AGING AND THE RELIGIOUS DIMENSION 31, 45 (L. Eugene Thomas & Susan A. Eisenhandler eds., 1994). But while we may remain uncertain about the ways religious behavior is practiced, and modified, and the way it gives meaning to older adults, there appears to be enough evidence to assert that religion, private or institutional, persists in the form of significant and meaningful activities, beliefs, and roles into late life. Payne, *supra* at 145-46.

65. Blazer, *supra* note 64, at 61.

66. HOMER L. JERNIGAN & MARGARET B. JERNIGAN, AGING IN CHINESE SOCIETY: A HOLISTIC APPROACH TO THE EXPERIENCE OF AGING IN TAIWAN AND SINGAPORE 88 (1992). The authors point out that finding transcending meanings and organizing one's life around them always occur inextricably with other aspects of life—physical survival, social relationships, and validation that work together to define and evaluate one's life. *Id.*

Allan Chinen studied fairy tales with aging protagonists, and proceeded with the thesis that such tales capture the psychology of later life and contain centuries of folk wisdom about aging. Allan B. Chinen, *Fairy Tales and Spiritual Development in Later Life: The Story of the Shining Fish*, in HANDBOOK OF THE HUMANITIES AND AGING 197, 197-98 (1992). Chinen found that certain themes cut across cultural lines, one of which was the focus of elder tales of "spiritual development and the task of transcendence." *Id.* Chinen noted how authors of elder tales wrote similarly about an elder's (1) openness to the subconscious and the invisible, (2) self-reformulation after understanding and learning from mistakes, (3) ability to transcend egocentric desires to em-

velopmental task consists of finding meaning in, and consolidating, past experiences⁶⁷ and, in the process, attaining integrity over despair.⁶⁸

Not all older adults undertake spiritual tasks or journeys or are necessarily more spiritual than younger individuals. But I suspect that an elder law clinic, like a hospital where illness, isolation, and approaching death may propel one toward an awareness of the spiritual, is a place where matters of the soul are raised, examined, and even resolved. Further, it is a place where students come with the solemn expectation of doing something humanly special and good⁶⁹ and may therefore be open to things

brace a wider perspective of which one is only a part, and (4) gift of "magic," or transcending wisdom to a younger generation. *Id.* at 202-06. Chinen concludes that elder tales uniformly contain elements that symbolize the "drama of late life—the journey beyond the self, toward generativity and illumination of society." *Id.* at 209.

Thomas Moore wrote of myths:

A myth is a sacred story set in a time and place outside history, describing in fictional form the fundamental truths of nature and human life. Mythology gives body to the invisible and eternal factors that are always part of life but don't appear in a literal, factual story. Most of the time, when we tell a story about our lives, we couch it in purely human terms. When was the last time you talked about monsters, angels, or demons when you were describing some strongly felt experience? Myth reaches beyond the personal to express an imagery reflective of archetypal issues that shape every human life.

THOMAS MOORE, *CARE OF THE SOUL* 220 (1992).

67. L. Elizabeth Hood Morris, *A Spiritual Well-Being Model: Use with Older Women Who Experience Depression*, 17 *ISSUES IN MENTAL HEALTH NURSING* 439, 445 (1996).

68. "Integrity" may be defined as: "(1) an assurance of life's order and meaning, (2) a love of the human ego (not of the self) that conveys 'some world order and spiritual sense,' and (3) an 'acceptance of one's one and only life cycle as something that, by necessity, permitted no substitutions.'" KOENIG, *supra* note 45, at 75 (citation omitted).

69. At the start of each semester, I give a questionnaire to each student, which includes a request to share a comment about feelings toward older adults in general or about one special *kupuna* (the Hawaiian word for an older person) in their lives. I also ask them to tell me why they enrolled in the elder law clinic. Most of the responses are predictably reflective of an affection and respect for elders and evince a strong desire to give something to them. A sampling of the comments I received this school year include the following:

One particular woman, Betty, always talks to me and one day she just told me her life story. As she told me her life story, I thought to myself, "Gosh, this should be a movie!" I think elderly people have had such rich lives. They have lived significantly longer than me and seen so much more. I just love hearing them tell me stuff they have lived through. Through their experiences, I learn so much.

Written Comments of Clinic Student J.H. (Jan. 23, 1998).

that suggest the spiritual. In a clinic such as ours, many students return to the themes that professedly brought them to law school:⁷⁰ empowering and taking care of others, particularly

I have a lot of respect for my wife's paternal grandparents and have gotten to know them very well. I am also close to my maternal grandmother who is currently sick. I also think about my parents who may not be considered "elderly" but am very close to and will be "elderly" in the coming years.

Written Comments of Clinic Student S.L. (Jan. 23, 1998).

[I think] of my client at the HCRC [Hawai'i Civil Rights Commission]. All she wants is to retain her poodle in her apartment and have the AOA [Apartment Owners Association] to [sic] stop harassing her. A few people in the building have maliciously damaged her handicap scooter and caused a bunch of problems for her. I think this is just a reflection of how some people view (and treat) elderly people.

Written Comments of Clinic Student D.O. (Jan. 23, 1998).

My children's great grandparents have been wonderful, loving and very open to me and I appreciate how caring they are. I have seen them struggle in recent years, however, and I know how difficult it is for them to get help.

Written Comments of Clinic Student S.W. (Jan. 23, 1998).

I'm approaching the Elder Law Clinic from a much more philosophical level—I wasn't sure this was a good reason to take a class—but I'm taking it because I feel like I still know too little about my elders. Having no grandparents, I need as much contacts and opportunities to learn about the special concerns of the elderly and to bridge the gaps flowing purely by the fact that they're of a different generation.

Because I have no grandparents, my approach to the elderly as a home health aide was to try and find out everything about how or why they [thought] the way they [did], how they differ[ed] from me, etc. I've become more matter-in-fact over the years, but my thoughts still are that they [older adults] have a wealth of experience which I could learn a lot from.

Written Comments of Clinic Student C.K. (Aug. 22, 1997).

70. During the three years I served on my law school's admission committee, I read countless essays that recounted an applicant's desire to engage in a life of service to others. While I suspect that a handful did not entirely believe what they wrote, I was willing to bet that most were sincere in describing the nobility of the profession they sought to enter and the place to which they aspired within the profession. See accompanying text *infra* note 209.

Unfortunately, data appears to suggest an erosion in that idealism during law school. Susan Daicoff recently completed the painstaking work of collecting and reviewing empirical research on attorney and law student attributes. Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337 (1997). In her article, Professor Daicoff recounted findings that suggest a decrease in both altruism and an "ethic of care" as students progress through law school. *Id.* at 1385, 1401-02. Citing Sandra Janoff's work, Daicoff described the conflict inherent in the traditional training of lawyers and an ethic of care orientation that students may have brought to law school. *Id.* at 1402 (citing Sandra Janoff, *The Influence of Legal Education on Moral Reasoning*, 76 MINN. L. REV. 193, 236 (1991)). Carrie Menkel-Meadow described the war-like environment in which law is practiced as adverse to altruism. Carrie Menkel-Meadow, *Is Altruism Possible in Lawyering?*, 8 GA. ST. U. L. REV. 385, 401-07 (1992). One can infer from

those who are underserved. In their work, purpose is renewed and personal transformations occur.

* * * * *

Mr. P. was a "young" elderly, only 60 years old. A Korean immigrant, he had worked hard all his life. He had been the proud breadwinner for his family and helped to support his aging mother. His work life ended abruptly when the car he was driving was struck by another person who ran a red light. His primary and most enduring injury was to his back. Despite the clear disability, he was denied Social Security disability benefits. When he came to us to appeal the denial, he had been without income for a few years, and, with shame, had been forced to become dependent on his mother.

His resolve to win the appeal increased when students explained that he had earned the Social Security benefits and that this was a "disability insurance" program to which he had contributed during his work life. The students' resolve also grew once they realized that something beyond financial gain was at stake. In this case, the restoration of independence and self-esteem would return a kind of wholeness to Mr. P., one that was deeper and more healing than any material gain. The students themselves reached this conclusion, and it drove them in their preparations.

The students won their appeal and gained an award of over \$20,000 in back benefits. I left it to them to call Mr. P and explain the favorable decision. Afterwards, I listened to them speak happily about the result. To them, this was a meaningful case with tangible benefits at different levels. They felt they had restored financial well-being and self-esteem to their client. They also felt empowered. They had come to law school wanting to help people, and in this case, they had done it in just the way they thought they would. Their work had effectuated a constructive result. Their skill and knowledge had made a difference for someone else. They felt good. They felt like lawyers.

I never told them that this case might be the exception, or that the good they were doing would not always be so evident. We did not talk about the disappointments they were bound to have or the spells of disillusionment that most lawyers have to work through.

her article that the training ground—i.e., our law schools—for such a battlefield would be similarly hostile to the nurturing of altruistic expectations.

It was an opportunity to engage in spiritual talk, to discuss how they might nourish the soul both inside and outside the workplace. It was a chance to help them consider the spiritual element that is embedded in much of our work. Their joy brimmed with raw materials for such a discussion: Purpose, place, connectedness, empowerment, service, and redemption. Without my help, would they recognize it on their own?

* * * * *

The spiritual element about the work of the clinic may not be readily apparent, even for those willing to provide a place for spirituality in the law school. So banished is spirituality from the vernacular and sightlines of legal education that we tend to either call it something else or miss it altogether. Spirituality is embedded in much of law. Our transcending notions of justice, the timeless reach of our constitution, the connectedness of precedence and stare decisis, the defining selflessness of advocacy—all are infused in spirituality, if only we would see it. While the law school culture may allow and even encourage students to nourish their souls and pursue the spiritual in their private lives, it fails to acknowledge spirituality in a formal institutional way,⁷¹ and this failure contributes in part to the perception

71. While strongly resisting the equating of religion and the spiritual, I agree that religion and religious institutions are generally intended to provide spiritual succor to individuals and communities. As such, I believe that law schools with religious roots were intended to be instruments that integrated the study of law with the tenets of a particular religious faith. See Lynn R. Buzzard, *A Christian Law School: Images and Vision*, 78 MARQ. L. REV. 267, 268-70 (1995) (arguing that despite the pressures of a secular public, Christian law schools should not shrink from insights or perspectives informed by faith, and should be ready to bring a “principled reflection of . . . Christian commitments” to the table); see generally Rex E. Lee, *Today’s Religious Law School: Challenges and Opportunities*, 78 MARQ. L. REV. 255, 255-59 (1995) (arguing that the religious anchorage of religious law schools provides a natural place for the development of values necessary to inform the study and practice of law); see also Thomas L. Shaffer, *Why Does the Church Have Law Schools?*, 78 MARQ. L. REV. 401, 406-11 (1995) (observing that perhaps the best a law school with religious affiliation can do is support and encourage a body of believers, a “church,” without actually becoming the church; and that it can hear the church and be a sign of but not a safeguard for it).

However, even religiously affiliated schools have found themselves adrift from their original religious purposes and fervor. Thomas Shaffer identified three positions in the Christian theology of legal education: (1) secular; (2) Erastian (named after the 16th-century Swiss physician Erastus, the Erastian view places the church in partnership with and in service of the larger community, praying for the state’s foreign policy, blessing the army’s tanks, carrying the national flag in liturgical processions, and purposefully pursuing religious ends without losing sight of secular ones; it arises from the assumption that the larger society is indeed Christendom, of which the church is a

that our activities in lawyering and the training of lawyers lacks the stuff of life.⁷² Legitimizing a place for spirituality in the training *and* the work of lawyers would institutionally affirm that the professional activities of law students and lawyers can transcend narrow, mechanical, self-interested concerns and become “life-affirming,” not “life-distancing,”⁷³ metaphors for life, not

part); and (3) sectarian (this view preserves the “peculiar calling of the people of God” as distinct within civil society and expresses a willingness to endure separation from it). Thomas L. Shaffer, *Erastian and Sectarian Arguments in Religiously Affiliated American Law Schools*, 45 STAN. L. REV. 1859, 1860, 1864-65 (1993).

Shaffer noted that almost all religiously affiliated American law schools are now secular. Further, he argued that the Erastian position, which characterizes most religiously affiliated schools that are serious about their heritage, is, for the most part, indistinguishable from the secular. *Id.* at 1864, 1867. Rex Lee wrote that religious law schools were “fragile” and represented an “endangered species.” Lee, *supra*, at 257. While ultimately urging religious-affiliated law schools to remain true to their religious moorings, Lee observed that such schools appear to lose their “spiritual anchorage” as they mature academically. *Id.*

72. Dean Anthony Kronman bemoaned the loss of the “lawyer-statesman,” a professional who is “a paragon of judgment, and [to whom] others look . . . for leadership on account of his extraordinary deliberative power.” KRONMAN, *supra* note 12, at 15 (emphasis added). By this “power,” Kronman meant more than “clever knack or skill.” *Id.* He meant “a trait of character,” an ensemble of “habitual feelings and desires.” *Id.* Kronman argued that the lawyer-statesman was able to find intrinsic satisfaction and deep personal meaning in his work, something lacking in today’s generation of attorneys. *Id.* at 366-67. And thus, Kronman wrote, today’s “disenchanted moderns” tend to turn to their private lives to seek salvation and “a sense of meaningful location in the world.” *Id.* at 369.

Despite his pessimism that lawyers will ever be able to fully capture or reformulate the “meaning-giving” which the *calling* of law once had, Kronman resists full surrender. He calls upon law teachers to use their position of influence and freedom of the classroom to convey a sense of the lawyer-statesman. For example, in discussing cases, law teachers should “insist on the peculiarity of cases, on their idiosyncrasies and on the complexity of the world—on its factual complexity, *but more importantly, on its moral and spiritual complexity, on the plurality of incommensurable values that fight for recognition in the law as in other spheres of life.*” *Id.* at 375-76 (emphasis added).

Professor Milner Ball calls for a similar infusion of breath of life into the teaching of the law and the making of lawyers. Noting Chief Justice Warren Burger’s reference to lawyers as “important cogs in the machinery of . . . society,” Professor Ball commented, “[i]f cogs are sought, cogs will be manufactured.” MILNER S. BALL, *THE PROMISE OF AMERICAN LAW* 128 (1981). For Ball, the challenge of law teachers is to “get students going on the adventure . . . by leading them to confront the possibilities for life and death in the law.” *Id.* While he does not speak specifically about the spiritual, I believe that he meant to include it when exhorting us, as law teachers, to not only animate the imagination of our students but to “inspirit [their] heart[s].” *Id.* at 138. Only then, suggested Ball, can we make law a metaphor of life, not of death, and get our students on the path of thinking the same way. *Id.* at 136-38.

73. See Susan A. Eisenhandler, *A Social Milieu for Spirituality in the Lives of Older Adults*, in AGING AND THE RELIGIOUS DIMENSION 133, 136 (L. Eugene Thomas

death.⁷⁴ As I have assumed that individuals have a spiritual dimension, so too should our corporate self be infused with such a dimension, a soul. Acknowledging this should come most easily in a live-client clinic like ours, where the vagaries of human life intrude upon the neatness of law school, begging to be recognized.

Lawyers, as a whole, strive for the good and the noble.⁷⁵ Law students are no different.⁷⁶ But I am concerned about what

& Susan A. Eisenhandler eds., 1994) (describing how “spiritual experience intensif[ies] [a] person’s engagement with life by deepening an appreciation of one’s struggles and joys”).

74. See generally MILNER BALL, *THE WORD AND THE LAW* 136-64 (1993). In his chapter entitled, “Morbidity and Viability in Law,” Professor Ball described how death, as well as life, was “integral to American law.” *Id.* at 136. He suggested that this is so not only in the obvious ways—for example, in the imposition of capital punishment—but also in the “subtle form of legal text and turns of mind.” *Id.* at 139. The mind-numbing thoroughness and the wordy sprawl of legal texts, whether a judicial opinion, a statute, or a contract, flattens possibilities outside the four corners of the document, “absorb[ing] all responsibility and deflect[ing] all other recourse.” *Id.* at 139 (quoting Patricia Williams, *On Being the Object of Property*, 14 *SIGNS* 13 (1988)). Lawyers’ language, wrote Ball, “seems fortresslike and impermeable to transcendence.” *Id.* at 140. Ball speculated that “[t]his is so because such writing is done and received on the wager of the absence of God,” and that there was “no real presence to reinsure meaning” thus requiring everything to be set out on paper. *Id.*

75. Eleanor Myers’ description of lawyers below is apt:

[I] personally know so many thoughtful and decent people who have chosen to be lawyers and who would be honored to be asked about questions concerning professional practice . . . I think there is a more subtle reason for my optimism as well. From my experience teaching and talking about professionalism and ethics to practicing lawyers around the country, I believe that most lawyers maintain a core of idealism. They are not happy about the commercial pressures that they see transforming the profession. Even those who submit to the pressures in their practices are not comfortable about it. When these lawyers confront issues of professionalism in a less pressured environment, where there is an opportunity for reflection, they commonly argue for a less self-serving or more idealistic position.

Eleanor W. Myers, “Simple Truths” *About Moral Education*, 45 *AM. U. L. REV.* 823, 853-54 (1996).

76. See Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 *AM. U. L. REV.* 1337 (1997). Daicoff reported that empirical studies of entering law students showed law students were more motivated to enter law school for materialistic reasons than for altruistic ones. *Id.* at 1357-59. However, the studies also indicated that altruistic motivations were “greatly important” to a significant portion of the respondents (18%-31%). *Id.* at 1359. One study of pre-law students suggests that over two-thirds of the respondents endorsed the goal of helping others. *Id.* at 1359 n.109. Daicoff also noted that gender and race had some correlation to altruistic motivations, with females and minorities expressing a significantly greater concern. *Id.* at 1360 n.111. This is noteworthy because the studies reported in Daicoff’s article were conducted in the 1960s through the

we do institutionally to discourage students' aspirations for contributing to societal betterment or simply being decent, joyful human beings who are privileged to be lawyers. I also worry about what we do to their spirit. A recent law review note⁷⁷ laments the "pacification" of Harvard law students. The student author refers to "pacification" as the process that "sucked" from Harvard law students a notable measure of self-worth and energy in law school, turning them into "the walking wound-ed"—demoralized, dispirited, and profoundly disengaged from the law school experience.⁷⁸ Although the note could be dismissed as one particularly disillusioned student's viewpoint, it describes universally recognizable phenomena: the detaching from pre-law school selves and lives, the inability to attain the level of academic excellence enjoyed before law school, the flattening homogenization of identity and career aspirations, and the malaise that quickly supplants the exhilaration felt upon entry into law school—to deserve attention.⁷⁹ Interestingly, one of the author's suggestions for reversing this process is the admission of older students who, in the author's opinion, are more likely to have the "strong sense of self" and "clear sense of purpose" that best protects against the assaults on ego that commonly occur in law school.⁸⁰

early 1980s, when law school student bodies were predominantly white and male.

My own sense of applicants' motivations comes from the numerous essays I have read during my three years on our admissions committee. The essays invariably contained some ode to service. While my cynical streak suspected that at least some of this was driven by "positioning," I gave credence to most of them based on the extent of community service experience in which most of our applicants engaged. It could be that our school draws the service-oriented because of our longstanding and clear mission of service. It also could be that the altruistic streak of our pool reflects the significant number of female and minority applicants we consistently receive. In any case, I remain confident in my assumption that most law students desire to serve others or at least understand the value of service.

77. See Note, *Making Docile Lawyers: An Essay on the Pacification of Law Students*, 111 HARV. L. REV. 2027 (1998).

78. *Id.* at 2027, 2028 n.8.

79. See also Ann Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524 (1998). Professor Iijima's article provides a possible explanation for the "pacification" experienced by the Harvard students. She writes of the loss of "interconnections" (i.e., connections with others) and "intraconnections" (i.e., connections with one's physical, emotional, and spiritual selves) that some law students undergo. *Id.* The experiences reflected in the Harvard note provide an illustration of what happens when those losses occur. See generally Note, *supra* note 77.

80. Note, *supra* note 77, at 2043.

Like most of us, our students are largely sojourners, still searching for their place and how to get there. This leaves them vulnerable. When we engage in the legitimate task of challenging them, we also risk wounding them. While some of the bruises heal themselves and generate growth, other wounds fester and ultimately show themselves in articles such as the above-mentioned one, or worse, in regrettable lawyer behavior. Part of the problem is that we may not even perceive this crippling because without institutional awareness of or interest in a student's spiritual dimension, the assaults on spirit grow invisible, beyond perception.

Others, in their own ways, have long sought to bring spirituality back into view. For example, over ten years ago, Roger Cramton declared that questions such as "Who am I?", "What am I doing in the world?", and "What do I want to do in the world?" should have "a major place in our teaching and scholarship."⁸¹ While recognizing the obstacles to bringing such questions into the law school environment,⁸² Cramton argued against surrendering to such difficulties and urged law teachers to accept the risks and become available to the possibilities for growth and change.⁸³ He suggested that in neglecting issues of love, justice, and "ultimate reality," we lapse into and even welcome an empty superficiality and a pretense that we are just "technicians teaching technique in a value-neutral context."⁸⁴

Elizabeth Dvorkin, Jack Himmelstein, and Howard Lesnick made a similar point almost twenty years ago when they collaborated on an exploration of the humanistic perspective of teaching and learning law.⁸⁵ Their work sought to place within traditional legal education "a focus upon the *persons* of teachers and students, the *human* dimensions underlying the subject matter, and the *experience* of learning[,] . . . a way for bringing together

81. Cramton, *supra* note 9, at 516.

82. Cramton listed several "enormous" difficulties, including (1) the lack of expertise and training on the part of law teachers to confidently consider these "ultimate questions"; (2) risking the danger of indoctrination and dogmatism from the podium; (3) forcing discussions that otherwise might be deemed private to surface in a public forum; and (4) the easy slide into religious ideas and language that raises problems within a secular university. *Id.* at 513.

83. *Id.* at 514.

84. *Id.* at 513.

85. ELIZABETH DVORKIN, ET AL., *BECOMING A LAWYER: A HUMANISTIC PERSPECTIVE ON LEGAL EDUCATION AND PROFESSIONALISM* (1981).

“mastery with *aspiration*, intellect with *experience*, rigor with *value*, pragmatism with *idealism*, competence and skill with *car-ing and a sense of meaning*.”⁸⁶ They and nine other contributors struggled with their identities, roles, personal awareness during professional development, the need for and repression of the search for meaning, and the expression of self; their words remain timely and vibrant.⁸⁷ They ultimately called for a resistance to the tendency of traditional legal education to narrow and homogenize us in the way we look, feel, think, and aspire, in order to separate us from our humanity and values.⁸⁸ Their call to preserve humanness in our work is similar to the call to recognize spirituality contained in this Article. They valued the core of personhood in lawyers, students, and their teachers. The core, our center, is largely found in our spirituality; to return from the edges means recognizing the part of us that truly makes us human.

My interest in bringing spirituality to the table is primarily instrumental. As suggested earlier, acknowledging this dimension helps us to: (1) look at our work in a fresh way and thus engage our daily and endless struggles with renewed vigor and hope; (2) orient ourselves toward something higher, thereby giving us a way out of the gutters that sully the self-esteem of our profession; and (3) remember that the law is first a human enterprise that requires attentiveness to that part of ourselves that makes us human.

A. Developing Spiritual Muscle

Our work as lawyers and teachers is not easy, and our students have a tough row to hoe. It would be neither honest nor realistic to blindly beatify our professional lives. As Randy Lee wrote:

Lawyers are faced daily with the most important problems in people’s lives: the weakness of a marriage, the potential loss of a child, the challenge of a serious accident, the threat of imprisonment or death, the vulnerability of a business, the loss of a job, the protection of a home, the provision for one’s future, the challenge to one’s rights.

86. *Id.* at 3 (emphasis added).

87. While the book has never been updated, it remains in print.

88. DVORKIN ET AL., *supra* note 85, at 2.

Furthermore, the expectations for lawyers are as overwhelming as these tasks are endless. When the situation seems hopeless, the lawyer must provide hope. When the world seems flawed, the lawyer must provide justice. When the work is complex, the lawyer must provide perfection. When the work is routine, the lawyer must make the client feel special. When the client is objectionable, the lawyer must make the client feel accepted. Our public demands integrity. Our colleagues are paid to combat us. As layer piles upon layer, any lawyer is going to want to scream, "Enough already!"⁸⁹

This world, or some semblance of it, will be the one many of our students will either choose, or stumble into.⁹⁰ Their current world is not a particularly easy one either, and the sometimes extreme stress they suffer is well-documented.⁹¹ Much of the stress can be traced to strategies and techniques we use in the name of pedagogy. While some techniques are justifiable, others could be jettisoned without the sacrifice of pedagogical or educational

89. Randy Lee, *The Immutability of Faith and the Necessity of Action*, 66 *FORDHAM L. REV.* 1455, 1458-59 (1998).

90. I was recently reminded of the expectations that society and clients place upon lawyers, and how these expectations, if not appropriately tempered, can generate the worst kind of behavior and misery for all parties, lawyers included. On the general bulletin board at our law school, someone recently posted an index card. The card advertised for a lawyer who was "bright and ruthless" to serve an "angry" individual who had apparently been discharged. The ad limited inquiries to those who would be "interested in winning only" and promised financial rewards for one who was willing to scorch the earth, or at least the individual's former employer, in order to vindicate this angry individual's position.

While most persons would not couch their initial position in the blunt terms used in this ad, we all know that clients often come to us with strong emotions, wanting to have their story told, their position argued, and their goals met. It would not be dishonest to say that the "professional attributes" that are the focus of lawyer jokes are the same attributes that make lawyers valuable to some, if not, many people. "Hired guns" are, after all, just that—hired—and they get work because there is a market for them.

The challenge for lawyers is to not succumb to these inappropriate expectations. Far from allowing destructive clients to pull us into abysmal behavior, our professional responsibility should beckon us to identify and present alternative visions for the client, visions that our training and expertise allow us to discern more easily. This is one of the many challenges that makes our work difficult *and* worthwhile.

91. See generally Daicoff, *supra* note 76; 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, 670-79 (1994); THOMAS L. SHAFFER & ROBERT S. REDMOUNT, *LAWYERS, LAW STUDENTS AND PEOPLE* 40-58 (1977).

benefits.⁹² Apart from spotting and excising behavior that accomplishes nothing more than student aggravation or depression, teachers, with the support of their institutions, should give thought to helping students get through the inevitable challenges of law school and law practice.

For those who are so inclined and can broach the challenge with appropriate sensitivity, helping students develop "spiritual muscle" or protect existing "muscle" from atrophy is one way. Muscle enlarges when exercised, and the challenges of law school certainly provide the resistance against which spiritual muscle can push and grow stronger. Our history is replete with stories of how an individual's or a community's spirituality helped people transcend difficult circumstances. Critical-race theorist Anthony Cook described how slave communities, through a particular spiritual tradition and practice, maintained

92. For example, I have never been able to understand the demoralizing brow-beatings that some teachers inflict on students. We are all aware of accounts like the following:

What a terrible day! I was the "victim" today in torts class. "He" started calling on me at 1:08 and didn't stop until class was over at 2:00 p.m. I felt small, belittled, and stupid. I could hardly take notes because my hand was shaking so badly. I kept wondering if all the people in the class thought I was as stupid as I knew I must be appearing.

At some point he made a reference that some of us didn't belong in law school, that we really couldn't master the level of thinking required for a career or study in law. That hurt! Was he implying that because I didn't understand his questions or his points, that I wasn't intelligent enough to be here?

I felt angry and humiliated when I left the class. I had allowed myself to be made a fool of in front of my peers and worst of all, I began to doubt my abilities.

James R. Elkins, *Rites de Passage: Law Students "Telling Their Lives,"* 35 J. LEGAL EDUC. 27, 40 (1985) (quoting from a student essay).

Woody Guthrie once wrote:

I hate a song that makes you think that you're not any good. I hate a song that makes you think that you are just born to lose. Bound to lose. No good to nobody. No good for nothing.

Because you are either too old or too young or too fat or too thin or too ugly or too this or too that. Songs that run you down or songs that poke fun at you on account of your bad luck or your hard traveling.

I am out to fight those kinds of songs to my very last breath of air and my last drop of blood.

Karl Johnson & Ann Scales, *An Absolutely, Positively True Story: Seven Reasons Why We Sing*, 16 N.M. L. REV. 433, 434 (1986) (quoting from Woody Guthrie's "This Land is Your Land").

Woody's "putdown" songs are metaphors for all the things we create that needlessly marginalize others.

their integrity and connectedness in the face of overwhelming dehumanization:

The religious experience of conversion was central to the belief system of slaves. The process of conversion in African-American religion involved a period of sustained mourning in which the contrite sinner would assemble with worshippers in prayer for as many successive meetings as required to "bring the sinner through"—a phrase used to express the sinner's completion of a [rite] of passage from the alienated existence of sinner to the bonds of Christian fellowship and community. The process of conversion often resulted in a cataclysmic seizure of the person by the Holy Spirit that catapulted all into a rapture of ecstatic joy and praise. The experience was collectively cathartic. *In the slave community, uninhibited shouting and praise temporarily obliterated secular distinctions in status between the slaves. It was a process in which personalities disintegrated by the social chaos of oppression found meaning and commonality by fusing with others in a collective act of self-affirmation and even defiance.*⁹³

Dan Edwards, a lawyer and Episcopalian priest, pointed out that "[i]t is most often painful experience that wakes us up and sets us searching for authentic meaning."⁹⁴ Edwards wrote that lawyering, with all its layers of vexing challenges, was "the context which set me in search of faith, the context in which I found faith, and the context in which I practiced faith."⁹⁵ Indeed, the struggles of law school and in the practice of law should compel introspection, leading one to ask: Why am I here? Why am I putting up with this, for what larger purpose? Where am I going and how did I get here? What is this all doing to me? Do I have it in me to get through this? Is there enough good in this to

93. Anthony E. Cook, *The Spiritual Movement Towards Justice*, 92 U. ILL. L. REV. 1007, 1017 (1993) (emphasis added). Cook also recognized that some religious practices have hurtful and dispiriting effects:

We must continue to explore the ways in which the dominant culture has developed canons of interpretation cloaked by science, *religion* and a socially constructed common sense that continue to relegate us to a subordinate status. Let us also be careful, however, to understand that these very same cultural conventions have reckoned others to be inferior and relegated them to varying degrees of subordination.

Id. at 1018 (emphasis added).

94. Dan Edwards, *Reflections on Three Stories: "Practicing" Law and Christianity at the Same Time*, 27 TEX. TECH L. REV. 1105, 1111 (1996).

95. *Id.* at 1112.

make it worthwhile? With whom must I connect to get through this?⁹⁶ As spirituality has become a universal word to denote the human search for direction and meaning, for wholeness and transcendence,⁹⁷ these questions should be recognized as ultimately spiritual ones, and the work of answering them as spiritual work.

As stated earlier, we each have a spiritual dimension that we can nurture in the same way we do our physical and mental selves. We can ignore our spiritual dimension and let it grow dormant and invisible; but even then, it remains ready to flower, imminently available. Thus, the opportunity is there to prod gently at the souls of our students, encouraging the bloom. One may ask, "But why the law school? Send them to the chaplain." My response is simply that law school and the law are instruments of a much larger enterprise. The spiritual offers a glimpse of and an explanation for this enterprise. If one goal of legal education is to develop great human beings who practice law, professors need to assume some responsibility for maintaining the human and the humane in our beings.⁹⁸ Agreeably, there are spiritual resources outside the law school that may well serve as the primary source of spiritual development for our students. However, our experiences as lawyers and law teachers engender a special understanding and appreciation for a law student's journey. As long as *we* lay the markers that define the journey,

96. See James Elkins, In *The Quest for Meaning: Narrative Accounts of Legal Education*, 38 J. LEGAL EDUC. 577 (1988) [hereinafter Elkins, *Quest for Meaning*]. Elkins culled similar questions from student journals. These included: "What am I doing here?" "Will I be able to do it?" "What do they expect of me?" "Does it have to be done this way?" "Is this way of learning going to help me become a good lawyer?" "Why am I so anxious?" "Why does everyone seem to know so much more than I do?" "Why can't I seem to get it right?" "How long will it take?" "Is it worth it?" *Id.* at 577. Elkins noted the doubt and vulnerability that each question carried, which "makes way for 'moment[s] of reflection, wonder, puzzlement, initiated by the soul which intervenes and countervails what we are in the midst of doing, hearing, reading and watching.'" *Id.* at 578 (quoting JAMES HILLMAN, RE-VISIONING PSYCHOLOGY 140 (1975)).

97. See King, *supra* note 29, at 667-68. As I have indicated that spirituality is a dimension in each of us, King refers to spirituality as a dimension of the world in contemporary secular society. *Id.* at 668.

98. Ursula King, a professor of religious studies and theology from the University of Bristol, wrote, "Spirituality has been defined in a general, inclusive manner as *an exploration of what is involved in becoming human.*" *Id.* at 668 (emphasis added). What we do to identify our students' humanity and what we do to preserve it can thus be called spiritual in nature.

we—who can detach ourselves from the baggage of our own legal cultural upbringing and who feel comfortable helping our students feel and flex their spiritual sinews—should make it part of our professional role to do so. The initial efforts may be small and tentative as we probe our own capabilities and the appropriateness of our methods. But, just as a beach begins with a grain of sand, so too can institutional change begin with small, thoughtful steps.

Recognizing the spiritual within the law school also reminds us that the sacred pervades everything, including our working place and professional lives. It resists being bottled within our private lives, allowed only occasional seepage into what we might consider our secular work. Instead, it challenges us to seek integration between the spiritual and our work, using the spiritual to elevate our work, and our work to move us toward spiritual growth.⁹⁹ In his book, *Care of the Soul*, Thomas Moore wrote that “spiritual life requires constant attention and a subtle, often beautiful *technology* by which spiritual principles and understandings are kept alive.”¹⁰⁰ Moore intended the phrase “sa-

99. Buddhist attorney Kinji Kanazawa wrote, “For a Buddhist, each activity in his daily life provides an opportunity for greater enlightenment.” Kinji Kanazawa, *Being a Buddhist and a Lawyer*, 66 FORDHAM L. REV. 1171, 1175 (1998). Professor Lucia Ann Silecchia, drawing from the edicts of the Catholic Church, found a similar enmeshing of a life in the law and a life of faith:

I also, in fact, found encouragement for living a life of faith by pursuing admittedly secular professions. For example, the Vatican II Apostolic Constitution, *Gaudium et Spes* (“Joy and Hope”), urged that there be “no false opposition between professional and social activities on the one part, and religious life on the other.” Similarly, the encyclical *Mater et Magistra* admonished, “[l]et [no one] . . . imagine that a life of activity in the world is incompatible with spiritual perfection.” This suggests to me that a life in law—while clearly in and of this world—is not at all incompatible with a whole-hearted, faith-filled devotion to justice.

Lucia Ann Silecchia, *On Doing Justice and Walking Humbly with God: Catholic Social Thought on Law as a Tool for Building Justice*, 46 CATH. U. L. REV. 1163, 1174-75 (1997).

Similarly, Professor Azizah al-Hibri, a Muslim, described the integrated worldview presented in the QUR’AN, a worldview that would commit a Muslim attorney to a life of “advancing the cause of justice.” Azizah al-Hibri, *Faith and the Attorney-Client Relationship: A Muslim Perspective*, 66 FORDHAM L. REV. 1131, 1136 (1998). Recognizing, however, the challenge of maintaining an integrated worldview in an attorney’s life, al-Hibri suggested that the solution lay in “re-examining the public/private distinction and redefining our spiritual worldview so as to allow our values to permeate all aspects of our lives.” *Id.* at 1137.

100. MOORE, *supra* note 66, at 204 (emphasis added).

cred technology” to include both the traditional religious practices that help us remain conscious of spiritual ideas and values and the activities of ordinary daily vernacular life.¹⁰¹ For lawyers, “daily vernacular life” is largely our work, and our spiritual task is to “wake up to the holiness of the office, the factory, the kitchen table, and the bedroom.”¹⁰²

B. Looking Up

The genesis of this Article occurred while I was in a meeting addressing the eternal questions of improving access to the judicial system. While listening to the familiar litany of problems and potential solutions, I thought about the difficult cases that none of the proposed solutions addressed. As I contemplated what factors make cases particularly difficult, one that came to mind was the “hardness of heart” of the litigants and how attorneys often fan the flames, stiffening clients’ resolve. I then thought about some of the court-mandated measures that were designed to make clients rethink their circumstances and behave differently and better. For example, our family court has mandated divorce education with a forceful emphasis on the children of the marriage.¹⁰³ The program seeks to jar battling parents into paying more attention to their children’s needs, rendering the parents less self-absorbed and in sync in their decisions regarding the children.¹⁰⁴

Similarly, the court-required use of alternative dispute resolution methods can help disputants see with new eyes and work toward less harmful, more healing solutions.¹⁰⁵

101. *Id.* at 211. In fact, Moore made an argument for “everyday sacredness,” drawing from the work of Lynda Sexson’s *ORDINARY SACREDNESS*. *Id.* at 215 (discussing LINDA SEXSON, *ORDINARY SACREDNESS* (1992)). Moore cautioned against extreme formal religiousness that removes one from the truly sacred, writing, “[f]ormal religion, so powerful and influential in the establishment of values and principles, always lies on a cusp between the divine and the demonic.” *Id.* at 215-16.

102. Allegretti, *supra* note 54, at 968.

103. In Hawai’i, the program is called “Kids First” and is required for all divorce litigants who have children of the marriage. Memorandum from Hawai’i First Circuit Family Court Senior Judge Michael Toun (Sept. 18, 1995) (on file with author).

104. See generally Jack Arbuthnot & Kevin Kramer, *Effects of Divorce Education on Mediation Process and Outcome*, 15 *MEDIATION Q.* 199 (1998).

105. See Andrew W. McThenia & Thomas L. Shaffer, *For Reconciliation*, 94 *YALE L.J.* 1660 (1985). Interestingly, McThenia and Shaffer portrayed nonlitigative settlement as a hard, almost frictional process:

How does one encourage disputants to use these procedures in the spirit in which they were intended? If we move disputants through required procedures with no effort to orient them toward the “higher” motives—cooperation, reconciliation, and healing—that undergird these procedures, we should not be surprised when litigants step mechanically through them, forming little or no engagement with the intended benefits. Should lawyers take the responsibility for turning their clients toward higher goals and making them better people? I think so. Joseph Allegretti wrote:

[T]he lawyer has a *personal* moral obligation not to let a lawsuit degenerate into bitterness and revenge. If she refuses to play petty games of harassment, for example, and declines to project all the evil in the world upon her opponent, then her client will be more likely to accept something less than the complete and utter destruction of the other party.

At the same time, the lawyer should work to defuse the anger and bitterness of her client (to do so, of course, she must first encourage her client to air those feelings and come to terms with them). Even though a lawsuit can sometimes be justified, it is still a form of violence, and the lawyer should try to restrain its force, not give it full rein to devastate the lives of litigants, lawyers, and third-persons.¹⁰⁶

I believe that lawyers need to develop the habit of reaching their own higher ground in order to do the same with their clients. If we rarely scale the heights to which our spiritual dimensions point us, we are less able to genuinely share with clients the vision and aspirations gained on higher ground. In her recent article, *To Be the Change: Finding Higher Ground in the Law*,¹⁰⁷ Paula Franzese exhorts lawyers to recapture the virtues (“dig-

The soundest and deepest part of the ADR movement . . . rests on values—of religion, community, and work place In many, in fact most, of the cultural traditions that argue for ADR, settlement is neither an avoidance mechanism nor a truce. Settlement is a process of reconciliation in which the anger of broken relationships is to be confronted rather than avoided, and in which healing demands not a truce but confrontation. Instead of “trivializing the remedial process,” settlement exalts that process. Instead of “reducing the social function . . . to one of resolving private disputes,” settlement calls on substantive community values.

Id. at 1664.

106. Allegretti, *supra* note 12, at 97.

107. Paula A. Franzese, *To Be the Change: Finding Higher Ground in the Law*, 50 ME. L. REV. 11 (1998).

nity, mutual respect, cooperation, peacemaking, independence, and prudence”) and to hold them out to an increasingly troubled world.¹⁰⁸ She quotes the poet-traveler Rene Daumal, who wrote, “One climbs; one sees. One descends, one sees no longer but one *has* seen. There is an art to conducting oneself in the lower regions by the memory of what one saw higher up.”¹⁰⁹ Part of Franzese’s point was that one should see and experience the world from a “higher” plane because doing so *alters* the person even after descent. It is the altered lawyer who can best visualize healing possibilities and lead a client toward them. It is the altered lawyer who can touch the best in a client and encourage him to ascend the mountain path.

I mentioned the word “habit.” Writing about appellate decisionmaking, Karl Llewellyn observed how judges have professional habits that “guide their thought and perception and accustom them to see certain things as relatively more important than others, thereby setting in advance the terms in which any debate about the proper decision of a case must be conducted.”¹¹⁰ Likewise, lawyers have professional habits borne of experience and repeated behavior. These habits hone intuition, trigger responses, define comfort zones, and form inclinations. When law schools teach students to “think like lawyers,” the schools imprint them with a pattern, a method of analysis that students internalize and later draw on to solve problems. The pattern is presented not once, but daily and often, whether specifically in a legal methods course or in the flow of a well-executed Socratic dialogue, with the hope that students learn and form the habits of lawyer: reasoning.

I seek a way for law schools to legitimize and remind students of the higher ground with the kind of regularity that inspires habits. I do not propose a broad, comprehensive spiritual

108. *Id.* at 16-17.

Because lawyers and political leaders may not now be equipped to do so, nonlawyer spiritual individuals have emerged as the brokers, the mediators in conflicts involving persons, communities, and issues that deal with “first principles such as self-determination, justice, and freedom.” See Douglas M. Johnston, *Religion and Conflict Resolution*, 67 NOTRE DAME L. REV. 1433, 1434 (1992). Such individuals are perceived as being better equipped for “dealing with basic moral issues and . . . speaking to spiritual needs, at times extending beyond the boundaries of their own faith traditions.” *Id.* at 1434.

109. Franzese, *supra* note 107, at 21.

110. KRONMAN, *supra* note 12, at 218.

methods course. Instead, I use the word “spiritual” in my professional vocabulary to signal its acceptance in my classroom and, by extension, in our culture. I use it to remind my students of the voice inside them that insists on the heroic, not only in themselves but in others too.

C. *Remembering the Soul in Law*

Law is ultimately a human enterprise. As Roscoe Pound once remarked, “[L]aw isn’t something that exists as a closed system within itself, but draws its juices from life.”¹¹¹ Legal professionals give credence to this concept but often discard it the moment they begin to discharge their professional duties. The pattern originates in law school where, on the one hand, students hear about the noble aspirations of the legal profession and, on the other, they learn a method of doing and thinking that tends, at best, to neutralize and, at worst, to trivialize a student’s desire to be humanly noble through lawyering. Paula Franzese wrote:

For that matter, the business of legal education too often tends to divorce humanity and, indeed, our own humanness, from the study of the subject matter at hand. This tendency is tragic. Lawyers are not automatons, technicians, or hired guns. We are people, representing people in need. To separate virtue from education sets a terrible example and establishes bad precedent. The separation of heart from mind may explain why so many law students and later lawyers are miserable.¹¹²

Several years ago, Ann Scales and Karl Johnson made the point more starkly, and not without some hyperbole:

We watched as our students covered themselves with the person they thought they had to become. It was excruciating to see them in clinic: nearly ready to leave us, dealing with their own cases for the first time, they knew nothing else to do but play dress up. They were mortified when the costume didn’t fit. They were awkward and incompetent and they knew it. Desperately they looked for authority in rule or role to tell them what to do. They couldn’t tailor their costumes to fit because there was nobody inside they thought they could use as a model. We had gotten them to believe

111. HARLAN B. PHILLIPS, FELIX FRANKFURTER REMINISCES 168 (1960) *quoted in* Franzese, *supra* note 107, at 16.

112. Franzese, *supra* note 107, at 19.

they could “think like lawyers.” They were disabled as humans. All of their human capacity to deal with real life was finished: they had become terrible problem-solvers. We gave them the tools to finish off their humanity.¹¹³

Scales and Johnson characterized an ingredient to traditional law teaching as requiring students “to check their souls at the door.”¹¹⁴ Recalling the familiar “I don’t know anything about art, but I know what I like,” they offered this variation in describing the product of legal education: “I know everything about law, but I don’t know what I like.”¹¹⁵ Milner Ball provided a less cynical but similar message, writing that when law school teaching lapses into rules-centered inertia, it can only create “lawyers technically accomplished in rules.”¹¹⁶ Ball quoted Myres McDougal, who observed that “the over-all organization of curricula and the detailed patterning of most particular courses in Anglo-American law schools” was based on a conception of law as a mere body of rules, and that legal education’s organizing principle was “that of legal technicality, with particular subject matters purportedly demarcated and arranged in terms of highly ambiguous, overlapping and contradictory concepts of authoritative myth.”¹¹⁷ He cautioned against an undue mincing of life while engaged in the reductionist processes of law, lawyering, and the teaching of law.¹¹⁸ He advocated the preservation of the “possibility, scope, even dignity” of human life even as we must work within that part of the law that reduces human life to manageable order.¹¹⁹ It is a tall order, requiring, as Professor Franzese noted, “significant strength of spirit” to “define our mission mightily.”¹²⁰

Several years ago, James Elkins wrote that “[t]eachers of law need ways of thinking and talking about legal education that will help us and help our students to confront, critique, and ‘see

113. Johnson & Scales, *supra* note 92, at 439.

114. *Id.*

115. *Id.* at 449.

116. BALL, *supra* note 72, at 128.

117. *Id.* at 127-28.

118. *Id.* at 136. Professor Ball later expanded on this in his book, *THE WORD AND THE LAW* (1993).

119. *Id.* at 136 (quoting from Archibald MacLeish, *Apologia*, 85 HARV. L. REV. 1505, 1508 (1972)).

120. Franzese, *supra* note 107, at 15.

through' the prosaic, technical legalism of law school."¹²¹ "We need," said Elkins, "a language that makes rather than denies meaning."¹²² Elkins was reaching for what I would call "spiritual talk."¹²³ It is our spirituality that nudges us toward deeper transcendent meaning, making us pin our immediate reality on something grander. It is the part of us that resists reduction, that allows messiness and leaves sometimes troubling interstices to be filled through faith and intuition.

IV. A SPIRITUAL TOOL—QUEST JOURNALING

How do we, using James Elkins' words, bring "a spiritual sensibility in our professing and in our profession"?¹²⁴ It was

121. Elkins, *Quest for Meaning*, *supra* note 96, at 597.

122. *Id.*

123. Elkins had been thinking that education had to "shape and form character," and "involve the soul." *Id.* at 598 n.27 (citing ALLAN BLOOM, *THE CLOSING OF THE AMERICAN MIND* (1987)) (emphasis added).

John Demme, in his 1994 film "Philadelphia," engaged in a kind of spiritual "talk." PHILADELPHIA (Tristar Pictures 1993). The film starred Tom Hanks as Andrew Beckett a rising star in Philadelphia's most prestigious law firm. Beckett is fired after the partners discover he has AIDS. He files a wrongful termination lawsuit and retains "toxic tort" attorney Joe Miller, played by Denzel Washington. PHILADELPHIA (Tristar Pictures 1993).

Joe Miller is homophobic and initially holds all the classic prejudices against persons with AIDS. However, recognizing the obvious parallels between Beckett's plight and the discrimination he suffers because of his black skin, Miller takes the case. Gradually, Miller warms to the case and to Beckett. However, it is not until the eve of Beckett's direct examination that all Miller's blinders are ripped from him. While attempting to do a dry run of the direct, Miller is interrupted by Beckett's own question: "Do you like opera?" Miller is clearly not an aficionado, so Beckett embarks on an explanation of a Maria Callas aria from his favorite opera "Andrea Chenier." As the music plays, Beckett tells the story, pointing out the changing moods, the turns of the aria. As he does, Miller is captivated, for what Miller sees as he listens to the music and to Beckett's words, is the essence of Andrew Beckett, his soul. The vision both touches and troubles him, sending him out of Beckett's home, retreating without completing the dry run. He rushes home, kisses his infant daughter, and caresses his sleeping wife, at once grateful and still shaken. PHILADELPHIA (Tristar Pictures 1993).

Joe Miller saw the essential humanity of his client and understood that it somehow connected them in a web that was bigger than any immediate reality. Beckett was no longer just a homosexual man with AIDS. Beckett was like him, and he like Beckett. The need to objectify Beckett, to make him more safe, more palatable, dissipated. PHILADELPHIA (Tristar Pictures 1993).

124. James R. Elkins, *Reflections on the Religion Called Legal Education*, 37 J. LEGAL EDUC. 522, 525 (1987) (writing in response to Roger Cramton's essay). Elkins agreed with Cramton that we are "lost" and pointed out that there are many in the profession who are "acutely aware of the need for a spiritual sensibility in our professing and in our profession." *Id.* Two of the concerns Elkins posed were (1) how to find our

Elkins who exhorted legal educators to “combat the fears evoked by the specter of an education in law that acknowledges a life of the spirit.”¹²⁵ Elkins was correct when he wrote that the elaborate conversation that *is* legal education requires “new images and metaphors that make new meanings possible.”¹²⁶ While spirituality may not be a “new” image, it is one that succumbs regularly to the fear of desecularizing legal education. Elkins would say that giving spiritual sensibilities a place at the table would enhance the conversation. But the question again is “how?”

A starting point would be to use the word “spiritual” without flinching, and to accept the obvious: that the uncomfortable shades of gray that invariably enshroud real, live cases, hint at the mysteries and tensions of life, and thus, of the law. An overlay of the spiritual only adds to the mystery because matters of the spirit are often mysterious and even illogical.¹²⁷ Delving beyond the boundaries of the rational would be a reach for a culture in which prevailing norms and propensities are not “naturally tolerant of gaps and disturbances.”¹²⁸

Including “spirituality” in the normative vocabulary of the law school culture, or at least of its clinical component, would give breath to all the well-intentioned calls for changing the way that law schools help people become lawyers. Whether it is in Kronman’s nostalgia for the lawyer-statesman,¹²⁹ or in Ball’s description of people whose law-related practices stay hard and

way back and (2) how to assess and use Cramton’s suggestion that one’s personal religious and cultural traditions could serve as a starting point to understand ourselves and our work. *Id.* at 525-26.

125. *Id.* at 527.

126. *Id.* at 526.

127. Thomas Moore noted that unlike the intellect, which “works with reason, logic, analysis, research, equations, and pros and cons[,]” the soul “practices a different kind of math and logic.” Moore, *supra* note 65, at 122. He wrote:

[The soul] presents images that are not immediately intelligible to the reasoning mind. It insinuates, offers fleeting impressions, persuades more with desire than with reasonableness. In order to tap the soul’s power, one has to be conversant with its style, and watchful. The soul’s indications are many, but they are usually extremely subtle.

Id.

128. BALL, *supra* note 74, at 164.

129. See generally ANTHONY KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (1993).

fast to the dreams of *noblesse*,¹³⁰ or in Carrie Menkel-Meadow's reminder that any change in the law school curriculum must be attentive to "the human arts of lawyering,"¹³¹ there needs to be a soul in the cries for righting our path. Thomas Moore called it "the spirituality of transcendence," a spirituality that infuses our "lofty quest for the highest vision, universal moral principles, and liberation from many limitations of human life."¹³² M. Scott Peck decried the absence or irrelevance of "soul" in the rancorous debates about euthanasia.¹³³ Likewise, the absence or the perceived irrelevance of "soul" in the teaching of the law should be disturbing.

Once again, I return to the "how" question, one daunting in its breadth and complexity. To move forward, I rely on the words of the late puppeteer, storyteller, and ventriloquist Shari Lewis, who once posed the riddle, "How do you eat an elephant?" The answer: "One bite at a time." Consistent with this, I propose a modest bite in the form of "quest journaling."

The next part of this Article presents several exercises that law teachers might integrate into the journaling work that they already assign to students. Collectively, these exercises represent a small step toward fitting spirituality within the busy, non-spiritual culture of legal education. They are meant to be "portable," of use to students after a semester's end and beyond law school. This comports with my hope that we nurture students into becoming lawyers who acknowledge their spiritual dimensions, striving to preserve the connections between their work and their spiritual journey.

A. Preliminary Comments

In my elder law clinic, I occasionally asked my students to

130. BALL, *supra* note 74, at 7-72 (describing seven individuals whose work embodies the "Word" at work in the world.)

131. Carrie Menkel-Meadow, *Narrowing the Gap by Narrowing the Field: What's Missing from the MacCrate Report—of Skills, Legal Science and Being a Human Being*, 69 WASH. L. REV. 593, 619 (1994) (quoting from Gary Goodpaster, *The Human Arts of Lawyering: Interviewing and Counseling*, 27 J. LEGAL EDUC. 5 (1975-76)).

132. MOORE, *supra* note 66, at 240.

133. M. SCOTT PECK, M.D., DENIAL OF THE SOUL: SPIRITUAL AND MEDICAL PERSPECTIVES ON EUTHANASIA AND MORTALITY 129-131 (1997). Dr. Peck, who also authored the best-selling *THE ROAD LESS TRAVELED* (1978), defined "soul" as "a God-created, God-nurtured, unique, developable, immortal human spirit." *Id.* at 132.

write on specific questions. I wanted them to give form to otherwise nascent thoughts and feelings.¹³⁴ Often the writing was followed by conversation, during which students were invited to use their writings as a starting point for discussing the assigned questions. Conversations were sometimes halting, sometimes purging, but always supportive.¹³⁵

This process of directed writing and sharing was designed to provoke both an intellectual and a deeply emotional response. I wanted to trouble my students, then have them find the source of the “rub.” My hope was that their clinical experience could be used to circle them back to the seminal issues of purpose, meaning, their personhood, and that of others. I knew of the dangers of narcissism but hoped that by looking inward, my students also could be directed to look outward to find their connection with, and responsibility to, a greater community good. I wanted the process to produce a sense of “questing,” a journey driven by a high calling.¹³⁶

The downside to this process was that it occurred only at certain points in the semester. An ongoing process throughout the semester would have offered a greater benefit to students.

134. My initial set of questions came at the start of the semester before students met their first clients. They were asked to describe their thoughts and feelings about older adults and to talk about specific incidents and persons that influenced those thoughts. Later in the semester, after the students had a chance to work with clients, they were asked again about their impressions. This time, however, they were to inform their comments with their experience working with clients in the HIV Legal Clinic. The juxtaposition of the two client groups—the elderly and persons with HIV—gave rise to comments revealing shattered preconceptions, growing awareness of local and national political realities, a sharpened view of aging and dying, and most poignantly, an appreciation for human dignity amid difficult circumstances. The conversations sometimes grew halting when I asked students to share their feelings about their observations. That our meetings often occurred over lunch at crowded off-campus restaurants suggested some of the environmental factors I need to tinker with in creating safe supportive places for having these often difficult conversations.

135. I never encountered a time when a student challenged another student about a comment he or she made. Instead, students seemed to understand the courage it took to share a feeling, particularly one that made the commenting student vulnerable, and indicated so by quiet nods and affirming words. I realize that part of this could be attributed to the kind of student that was drawn to the clinic and the influence of the “local” culture in Hawai‘i that promotes “getting along.”

136. See ROBERT E. RODES, JR., *PILGRIM LAW* (1998). In his work, Rodes wrote that “we are called to pursue an unknown end by inefficacious means,” *id.*, analogizing this calling to a pilgrimage, or a “spiritual journey into the unknown,” one that we must undertake despite the challenges and uncertainties. *Id.* at 15. Professor Rodes captures the meaning I intend in using the term “questing.”

Slowly it occurred to me that journals provided a good vehicle for this and could accomplish what I was doing through the periodic exercises on a continuous basis, extending even beyond the semester. I envisioned what Thomas Mallon called a "pilgrim" journal, one for those seeking "to discover who they really are."¹³⁷ Mallon described such journalers as "generally very serious people, more in the way of pilgrims, with inward destinations, than mere travelers."¹³⁸ Grafting the idea of pilgriming, or "questing," onto a commonly used and accepted law school teaching tool struck me as a way to comfortably bring the spiritual into the classroom.

Law teachers commonly use journals in their classes, particularly in clinical courses.¹³⁹ Typical goals for a journal assignment include fostering self-reflection and self-awareness; encouraging self-learning; improving problem-solving skills; releasing stress; using the writing process to improve learning; and providing a place for dialogue between student and teacher.¹⁴⁰ Journals provide an important place where the writer can actively reflect and integrate new knowledge with old, thereby propelling a continuing cycle of planning, doing, reflecting, and integrating.¹⁴¹

The concept of quest journaling elevates the self-reflective part of journaling and sets it within the context of a "higher journey."¹⁴² It consciously drives the writings beyond mundane description and gives reflection a grander purpose.¹⁴³ By way of

137. THOMAS MALLON, *A BOOK OF ONE'S OWN* 75 (1984).

138. *Id.*

139. See, e.g., Harriet N. Katz, *Personal Journals in Law School Externship Programs: Improving Pedagogy*, 1 T.M. COOLEY J. PRAC. & CLIN. L. 7, 13 n.14 (1997); J.P. Ogilvy, *The Use of Journals in Legal Education: A Tool for Reflection*, 3 CLINICAL L. REV. 55, 55 n.2 (1996).

140. See Ogilvy, *supra* note 139, at 63.

141. J.P. Ogilvy, *Journals*, in *LEARNING FROM PRACTICE* 97, 97 (J.P. Ogilvy et al. eds., 1998).

142. See generally MALLON, *supra* note 137. Mallon wrote that for some, the journey is toward a sighting of God, while for others, it is a movement toward full potential, spiritual and otherwise. See *id.* at 75. In describing Henry David Thoreau's view of his journal, Mallon wrote, "Thoreau sees his diary as, literally, a container for the effervescings of a soul moving ever further toward enlightenment." *Id.* at 76.

143. The idea is not a new one. James Elkins' writings on student journals that appeared ten to twelve years ago convinced me that Professor Elkins and probably others understood the use of journals as humanizing and inspiring tools that helped students stay connected with the larger and deeper themes in their lives and what

reflection, it helps to “illuminate” a student’s life so that a student can live it more fully.¹⁴⁴ Fueled by clinical experiences and guided by a law school instructor,¹⁴⁵ quest journaling lodges one’s “law” journey within one’s human journey, reminding the writer of the relationship between the two. It evaluates the worth and defines the place of the “law” journey in one’s life.

I intend quest journaling as a supplement to what law teachers already accomplish by assigning journal work.¹⁴⁶ Law

brought them to law school. Elkins experimented with forms of introspective and reflective writing starting in the late 1970s in his first-year Introduction to Law course. See Elkins, *Quest for Meaning*, *supra* note 96, at 580 n.8. He found this kind of writing helpful in focusing on the “sometimes subtle and sometimes painful transformation by which students move out of whatever world they are in and into the world of law.” *Id.* The article did not suggest what Elkins did to cultivate the poignant entries. However, he actively strove for a way to transcend “the prosaic, technical legalism of law school” and to move toward “a language that makes rather than denies meaning.” *Id.* at 59. It was clear that he relied on journals to capture such language, one that told a student’s story and helped students do what Elkins called “identity work.” *Id.* at 58.

144. This concept of the “illuminated life” belongs to Professor Abe Arkoff. See generally ABE ARKOFF, *THE ILLUMINATED LIFE* (1995). A clinical psychologist and professor emeritus at the University of Hawai’i at Manoa, Arkoff devised a course in which students are encouraged to pursue answers to fourteen basic questions. He intended the course and the journey it creates to help students (1) clarify and come to terms with their past, (2) find more joy, purpose and peace with their present, and (3) obtain assurance and direction for the future. His idea was to have students shed light on their lives in order to find their lives and live them fully. Arkoff uses journals as an important tool to bring definition, and indeed, illumination to his students’ lives.

I have spoken with Professor Arkoff a number of times and participated in a “Journal Circle” that he led this past summer. His work has influenced much of my thinking in this final section.

145. For quest journaling to work, the teacher must take a directive role. This is not to say that the teacher should direct what the student writes, but that the teacher should develop questions and provide feedback that move the student toward the benefits of journaling. For example, James Elkins used a directed writing approach to journaling in which he would have students explain their lives. He would listen to their stories then retell what he heard, “reshaping the student voices into a collective story that constitutes an ongoing description and critique of legal education as a felt experience.” Elkins, *Quest for Meaning*, *supra* note 96, at 580 n.8.

146. Sandy Ogilvy, Associate Professor of Law, The Columbus School of Law, Catholic University of America, issues an entire memo on his journal assignment wherein he lists all the things journaling should help a student to develop: enhancing understanding of legal skills and concepts through active reflection, improving writing skills and higher order thinking skills, improving self-learning, relieving stress, and becoming a reflective practitioner. His “academic” journal is “[a] place to work out ideas, concepts and processes discussed in class or in assigned readings; an individual record of your experiences with this course; a place to practice personal writing; a place to engage in a dialogue with the professor; a place to evaluate the course; and more.” To jog thinking and writing, Ogilvy provides a number of suggestions and questions. Examples include “sizing up” one’s supervisor, describing and evaluating the institu-

teachers have grown increasingly thoughtful in their use of journals as a pedagogical tool. However, the reflection called for in students' journals tends to focus on recent "outer" experiences in their "law" lives. Students are asked to reflect on their encounters with other people in the law, on the behavior and decisions of supervisors, classmates, judges, clients, court staff and others, on law firm or agency culture, on assigned readings, on lectures, on research assignments, on law institutions with which they have contact, on ethical dilemmas arising from a case, on law in general. My invitation to try quest journaling builds on this introspection and asks students to think specifically about who they are, where they come from, and where they are going; the values, purposes, and meanings that drive them; and the place of the law with respect to all of this. My intent is for students to sense, if not touch, an underlying reality and order; *this is spiritual work*. Some of this naturally occurs in the reflection that students already do. However, fuller answers surface when the questions are designed to evoke them and when professors use a variety of journaling techniques in a conducive setting.

What follows are five blocks of journaling exercises for use in a clinical setting. They provide models from which adjustments can be made.

I have drawn from the works of Abe Arkoff, Ira Progoff, Tristine Rainer, and David Dominguez in explaining the five groups of exercises below. These exercises represent starting points. They serve to inject full-bodied spiritual work into both the hustle of a law student's ordinary day and the linear, rational sheen of legal culture. I have only begun to introduce this into my own classes, not without some trepidation.¹⁴⁷ Instead of wait-

tional mission of one's placement, discussing an ethical quandary, relating one's placement to one's future, taking responsibility, balancing professional and personal lives, lawyer honesty and manipulation, and authority relationships. Like Ogilvy, Katz seeks to encourage reflective journal entries by devising specific and thoughtful questions that change depending on the nature of the student's externship placement. See Katz, *supra* note 139, at 15 n.19, 51 n.106.

147. One reaction has been student discomfort, particularly when students enter my clinic with no expectation that quest journaling will be part of their experience. I suspect that some of their discomfort reflects my own self-consciousness, but some of it also comes from having to abruptly shift gears from the rational linear norms of law school. Quest journaling raises the problem of making students engage in something they neither expect nor necessarily want. The resistance hinders the creation of the supportive environment they need for successful quest journaling.

As a result, I have considered creating a "journal circle" within the law school but

ing for tried-and-true results to report, I offer these exercises now and invite others to experiment with and improve on them.

Quest journaling relates to one's attempt to understand ultimate truths about one's self and one's world. It may compel some students to refer passionately to a deity. For others, reference to the metaphysical may be subtle or absent. Once again, it is not so much the metaphysics or doctrine espoused that makes this work spiritual, but instead the quest for an abiding truth.¹⁴⁸

One final note: The core of clinical legal work remains the work itself, the lessons we learn, and the service we hope to provide. Work's sacred dimension will always be defined primarily by the values and the attitude of service we bring to it. Quest journaling is intended to enrich this core experience, to remind students of this dimension, and to create opportunities for casting students' work in this light. While it is itself spiritual work, journaling also should be viewed as an instrument for illuminating the spiritual undertones of our clinic work.

B. The Exercises

In his book, *The Illuminated Life*,¹⁴⁹ Abe Arkoff guides his students and readers through fourteen questions designed to produce life-illuminating answers.¹⁵⁰ From these, I have culled

outside my regular classroom or clinic work. Attendance would be open to anyone interested. While a journal circle would not be part of an academic class, its appearance as a law school activity would signal acceptance by the school at large. A law teacher seeking to get his feet wet might fare better in a journal circle setting, where participants consciously choose to be present. Participant support works wonders; the reassuring supportive looks I occasionally get from students have been the one most energizing force compelling me to continue.

148. IRA PROGOFF, *AT A JOURNAL WORKSHOP* 267 (1992).

149. ABE ARKOFF, *THE ILLUMINATED LIFE* (1995).

150. Arkoff's questions are as follows:

- (1) Bearings: Where Am I Now in My Life?
- (2) Self: What is My Relationship to Myself?
- (3) Beliefs: What Truths and Beliefs Govern Me?
- (4) Turning Points: What Crucial Changes Have Brought Me to This Place in My Life?
- (5) Significant Others: How Do I Relate to the Most Important Persons in My Life?
- (6) Love: What Part Does Love Play in My Life?
- (7) Ultimate Point: What is the Meaning of Death to My Life?
- (8) Potentiality: What's Possible for Me?
- (9) Values: What's Important to Me?

five. They focus on: (1) who a person is and where he/she is in life; (2) the crucial events and persons who helped bring a person to his/her current place; (3) the student's assets and potential; (4) the student's coping mechanisms; and (5) the student's goals. These categories provide the foci that inform the different exercises.

The written exercises below are meant to be done in a group, preferably in a place where the students can relax and feel comfortable. They can be part of an existing journal, or done separately either on individual pieces of paper or in a tablet designated for the exercises.¹⁵¹ Students should understand that they are about to do something different from normal law school fare. In fact, teachers should explain the purpose of the exercises. Needless to say, the teacher should acknowledge any student discomfort, while encouraging the student to try the exercises. A few simple relaxation techniques such as closing one's eyes, taking deep breaths, and focusing on a calm mental image might help.

Any of the exercises below can be selected, but they should not be completed in isolation. Upon creating a comfortable environment for the students and directing them through an exercise, the instructor should take one more step. After students are given an adequate period to complete an exercise (about 10-20 minutes), they should separate into small groups of 3-5 students each. In each group, the students have an opportunity to share whatever they wish, one at a time. No one is forced to speak. The students who listen must listen attentively without interjecting, in a way that makes their caring silence helpful. They must become a "caring presence."¹⁵² One who serves as a "caring presence" pledges four things:

-
- (10) Goals: What Do I Seek? What Do I Find?
 - (11) Coping: How Do I Manage Stress, Threat and Challenge?
 - (12) Assets: What Do I Have Going for Me?
 - (13) Commitment: What Will I Do to Move My Life Along?
 - (14) Threshold: What's Ahead of Me?

Id. at v-vii.

151. I use an unruled composition book because it is portable, cheap, and unpretentious. The absence of lines encourages drawing, collages and unstructured writing. I also have a box of colored pencils available. Most of my writing is in pencil; there is no reason for this other than preference.

152. ARKOFF, *supra* note 149, at 14-15.

- (1) This time belongs to the speaker.
- (2) I will clear my mind, receive all that is said, and form neither assumptions nor conclusions that will block me from hearing everything said.
- (3) I will try to understand and accept the speaker's world.
- (4) I will respect the speaker's ability to help him- or herself.¹⁵³

Listeners may speak only when the speaker invites responses.¹⁵⁴ Our lawyer training may cause us to immediately provide counsel. However, as caring presences, students are asked to refrain from rescuing, fixing, or advising unless requested. This is not easy. It means allowing the speaker to summon his or her own insights and strengths.

This time for sharing is important. It is the only time the student has to disclose what he or she wishes to share. The student's entries remain otherwise private. Teachers should not expect to review the written responses. This preserves the safety of quest journaling and the student's privacy.

Teachers *should* actively participate in the exercises, doing them with the students. This not only helps the teacher actively gauge the effectiveness of each exercise, but communicates the teacher's commitment to students and the journaling process.

The five questions and the exercises that accompany them follow:

1. Finding Our Bearings—Where and Who Am I?

A good place to start is the "present," the most current period or phase in a student's life. Ira Progoff described the present as elastic, "stretching the present moment back as far as it needs to go in order to include as much of the past as is still an active part of the present."¹⁵⁵ For each person, this unit of time is different in duration and content.¹⁵⁶

153. *Id.*

154. Abe Arkoff uses a "talker ticket" that signals whose time it is to speak. Only when the speaker surrenders the ticket—a small 3" by 4" card with "Talker Ticket" printed on it—can others speak. To avoid monopolization, a designated period of time (ten to fifteen minutes depending on the group's size) should be set for a person to hold the talking ticket.

155. PROGOFF, *supra* note 148, at 46-47.

156. *Id.* at 47.

Progoff, who developed the concept of the “Intensive Journal Process” and a workshop to teach the process, begins with a warm-up exercise. He instructs participants to close their eyes, relax, and quietly feel the movement of their lives.¹⁵⁷ While doing so, participants think about the question, “Where am I now in my life?”, and allow an answer to take shape in general terms. There is no deliberation, but thoughts may come that help form boundaries and characteristics of their “present” period. Some may think of the present as beginning when a new project began, when marriage or childbirth occurred, or when a period of hard work, confusion, or waiting commenced.¹⁵⁸ For law students, it could quite simply be when law school began. Participants are asked to perceive uncensored the images and feelings that come to characterize the movements in their lives. Progoff then instructs participants to write, without judgment or deliberation, the perceptions and images that came to them during their period of quietude.¹⁵⁹ These images are to be received and accepted as reflections of the inner situations of their lives—nothing more, nothing less. Nonetheless, they provide a sense of the present.

This nonconscious exercise then gives way to more conscious work in which participants are asked to recall the salient and specific details of the present period.¹⁶⁰ The question is again posed: “Where am I in my life?” Abe Arkoff provides a two-part structure for this phase. He begins with a brief survey

157. *Id.* at 48.

158. *Id.*

159. *Id.* at 49. Progoff described the kinds of images that may arise:

One person sees an image of dark smoke stuck in a chimney. “It can’t get out,” she says.

Another person, a student, sees a seed under the ground. It is softening and breaking apart. It is beginning to grow.

Another person sees an airplane flying a bumpy course through heavy clouds. Presently it comes into clear skies where the sun is shining.

Still another person sees nothing, but hears strains of music. This is not a visual image, but an auditory image. The tone and tempo of the music expresses his feelings of the movement of his life.

Still another person feels the movement of the recent period of his life and perceives a visual image of darkness, followed by a feeling of heavy sadness, followed further by a body image that becomes a knot forming in the pit of the stomach. All are present situations of his life.

Id. at 49-50.

160. *Id.* at 52.

wherein he asks participants to complete each of the six incomplete statements below:

- (1) At this time in my life, I need . . .
- (2) At this time in my life, I regret . . .
- (3) At this time in my life, I fear . . .
- (4) At this time in my life, I hope . . .
- (5) At this time in my life, I take pride . . .
- (6) At this time in my life, I am determined . . .

Then, taking one or more of the just completed statements, participants are asked to compose a larger answer to the question, "Where am I now in my life?" Arkoff suggests that the teacher or leader use the opportunity create his own essay.¹⁶¹

Arkoff also developed an exercise to help individuals articulate the concept or picture they have of themselves. Posing two simple questions, "Who am I?" and "Who am I not?", he suggested selecting one or both questions and developing a response.¹⁶² The response could take any form—an essay, a drawing, a collage,¹⁶³ a poem. What may work particularly well is a

161. ARKOFF, *supra* note 149, at 27-28. A part of Arkoff's own response reads as follows:

I am at a time when I am beginning to feel quite old. "Old" to me is a good word. Old books. Old wine. Old friends. For the most part, I have enjoyed each of my ages. I enjoyed most of my childhood. Most of my adolescence. Most of my young adulthood and middle age. Now I'm enjoying my old age. I've met some people my age who seem determined to be middle-aged forever. Even if they were able to finesse old age, it would be a shame to miss such an important season of life; it would be like repeating the second act of a play and never getting on to the third act, where there is a chance for resolution and perspective.

I'm grateful. I have a good life, and I have no wish to change it. I continue to do everything I have been doing except now I do less of it and I do it slower, but then I am no longer in a hurry to get some place. Some parts of me don't work as well as they used to, but because I have grown more tolerant of things that are as they are, I complain only on Mondays. I remind myself of the words of the third Zen patriarch: "The Great Way is not difficult for those who have no preferences." I still have preferences but I hold them more lightly than I once did.

Id. at 23-24.

162. *Id.* at 53-55.

163. Arkoff suggests that in the creating of a collage, one should page through an old magazine "without a preoccupation of what you are looking for." *Id.* at 55. He encourages passivity, letting the materials "nominate themselves" for inclusion in the collage. *Id.* Then from this collection of clippings, he suggests eliminating the "peripheral ideas" including only those central and important to one's concept of self. *Id.*

technique suggested by Tristine Rainer¹⁶⁴ and used by Arkoff: listing. Lists provide a simple time-saving method of enumerating thoughts, feelings, and perceptions without complete sentences.¹⁶⁵ It is particularly useful when one feels overwhelmed by the magnitude of something that needs to be articulated.¹⁶⁶ Arkoff provided the following list of brief but telling responses from a friend named Mary Elaine, who battled cancer and described herself this way:

Who am I? I am . . .

- (1) an individualized expression of the energy I call God.
- (2) a cosmic dancer, dancing through the Valley of the Shadow of Death.
- (3) a constantly evolving pilgrim on a spiritual path.
- (4) a risk-taking, curious adventurer.
- (5) a believer of fairies, elves, gnomes, magic, miracles, and the Land of Oz.
- (6) a creative artist.
- (7) a loyal friend.
- (8) a nourishing mother.
- (9) a devoted wife.
- (10) a fun and wise grandmother.
- (11) a generous but prudent giver.
- (12) energy living in a human body.
- (13) a vital lover of living.
- (14) ME, Mary Elaine, who likes being a living, loving woman.¹⁶⁷

164. TRISTINE RAINER, *THE NEW DIARY* 72-78 (1978).

165. *Id.* at 72-73.

166. *Id.*

167. ARKOFF, *supra* note 149, at 54-55. Mary Elaine also answered the question, "Who am I not?" with a list. This response consisted of the following terse descriptors:

Who am I not? I am *not* . . .

- (1) a grouch.
- (2) lazy.
- (3) boring.
- (4) skinny.
- (5) timid.
- (6) uninvolved.
- (7) conservative.
- (8) asexual.
- (9) undependable.

These were essential aspects to who Mary Elaine was. While she was also a gardener and swimmer, she excluded these as peripheral. What she captured were central defining characteristics that told her irreproducible story of self. The distinctness of each person's life narrative reflects one's personal uniqueness, and the telling of one's story therefore has the therapeutic effect of "ego strengthening."¹⁶⁸ The process reveals for the teller his or her story of triumph and tragedy. It is a story that, when unlocked, would require volumes to record it adequately. This hints at the infinitude or fathomlessness of the self.¹⁶⁹

Arkoff also referred to two additional self-images. The first is the "Desired Self,"¹⁷⁰ the self one would like to be. While acknowledging that the desired self may demand more than a person can be realistically, it can also provide an image that inspires or guides.¹⁷¹ It may simply be a moral image—"a self [one] should be"—or a self one must be. The second is the "Feared Self," the concept or picture of the person one is afraid of becoming.¹⁷² It could be a rational portrayal of what one might become,¹⁷³ or it might be far-fetched and irrational. Both images

(10) ugly.

(11) fearful.

Id.

168. Fred Hallberg, *Journal Writing as Person Making*, in *THE JOURNAL BOOK* 289, 291 (Toby Fulwiler ed., 1987).

169. *Id.*

170. ARKOFF, *supra* note 149, at 60-61, 65-68.

171. Arkoff recorded the musings of Catherine Baldwin who listed her expectations of herself, an equivalent to a desired self. A portion of her list included the following:

My Expectations

Be perfect. Always be sensitive. Take care of others whenever they need it. Be loving, gentle, kind, good, responsible. Be smart. Be articulate. Be original. Be creative. Be able to synthesize experience at all times, under any conditions. Be able to cope with experience at all times, under any conditions. Be trusting and trustworthy. Be strong. Be active. Have faith.

Id. at 60.

172. *Id.* at 57.

173. Arkoff tells the story of a much admired holy man for whom the king commissioned an official portrait to hang in the great hall. When the portrait was unveiled, the king was enraged because it depicted not the kingdom's great saint but a cruel, depraved man. The holy man consoled the king, explaining that there was a truth to the portrait: it pictured him as the man he struggled never to become.

Another example of a realistic and rationally constructed "feared self" came from

may be assembled using any medium—drawings, poems, lists, essays, collages, or anything else. When completed, these two images, together with the present self-image embodied in the “Who am I?” exercise, tell of what a person is, is not, can be, cannot be, should be, should not be, must be, and must not be. Arkoff suggests that the meaning of all three constructions—the Self-Image, the Desired Self, and the Feared Self—be considered to determine (1) what each has to say about the person, and (2) the way each image affects the person’s life.¹⁷⁴ Synthesizing all three outlines of self brings new insight or clarifies what had been vague and latent understandings. None of these exercises, standing alone, will uncover everything or even answer anything. Done thoughtfully, they create paths of illumination.

2. *Crucial Persons and Events—Turners and Turning Points*

If the first exercise is autobiographical, this second block of exercises reaches out to recognize the connections with other people and events. This has been characterized as “dialogue.”¹⁷⁵ This component recognizes that our individual stories grow in important ways from two-way encounters with other people and external events, and that the effects of these interactions can outlast finite relationships and chronological boundaries.

a. *Our Significant Others*

Who are those persons most significant to us? For journal purposes, Ira Progoff described such persons as “individuals

an 82-year-old woman in poor health. She wrote:

I don’t like to write this down, yet it is much in the minds of the old. We wonder how much older we have to become, and what degree of decay we may have to endure. We keep whispering to ourselves, “Is this the age yet? How far must I go?” For age can be dreaded more than death. “How many years of vacuity?” To what degree of deterioration must I advance?” Some want death now, as release from old age, some say they will accept death willingly, but in a few years. I feel the solemnity of death, and the possibility of some form of continuity. Death feels like a friend because it will release us from the deterioration of which we cannot see the end. It is waiting for death that wears us down, and the distaste for what we may become.

Id. at 57.

174. *Id.* at 63.

175. This is Fred Hallberg’s term describing a second component of Ira Progoff’s Intensive Journal Process, the first component being “Autobiography.” See Hallberg, *supra* note 168, at 293.

whose existence, as well as, actions has an important bearing on our life as we experience it from an interior point of view.”¹⁷⁶ Proffoff wrote that we would recognize them “by the strength of our feelings, by our intuitive and emotional perceptions,” noting that they “awaken intimations of greater meaning in our lives, drawing us to [them].”¹⁷⁷ He also indicated that in journaling about a significant person, one should select a person with whom one’s relation “has some further step of clarification or development.”¹⁷⁸

While the obvious choice for many would be a parent, a child, a sibling, a spouse, or a friend, a significant person could be anyone. Using Proffoff’s criteria, it could be anyone we love, admire, or respect, and even someone for whom we have far less positive feelings. The individual could be alive or dead,¹⁷⁹ or even a nonperson.

To explore the relationship with a significant person, Abe Arkoff suggested an exercise he labeled, “Significant Correspondence.”¹⁸⁰ The first step involves selecting one significant person with whom important things were left unsaid or unheard, and writing a letter setting out the things that should have been spoken. The second step recognizes that because our encounters with others are two-way streets, they should not be defined exclusively by one person’s consciousness.¹⁸¹ Recognizing this, Arkoff instructs the writing of a second letter, this time putting the letter writer in the place of the person to whom the first letter was written.¹⁸² Recognizing the difficulties of “becoming” the other person, the student is counseled to do his or her best. Then, as that person, the letter writer pens a response. With both letters in hand, the writer’s final step is to jot some thoughts on (1) the most interesting, curious, and significant aspect of the exchange, and (2) what he or she learned from it.¹⁸³

176. PROGGOFF, *supra* note 148, at 127-28.

177. *Id.* at 128.

178. *Id.* at 130.

179. The death of a significant person does not necessarily mean the death of a relationship. Proffoff noted that relationships had a life and reality of their own and could have a power that survives the death of one party. *Id.* at 130.

180. ARKOFF, *supra* note 149, at 173.

181. Hallberg, *supra* note 168, at 293.

182. ARKOFF, *supra* note 149, at 174.

183. *Id.* at 174-75.

A related exercise is the "dialogue," a journaling technique in which the writer has an imaginary conversation with the significant other. Again, the journaler creates both parts of the dialogue.¹⁸⁴ Tristine Rainer wrote that "the greatest advantages of writing dialogue with another person . . . are derived when each side states its position clearly and with conviction and then listens to the other side carefully and with an open mind."¹⁸⁵ In both letter exchange and conversation techniques, the journaler is compelled to consider the point of view of an important "other" and in doing so, receives an altered perspective on himself and his experiences.

In choosing a significant person with whom to have an exchange, a law student might consider someone who inspired or led him or her to the study of law. A student questioning his or her place in law school may want to imagine what the significant person might say in response. On the other hand, a student who has found a niche in law study might consider an exchange where words of gratitude, affirmation, and additional encouragement are shared.

184. Tristine Rainer provided this example:

Me: Hi, mom. Well, I got pregnant and I got an abortion. I still don't believe it.

Mom: I'm relieved it's all over.

Me: Yes. Neither of us had to live with the problem for long.

Mom: I'm glad you did it safely.

Me: I still don't believe I was really pregnant.

Mom: When I was pregnant with you I went for five months not believing it. Even after that, when I went to the doctor's and she told me I was, I still didn't believe it.

Me: But you didn't abort me.

Mom: I couldn't.

Me: I keep wondering how much I might have liked the little life that was growing inside me.

Mom: Don't torture yourself. You did what was right for you.

Me: If you really feel that way, why am I afraid to actually tell you?

Mom: You don't want to evoke my own memory and my embarrassment. I'm from another generation. My options and my values were different.

Me: I'm afraid you'll make me feel guilty, and I don't want to feel guilty.

Mom: You're a woman, and you're on your own. My adulthood came with having you. Yours has come from not making the same choice.

RAINER, *supra* note 164, at 105-06.

185. *Id.* at 106.

b. Significant Events: Turning Points

Ira Progoff devised the idea of “steppingstones” to help students see the movement and developing stages in their lives. Using the listing technique, participants in Progoff’s journal workshops develop a dozen steppingstones, each describing in a few words the significant events that brought him or her to the present.¹⁸⁶ Like the interpersonal connections we consider as we think about significant others, so too do we think about lines of connectedness and continuity as we discern the patterns drawn by the significant events in our lives.

To describe the same concept, Abe Arkoff uses the term “turning points.” I like the term because it suggests that the most significant events in our lives gain importance in how they actively redirected us in external (like a geographical relocation) or internal (by causing internal human transformations) ways, causing movements in our lives and in how we live them. These events can represent chapters, signaling the end of one way of living, and the start of a new way.¹⁸⁷ Each turning point could be reduced to an essay, but a listing of items that somehow embody the crucial shifts in one’s life is easier and effective.¹⁸⁸

186. PROGOFF, *supra* note 148, at 76. Progoff sees the steppingstones as “indicators of the inner connectedness of each person’s existence, a continuity of development that maintains itself despite the vicissitudes and the apparent shifting of directions that occur in the course of a life.” *Id.* Reviewing one’s steppingstones, one should be able to discern “the deeper-than-conscious goals toward which the movement of our lives is taking us.” *Id.*

187. ARKOFF, *supra* note 149, at 120.

188. Here are examples of a listing of turning points:

Example 1—Characterizing Turning Points as Roles

- Creative, insecure son of an unhappy marriage.
- Alien resident of a new town.
- Lonely college student.
- Bitter draft bait passed over for a coveted job.
- Eager-beaver enlistee more at home in France than his own country.
- Star cub.
- Disenchanted Francophile.
- Jilted suitor of the Bitch-Goddess Success.
- Competent Craftsman.
- Middle-aged husband and father.
- Survivor.

Id. at 119.

Example 2—Turning Points as Descriptive Actions

- I was born.

To develop a list of turning points, Arkoff instructs journalers to set forth in chronological order six to ten of the most important turning points in one's life.¹⁸⁹ Each point should be described in a phrase or one or two sentences. The journaler then describes why each event was indeed a turning point, by identifying the "considerable, continuing, or lasting effect" of each item.¹⁹⁰ The point of this exercise is not to return to the past and remain there. Arkoff refers to the process as "creative reminiscence," by which the recollection and sharing of the past creates a better present and future."¹⁹¹

Many law students probably would consider the present turning point or steppingstone in their lives to be the law school

- I loved.
- I danced.
- I wept.
- I posed.
- I suffered.
- I was entranced.
- I was humiliated.
- I got lost.
- I am trying to find my way.

Id.

Example 3—Turning Points as Events

- I was born.
- Around six, my first real pain and scare in the hospital. I woke up during my tonsillectomy—inadequate anesthesia.
- My first love—I was 15, Rose was 14.
- College and an awareness of class distinctions, money, real competition.
- Graduate school, the development of aesthetic sophistication and effete elitism.
- Marriage to Corrine—it seemed a perfect idea at the time.
- Bought a movie camera and deemphasized graduate school. I began to make experimental films.
- Divorce. Corrine left me in way that I could not fail to get the message.
- Marriage to Leah—this one really felt right!
- Made a film in Greece and realization that my marriage was not right.
- Boy born in London—so many complex emotions and conflicting desires.
- Directed first feature-length film—low-budget schlock, but I did it!
- A beautiful daughter born—she had me from the moment I saw her.
- Started commuting to Hollywood, made my first studio deal.
- Second marriage breaks up.

RAINER, *supra* note 164, at 77-78.

189. ARKOFF, *supra* note 149, at 128.

190. *Id.*

191. *Id.*

experience. Recalling how they got there, recognizing its place in the lines of continuity within their lives, trying to determine whether their current experience accords with their still unfolding life script, and deciding what they may have to do if it does not, should all be things to think about as the student reflects on these turning points.

Arkoff suggests an additional exercise that could prove interesting to law students who, as their three years in law school come to an end, face many questions. Do I take this job or not? Is it consistent with why I chose to study law? If I do not take this job, what then? What are the competing factors I must weigh? Is there no place in the profession for me? Arkoff's exercise, which he labels "The Time Machine," projects the journaler into the future to explore alternative courses of action. There are three parts to this exercise: (1) describing two realistically possible, but different, futures: Future A and Future B; (2) describing what happened when the journaler chose and traveled to Future A, and what happened when the journaler chose and traveled to Future B, starting with a line such as, "Here I am, five years later, and this is what happened"; and (3) discussing the experience in the Time Machine, including any new or deepened insights and any conclusions the student reached.¹⁹²

3. Potential and Assets: What is Possible and What is There?

Law students come to us with special gifts. Their intelligence, diligence, wisdom, and courage are often striking. However, for some, keeping their sights on their gifts and promise is a constant challenge. Reminding them of the strengths that brought them to law school and helping them discover and use their gifts is part of the work of law school teachers. As clinicians, we are also charged with connecting those gifts with the needs of clients and communities. Helping students to see how their skills might be something the world needs and wants has a spiritual dimension. That gifts might come from somewhere for some purpose is a notion we all grapple with. They suggest a source, formulate purpose, and connect us to those we ultimately serve. In addition, our undeveloped gifts, our potential, pull us to grow toward our best selves.

192. *Id.* at 135-38.

These ideas are embedded in the exercises dealing with one's potential and assets. One exercise Arkoff suggests is "The Growth Garden." He has participants open their journals and draw a garden divided into various plots, some small, others larger, each representing an area of one's life (such as family, work, school, recreation, spiritual pursuits, etc.).¹⁹³ The manner in which each plot is drawn reflects its current condition. As the participant considers the garden, he or she is asked to think about which plots are nicely planted, cared for, and blooming, which plots are full of weeds, untended, or even not sown, and which parts crowd out or overwhelm the others.¹⁹⁴ The participant is then asked to describe in words (1) the growth he or she has achieved, (2) the growth he or she still needs, and (3) the steps that need to be taken to attain that growth.¹⁹⁵

Arkoff also supplies additional questions to stimulate thought on personal growth and potential. I list a few here: (1) Would you be willing to settle for an "ordinary life"? If not, what would it take to make your life acceptably "extra-ordinary"? (2) What obstacles to growth have you found in yourself and how have they affected your life? (3) Are you a risk taker or a security seeker? What are the relative strengths of safety and growth forces in your life? Describe this aspect of yourself. (4) Describe the personality change or personal growth you have noted in yourself during your high school and/or college years (or in our case, "years in law school").¹⁹⁶

Turning now to identifiable strengths, one way to identify one's strengths is to look at one's personal accomplishments and reflect on the personal assets required to reach them. Arkoff has developed a three-part exercise. First, he instructs participants to list accomplishments of which they are proud. The accomplishments should consist of things a person "created, achieved,

193. *Id.* at 261.

194. *Id.*

195. *Id.* at 262.

196. *Id.* at 258-59. These questions, like others posed in these exercises, are sometimes challenging to consider because they force the participant to face aspects about themselves that are difficult to examine. One technique that a journaler who finds the questions tough may use is the "altered point of view." Tristine Rainer describes this as "writ[ing] about yourself objectively as 'he' or 'she'," allowing one to distance oneself emotionally and see oneself from an other's point of view. RAINER, *supra* note 164, at 95-96. However, Rainer warns against writing in this mode exclusively lest it produces "fiction" by alienating one from one's own experiences. *Id.* at 96.

developed, learned, overcame, or won.”¹⁹⁷ They could be as mundane as overcoming a fear, making peace with a difficult relative, learning a skill, overcoming misfortune, earning a degree, or maintaining a successful family life. For a law student, it may be gaining admission to law school, receiving a job offer, passing a particularly difficult subject, or performing well when called upon in class. The participant should extend the list as far as he or she can. The participant then considers the personal qualities that were needed to arrive at each accomplishment.¹⁹⁸

The qualities that consistently appear as instrumental to one’s accomplishments are what Arkoff calls “harvest qualities,” attributes that are “well developed and put to good use in our lives.”¹⁹⁹ As a second step, Arkoff instructs participants to list five harvest qualities. In addition, Arkoff suggests identifying at least one “seed quality,” a quality that one possesses but needs to develop in order to improve one’s life.²⁰⁰

As a final step, Arkoff has the journaler imagine that his or her harvest qualities could be sold with the understanding that once sold, they would be gone forever. Assuming this to be true, the journaler then writes the price he or she would request for each harvest quality. Having done this, the journaler is asked two questions: (1) Do you have some harvest qualities that you would hate to lose or would refuse to sell at any price? Why? What difference would their absence make in your life? (2) Have you been sufficiently mindful that you possess these qualities? How does recognizing these valuable qualities in yourself influence your attitude toward yourself now?²⁰¹

197. ARKOFF, *supra* note 149, at 385.

198. Arkoff provides a list of 48 qualities to help a person identify his or her assets. *Id.* at 388. This list includes acceptance, achievement, assertiveness, caringness, commitment, cooperativeness, courage, curiosity, empathy, enthusiasm, expressiveness, flexibility, friendliness, generativity (being devoted to the welfare of future generations), generosity, gentleness, happiness, helpfulness, honesty, hopefulness, imagination, independence, insightfulness, integrity, and internality (believing in one’s ability to control one’s life). *Id.*

Others on the list are intuitiveness, intelligence, lovingness, optimism, orderliness, patience, playfulness, perseverance, presence (being fully attentive in a situation in mind, body and spirit), self-disclosure (being able to let others know you), sense of humor, sensitivity, sensuousness, serenity, simplicity, stability, talentedness, tolerance, trustworthiness, understanding, venturesomeness, warmth, and wisdom. *Id.*

199. *Id.* at 387.

200. *Id.*

201. *Id.* at 392.

As to the underdeveloped seed quality, Arkoff suggests a simple exercise called the "Transforming Appellation." Participants are instructed to select an adjective and a noun that together compose an appellation or name that aptly describes the person with the seed quality already developed.²⁰² For example, if a student would like to stand his or her ground better, a transforming appellation for that person might be "Sturdy Oak." Or, a student seeking to be more daring or adventurous, might choose "Bold Eagle." The journaler then draws an image that captures the appellation. The image can then be recalled to remind oneself of the seed quality one wishes to cultivate.²⁰³

4. *Rising Above Pain—Coping Mechanisms*

The challenges of learning and practicing law are not easy. They prod us to ask inwardly, if not outwardly, "How do I get past my fears, my sense of inadequacy, my anxieties, my suffering? How do I remain hopeful and constructive?" These are meaningful questions that explore our frailties while exposing the daily acts of heroism that get us through our winters. That we constantly transcend our limitations to do the hard work of lawyering has a spiritual dimension. It can affirm our inner strength, temper our soul, provide a metaphor for the way the spiritual transcends the physical, and cause us to examine our connectedness with others, the connectedness we often need to successfully cope.

Arkoff offers an exercise to explore how to find a solution to a vexing problem. In "The Fable," the journaler uses Rainer's

202. Abe Arkoff, *The Personal Journal Circle—Meeting 7. Potentiality, Affirmation, and the Personal Journal 9* (Summer 1998) (on file with author).

203. Arkoff's *Transforming Appellation* draws from Gerald Kushel's work, *Centering*. Arkoff described how Kushel took on the appellation "Gentle-Flowing Brook," reflecting Kushel's desire to cultivate greater calm or serenity. *Id.* at 9. He recounted a story that appeared in Kushel's book:

[Kushel] writes, "I imagine a very special, particularly beautiful brook, flowing along, lightly, easily, sometimes through rough areas, yet always moving along." Kushel recalls a time when he was waiting in line to register a car. The line appeared endless, the clerks seemed uncaring, and he realized that he was getting more and more upset. Then it dawned on Kushel that he was acting more like a Roaring Ocean than a Gentle Flowing Brook. He closed his eyes and visualized himself as a gentle-flowing brook, and the roaring ocean and his tension ebbed away.

Id.

“altered point of view” technique²⁰⁴ to gain some psychological distance from the problem in the hope of finding a different approach or perspective. Here, Arkoff instructs the journaler to think about one of the most difficult problems or worst obstacles he or she now faces. The journaler then writes a fable about the problem, molding the story as if it were happening to someone else or some other thing, and in a faraway time and place.

Arkoff splits the fable into four parts, providing the beginning phrase for each part. Part 1 introduces and describes the problem; Part 2 requires the journaler to dwell on the problem, making it as vivid and formidable as possible; in Part 3, the journaler poses a solution to the problem; and in Part 4, the journaler arrives at the larger truth or moral of the fable. The four parts are introduced by the following phrases:

Part 1: Once upon a time, far, far away . . .

Part 2: It would seem impossible to work this out because . . .

Part 3: Then one day . . .

Part 4: And the message of this story is . . .²⁰⁵

204. *See supra* note 198.

205. *Id.* at 364-66. As an example, Arkoff offered his own fable, which described his struggle to convince his two children to pursue a college education. A lifetime academician, Arkoff wanted his children to follow in his footsteps and was disappointed when they did not. Writing the following fable gave him a chance to step away, look at his disappointment from a different light, and positively reinterpret what had been difficult for him.

Once upon a time, far, far, away there lived an old chipmunk. He was (he thought) a master gardener, and many chipmunks came to work with him and then went off to start gardens of their own. He believed everyone would want to be a gardener, but, alas neither his daughter nor his son showed the slightest interest.

It would seem impossible to work this out because the more the old chipmunk boosted gardening, the more the little chipmunks resisted. The daughter chipmunk said that one of her friends who had graduated in gardening was now catching beetles for minimum wage and another was digging tunnels for rabbits, which is exactly what he did before he learned gardening. The son chipmunk said nothing at all and just went off to gather wild berries, which he ate or gave away.

Then one day, the old chipmunk's wife gave him some seedlings to plant. The old chipmunk was amused (because after all he was the master gardener) and later irritated because they grew so slowly. Sometimes he would pull on them so that they would get the idea although he always taught his gardening students not to do this. One morning his wife called him over to inspect the new plants more closely, and he saw that indeed each was delicately formed and quite lovely except for the bruised places where he had pulled on them. They are not like I thought they'd be, he said to his wife. I guess they de-

This exercise is not meant to evoke a comprehensive review of one's coping methods,²⁰⁶ but to prod the journaler to reflect on a particular struggle, recasting it to see if an obstacle can be surmounted. It is a form of what Arkoff calls "positive reinterpretation," an appraising or reappraising of a stressful situation "so that it becomes more of a positive force in our lives."²⁰⁷ Obstacles are then viewed as adversities to be used, self-imposed problems to be released, a price that should be paid, imperfections to be accepted, a gift to be uncovered, an unsolvable puzzle to be outgrown, or a question to be lived.²⁰⁸ In addition to being an exercise in a kind of problem solving that approximates what lawyers do (i.e., "turning" the problem around to view and approach it from different angles, or simply "putting on different eyes"), "The Fable" provides a model for viewing life challenges as a positive force that helps guide us in our personal journeys. It reminds us that meaning and joy can come through the work of responding to those challenges.

5. Goals—Rewriting One's Mission Statement

I recently discovered Professor David Dominguez's

cided to be themselves, she answered. Chipmunks aren't all alike either, she added.

And the message of the story is listen to the lesson you teach others because you may need to learn them yourself. Or old chipmunks are as blind as moles when there is something they prefer not to see. Or there are lots of ways to grow; if you want to help, help each individual to find his or her own way.

Id. at 363.

206. Arkoff described an inventory called "COPE" that measures fourteen coping strategies for responding to stress. *See id.* at 337-62. The strategies appear to correlate with certain personality types. *Id.* Using COPE, Arkoff developed an exercise that helps the participant identify the coping strategies that he or she uses most often, evaluate the effectiveness of those strategies, and think about other strategies that might be useful and appropriate. *Id.*

Tristine Rainer developed journaling exercises that help the journaler transform personal problems from a source of negative feelings to one of positive energy. *See generally* RAINER, *supra* note 164, at 115-49. In *THE NEW DIARY*, Rainer goes through a "catalogue" of "common problems" or feelings, many of which lawyers and law students experience in their professional and personal lives: loss and grief, hurt feelings and loneliness, envy, anger and fear, and anxiety and depression. *See generally id.* Through different techniques, such as imaginary conversations and intuitive cathartic writing, Rainer helps the journaler first release and express emotion, then focus on issues and evoke solutions. *See generally id.*

207. ARKOFF, *supra* note 149, at 338.

208. *Id.* at 337-44.

thoughtful article, *Past imperfect*.²⁰⁹ In it, he describes how he uses the personal statements that students submitted with their law school applications as a pedagogical tool. These essays are often searing self-studies, compelling an exploration of all the questions I ask here. Having students revisit their essays and rewrite them after some period in law school, as Dominguez has his students do, is a powerfully reflective exercise, one that could be used for any of the five questions I want students to consider. However, because these essays invariably amount to a personal mission statement and describe how legal education would advance them toward their goals, I would recommend Dominguez's exercise as one way for students to reexamine their goals, their life direction.

Arkoff discusses the utility of goals this way: "A life without goals—what would that be like? For many of us, it is scarcely imaginable, or tolerable. We need goals to give direction to our lives. We need goals to inspire us and move us along."²¹⁰ Although our goals are necessary, there is a tendency for them to change, to adjust with life's shifting sands.²¹¹ Resetting goals becomes part of the ongoing process of rediscovering one's bearings, a process that always implicates various questions of identity, roots, personal gifts, and values.

Plotting one's course by way of goal-setting can be difficult. Arkoff contends that part of the challenge comes from simply not knowing how to set goals. He offers seven questions to help the journaler think about several aspects of goal-setting: (1) What exactly do I want?²¹² (2) Why do I want it?²¹³ (3) Do I believe I can get it? (4) What do I need to reach my goal?²¹⁴ (5)

209. David Dominguez, *Past imperfect*, L. TCHR., Fall 1997, at 1.

210. ARKOFF, *supra* note 149, at 303.

211. *Id.* at 306-07.

212. Arkoff encourages specificity and clarity in setting goals because specific and exact goals are easier to accomplish than vague general ones. *Id.* at 303-04. An honest probing inquiry as to what one really wants and needs facilitates the identification of specific goals. *Id.*

213. Arkoff refers to the "touchstone" of each goal, the core want or need of each goal. *Id.* at 304. Examples of touchstones are "creative fulfillment, a chance to help others, love, money, public notice, [and] closeness to nature." *Id.*

214. Arkoff posits that, by thinking about the steps toward getting a larger goal, one can create smaller goals like achieving a certification, developing a skill, or cultivating relations with those who can be of assistance and support. *Id.* at 305.

What other goals conflict with this one?²¹⁵ (6) When will I begin? (7) When will I arrive? and (8) Can I accept the goal?²¹⁶ The second question, "Why do I want it?", is a particularly notable inquiry because it helps the journaler identify the "touchstone" or core desire embedded in each of one's goals.²¹⁷ Why we want quietly circles us back to questions of who we are, why we are here, and what we value.²¹⁸

Using David Dominguez's exercise, I would suggest having students review their essays to (1) identify their goal statements, and (2) determine if their goals are changing in ways big or small, gross or fine. Perhaps their goals are fundamentally the same, subject to some refinement. Perhaps alternative goals may be set to accomplish an unchanging touchstone. Perhaps revisiting the touchstones embedded in each goal will reawaken and reenergize students to the values that moved them to consider lawyering as a profession. Students may want to consider a few of the questions posed by Arkoff in order to focus them on different facets of goal-setting.

Alternatively, students may be asked to go through the exercise of reading and responding to their original personal statements in a more complete way, as Dominquez envisioned. He distributes the original essays in one class, instructing his stu-

215. This question gets one thinking about arranging compromises as a way to balance competing goals, such as having a healthy family life and developing a vibrant professional one. It encourages prioritization and better usage of one's resources. *Id.* at 305-06.

216. *Id.* at 303-06.

217. See discussion *supra* notes 210-213.

218. Oddly, what might be touchstones for some are simply goals for others. For example, as I read what Eastern spiritual leader Swami Satchidananda said when asked about his goals and ideals, I thought, "his goals are my touchstones." He said:

I would like to use my famous triplet: healthy, happy, and useful.

First, always be useful and not useless. Sacrifice is the law of life. Life's purpose is to serve others. Everybody is created in this universe not for oneself, but to serve others

Second, always be healthy; never have to look for a doctor or pills

Last always be peaceful and happy.

When we have a healthy, happy, and useful life, our enlightenment comes. Enlightenment means knowing our true nature, experiencing it always

WILLIAM ELLIOT, TYING ROCKS TO CLOUDS 227 (1995). Swami Satchidananda's "famous triplet" appear to be three goals leading to why he seeks them: enlightenment. *Id.* For me, service to others, good health, and peace are core to the goals I set for myself. For me, they are my touchstones.

dents to “carefully examine the discrepancy between how they imagined law school would deal with their ideals and what in fact law school has done in that regard.”²¹⁹ He asks them to “reflect on written promises they made to themselves” and to query whether “the person they once were [would] recognize the person they have become?”²²⁰ He then asks the students to rewrite their essays and to bring them to the next class.

V. CONCLUSION

I view spirituality as something embedded in each of us, and thus, I believe that we bring it with us into the law school. To the extent that we have nurtured it and allowed it to influence our behavior and thinking, and our lawyering and teaching, we have already brought our spirituality into the classroom.²²¹ I have attempted to encourage us not only to bring it *in*, but also to bring it *forth*. The spiritual in what we do needs to be publicly acknowledged, and not allowed to quietly exist nameless or be swept under some safer rubric. Much of law is imbued in matters spiritual. The very notion of justice, with its majesty and mystery, bespeaks something beyond us, something that we have some understanding of but have never captured consistently or perfectly. The fit between the law and the spirit should be close, and yet we never talk about it. This silence results in loss.

The question is how to bring it forth. In traditionally spiritual places, it is easy. In the law school, it is not. It requires courage, creativity, and a steadiness of vision to bring spirituality to the fore. In this Article, I have suggested that we begin by using the word “spirit,” or some form of it, to normalize it. I have suggested that we look at our daily, even mundane, clinical experiences, to see the grandeur of human experience in them, and consider their spiritual dimensions.²²² It will keep our eyes

219. See Dominguez, *supra* note 209, at 3.

220. *Id.*

221. See Parker J. Palmer, *Evoking the Spirit in Public Education*, EDUC. LEADERSHIP, Dec. 1998-Jan. 1999, at 6, 10.

222. I recently reread Howard Lesnick’s reflection on Oliver Wendell Holmes’ writings on the spiritual possibilities of rational thinking. Lesnick correctly highlighted Justice Holmes’ central point: that even those who would consider rational thought to be the calling and function of lawyers should understand that the pursuit of reason becomes spiritual in how it creates ideas, results, decisions, and behavior that will move the lives and thoughts of others yet unborn. In this, Holmes was talking about the con-

on the higher ground, temper our souls, and reach for that part of us and the law that is deeply human and humane. Finally, I have suggested exercises that supplement and, hopefully, enhance the reflective work that clinicians call their students to do in their journals.

I do not pretend to have the answers, but perhaps, in spiritual matters, it is not the answers that are important. It is the asking of meaningful questions and the journey to find pieces of the answer that are more akin to the spiritual.²²³ I hope this Article sparks dialogue and causes others to ask questions, and enter the assembly of discussants.

nectedness of people and generations, as well as, the transcending quality of ideas. See DVORKIN ET AL., *supra* note 85, at 146-48.

I saw this as an example of recognizing the spiritual in even the linear activity of lawyerly thinking. Being able to recognize this dimension, and how it is embedded in much of what we do, is something I yearn for in legal education. But as infrequently as we attend to this, we lack the repetition needed for the forming of habit or the honing of skill. This, I am afraid, is what will slow the movement I seek.

223. See Palmer, *supra* note 221, at 10.